



Issue Briefing:

NOAA Report to Congress Developing a Priority List of Species for Consideration Under the Seafood Import Monitoring Program March 2022

Overview

In response to the directive in House Report 116-455, National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) recently developed a list of species to consider for inclusion in the Seafood Import Monitoring Program (SIMP) based on original and new evaluation criteria (outlined below). A new proposed rule may include additional species if NMFS determines them to be particularly vulnerable to IUU fishing and/or seafood fraud. Additionally, NMFS is reviewing its regulations and developing a proposal to modify specific provisions to address a number of implementation challenges and improve the program's efficacy.

Why A Review Is Needed

The U.S. Customs and Border Protection's (CBP) Automated Commercial Environment (ACE) screens shipments using key data elements (KDEs) and authorizes the import of only those shipments that meet mandatory requirements. These KDEs also support audit and enforcement efforts towards shipments of greatest concern and help identify incoming shipments from fishing vessels suspected to be at risk for forced labor. NMFS has stated that it will periodically review species to ensure that SIMP includes all species most vulnerable to IUU fishing and seafood fraud. It will also continually seek improvements to better screen and monitor imported shipments for IUU fishing risks.

IUU fishing and criminal activity at sea, including human rights and labor abuses, are gaining awareness from industry, policymakers, and environmental groups. More frequent IUU fishing legislation being introduced, expanded definitions of IUU fishing to include forced labor, and increased industry outreach on SIMP all add to the growing momentum to tackle this complex issue. However, bad actors continue to evade detection and add to the challenges of monitoring seafood imports. To implement SIMP effectively, periodic reviews and adjustments are necessary to keep pace with the rapidly changing conditions around counter-IUU fishing.

Species Identified for Human Trafficking and Forced Labor

Through the review of U.S. Government reports and information on human trafficking, forced labor, and child labor abuses throughout the seafood industry (e.g., Withhold Release Orders, Trafficking in Persons Report, Joint Reports to Congress on Human Trafficking in the Seafood Supply Chain), NMFS found that the most predominant species entering U.S. markets vulnerable to forced labor are **shrimp** and **tuna** (albacore, bigeye, bluefin, skipjack, and yellowfin).¹ The U.S. imports shrimp from almost every nation identified with labor concerns based on declared trade data.² NOAA's report also highlighted NGO sources such as the Verite Commodity Atlas for Fish (2021) and publications from the Environmental Justice Foundation (EJF) in evaluating species for forced labor and human trafficking.

¹ CBP has issued six Withhold Release Orders (WRO) against fishing vessels for suspected use of forced labor in the vessel's fishing operations, all include the harvest of tuna and tuna-like species.

² With regard to forced labor, regulations already exist that prohibit importation of any goods made/produced wholly or in part by forced labor, regardless of whether that good (or species) is included in SIMP. Expanding SIMP to cover all species does not create any prohibitions for forced labor, rather it would require additional reporting to ensure that importers are doing what they are already required to do.



Potential Expansion of SIMP Species

NMFS is unlikely to propose the removal of any species or species groups currently included in SIMP, as they remain at risk for IUU fishing and seafood fraud. Instead, NMFS is considering expanding the following species groups due to IUU fishing risk and mislabeling factors:

- Northern Red Snapper → **all snapper species** (Lutjanidae spp.)
- Atlantic Blue Crab → **blue and swimming crabs**
- Red King Crab → **all king crabs**
- True tunas → **additional tuna and tuna-like species**

NMFS is still evaluating the remaining species against the sets of criteria outlined below to determine if any additional species and species groups are vulnerable to IUU fishing and seafood fraud. Based on this evaluation, NMFS will determine whether to propose any additional species for inclusion in SIMP. Consideration of new species will follow a formal rulemaking process, including a public comment period and requirements for comparable traceability requirements within the U.S. for each species.

Revisions on Overall SIMP Regulations

Over the course of SIMP's implementation, NMFS has recognized several opportunities to improve the program's effectiveness via regulatory reform and is thus in the process of reviewing its regulations for proposed revisions. The following areas are under consideration for revision:

- Reviewing the International Fisheries Trade Permit (IFTP) requirements to provide greater clarity on the relationship between an IFTP holder and the importer of record under the customs definition
- Improving the ability to verify legality of harvest through access to additional documentation during a SIMP audit
- Using standardized forms to more quickly and effectively evaluate the legality of any given import
- Revising requirements related to the provision of electronic documents during audits
- Clarifying the required level of specificity for area of harvest

Future Implications

Although NMFS's species review and policy proposals are ongoing, companies can continue to advocate for more effective SIMP implementation. Continued dialogue with the seafood industry is critical to understanding the impacts of future rulemaking on seafood companies' ability to comply with the program. FishWise encourages participation by the seafood industry in advocating for more substantial SIMP implementation and continued transparency from the U.S. government.



Methodology

Seafood Risk Principles

In the most recent review of species under SIMP, NMFS employed both the original principles and new criteria outlined by Congress to evaluate species. The principles established in 2015 to determine species at risk of IUU fishing and seafood fraud include:

Enforcement Capability	The existence and effectiveness of enforcement capabilities of the U.S. and other countries, including both the existing legal authority to enforce fisheries management laws and regulations and the capacity (e.g., resources, infrastructure) to enforce those laws and regulations throughout the geographic range of fishing activity for a species
Catch Documentation Scheme	The existence of a catch documentation scheme throughout the geographic range of fishing activity for a species, and the effectiveness of that scheme if it exists, including whether a lack of proper documentation leads to discrepancies between total allowable catch and trade volume of a species
Complexity of the Chain of Custody and Processing	Consideration of transparency of chain-of-custody for a species, such as the level of transshipment for a species, as well as the complexity of the supply chain and extent of processing as it pertains to comingling of species or catch
Species Misrepresentation	The history of known misrepresentation of a species related to substitution with another species, focused on mislabeling or other forms of misrepresentation of seafood products
Mislabeling or Other Misrepresentation	The history of known misrepresentation of information other than mislabeling related to species identification (e.g., customs misclassification or misrepresentation related to country of origin, whether the product is wild vs. aquaculture, or product weight)
History of Violations	The history of violations of fisheries laws and regulations in the U.S. and abroad for a species, particularly those related to IUU fishing
Human Health Risks	History of mislabeling, other forms of misrepresentation, or species substitution leading to human health concerns for consumers, including, in particular, incidents when misrepresentation of product introduced human health concerns due to different production, harvest, or handling standards, or when higher levels of harmful pathogens or other toxins were introduced directly from the substituted species

New criteria, added by NMFS under the direction of Congress, used to conduct the 2021 review include:

Reduce human trafficking in the international seafood supply chain	This criterion includes documented reports of egregious forms of labor abuse, such as forced labor, predatory recruitment, and child labor in addition to human trafficking. In addition, NMFS is evaluating the declared Country of Origin(s) of seafood imports with respect to the products and nations identified as most at risk for human trafficking within their supply chains.
Reduce economic harm to the American fishing industry	This includes reports of IUU fishing of species and stocks where domestic fishermen are impacted due to the illegal take or supply chain actors (e.g., processors, importers, distributors) are affected by fraudulent practices. <i>This criterion overlaps with the existing principles on history of fishing violations, enforcement capacity, and catch documentation schemes.</i>
Preserve stocks of at-risk species around the world	This includes threatened or endangered species affected by IUU fishing, whether the species is harvested intentionally or accidentally (bycatch), reports of the species being overharvested due to fishing pressure, and/or existing legislation to protect the species due to its population decline.
Protect American consumers from seafood fraud	This considers species that are commonly substituted or misrepresented, including both the intended species and the replacement species sold at retail directly to the final consumer. <i>This criterion overlaps with existing principles of species substitution and mislabeling or other misrepresentation.</i>



Risk Evaluation

NMFS used the 2015 review and species determinations as a baseline to measure whether the risk level changed for the current 13 SIMP species groups and the other 41 species evaluated. There were 10 new species or species groups included in the review as they were among the top 50 seafood imports in 2020 (by volume or value) and/or due to reports related to IUU fishing and seafood fraud risk. The estimated 64 species and species groups that were evaluated in 2021 include:

Abalone	Halibut, Atlantic	Salmon, Sockeye
Anchovies	Halibut, Pacific	Scallops
Billfish (Marlins, Spearfishes, Sailfishes)	Lake (Yellow) Perch	Sea bass
Catfish (Ictaluridae)	Lobster	Sea cucumber
Cod, Atlantic	Mackerel	Seaweed (Algae)
Cod, Pacific	Menhaden	Skates and Rays
Crab, Atlantic Blue	Mussels	Sharks
Crabs, Other Blue	Octopus	Shrimp
Crab, Dungeness	Opah (Sunfish, Moonfish)	Sole
Crab, Red King	Oyster	Squid
Crab, Blue King	Orange Roughy	Sturgeon caviar
Crab, Brown King	Pacific Whiting	Swordfish
Crab, Golden King	Queen Conch	Tilapia
Crab, Snow	Red Drum	Toothfish
Cuttlefish	Snapper, Northern Red	Trout
Crustaceans (Other)	Snappers (Lutjanidae spp.)	Tunas (Albacore, Bigeye, Bluefin, Skipjack, Yellowfin)
Dolphinfish (Mahi Mahi)	Sablefish	Tunas (Other and Tuna-like)
Eels	Salmon, Atlantic	Wahoo
Flounder, Southern	Salmon, Chinook	Walleye (Alaskan) Pollock
Flounder, Summer	Salmon, Chum	Weakfish
Grouper	Salmon, Coho	
Haddock	Salmon, Pink	