

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens cause thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. Please include OMB Control Number, 3060–0484, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on November 5, 2024, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 4.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0484.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0484.

OMB Approval Date: November 5, 2024.

OMB Expiration Date: November 30, 2027.

Title: Part 4 of the Commission's Rules Concerning Disruptions to Communications.

Form Number: N/A.

Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 3,224 respondents; 201,848 responses.

Estimated Time per Response: 1 hour–2 hours (average per response).

Frequency of Response: On occasion and Annual Reporting Requirements and Recordkeeping Requirement.

Obligation to Respond: Mandatory and Voluntary. The statutory authority

for this information collection is contained in sections in sections 1, 4(i), 4(j), 4(n), 4(o), 201(b), 214, 218, 251(e)(3), 251(e)(4), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 154(i)–(j), (n), & (o), 201(b), 214, 218, 251(e)(3), 251(e)(4), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 332, 403, 615, 615a–1, and 1302.

Total Annual Burden: 398,319 hours.

Total Annual Cost: No Cost.

Needs and Uses: Through this information collection, data received facilitates the Commission's monitoring, analysis, and investigation of the reliability and security of voice, paging, and interconnected voice over internet protocol communications services. Data received through this information collection also helps the Commission identify and act on potential threats to our Nation's telecommunications infrastructure. Moreover, the Commission uses this information collection to identify the duration, magnitude, root causes, contributing factors with respect to significant outages; and to identify outage trends; support service restoration efforts; and help coordinate with public safety officials during times of crisis. The Commission uses the information collection to draw lessons learned in order to foster a better understanding of significant outages' root causes, and to explore preventive measures in the future so as to mitigate the potential scale and impact of such outages.

Harmonizing the existing notification requirements for covered 911 service providers and originating service providers (OSPs) will simplify compliance for providers and reduce confusion for 911 special facilities. Among other harmonization requirements, the initial notification requirements are intended to provide preliminary notice of a potential problem to a 911 special facility so that the 911 special facility can, as quickly as possible, mitigate the impacts of the outage, and alert the public to alternative means of emergency services.

The new requirement that covered 988 service providers and OSPs notify 988 special facilities about outages that potentially affect them serves these same purposes with respect to the availability of the 988 Lifeline, including providing notice to the Substance Abuse and Mental Health Services Administration, the Veterans Affairs Administration, and the 988 Lifeline administrator when an outage

that potentially affects a 988 special facility occurs.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–29154 Filed 12–13–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

[241206–0315]

RIN 0648–BH37

Inspection and Certification of Establishments, Fishery Products, and Other Marine Ingredients

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

ACTION: Final rule.

SUMMARY: The NMFS Office of International Affairs, Trade, and Commerce is revising its current implementing regulations to improve the uniformity and reliability of seafood inspection services by adopting recognized best practices for inspection. NMFS has not significantly revised or updated the existing regulations since first issuing them in 1971, though it has modified many operating procedures since implementation of the current regulations. NMFS anticipates that these revisions will benefit the seafood industry by streamlining seafood inspection services and providing improved, more accurate inspection results.

DATES: This final rule is effective January 15, 2025.

ADDRESSES: Public comments and materials received and used in the preparation of this final rule are available online at <https://www.regulations.gov> in docket number NOAA–NMFS–2024–0061. In case of problems accessing these documents, please use the contact listed here (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Melissa Beaudry, Senior Consumer Safety Officer, Seafood Inspection Program, National Marine Fisheries Service Office of International Affairs, Trade, and Commerce by email at Melissa.Beaudry@noaa.gov or by phone at 301–427–8308.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*), and in accordance with the Reorganization Plan Number 4 of 1970 (84 Stat. 2090), NOAA administers a voluntary Seafood Inspection Program (SIP or Program) which offers inspection and grading services for seafood and other marine products, as well as audit and consultative services to domestic and international processors, importers, and international competent food safety authorities. SIP also authorizes the use of certain marks and shields to processors meeting specific safety, quality, and other program requirements. The existing regulations codified at 50 CFR part 260 have not been significantly revised or updated since NMFS first issued them in 1971, 36 FR 21037 (November 3, 1971), and currently do not reflect the changes in industry practices or the expanding role of SIP since that time. NMFS published a notice of proposed rulemaking (89 FR 31690, April 25, 2024) and requested comments for 30 days. SIP received six public comments during the 30-day comment period. We reviewed and considered all comments received in development of this final rule. All substantive comments received on the proposed rule are addressed in this final rule in the Comments and Responses section.

Comments and Responses

We published the proposed rule in the **Federal Register** on April 25, 2024 (89 FR 31690), with a 30-day comment period. During the 30-day comment period, we received six comment submissions. The comments received were from stakeholders and interested parties on focused areas of the Seafood Inspection Program. NMFS appreciates the thoughtful comments representing a diverse set of views and has considered them thoroughly. The comments generally expressed support of the action by the NMFS Office of International Affairs, Trade, and Commerce to revise its current implementing regulations to improve the uniformity and reliability of seafood inspection services by adopting recognized best practices for inspection. There was general support by commenters for the intent to modernize and move language from regulation to the online SIP Manual. There was also general support for simplifying the administrative, inspection, and certification procedures, updating and consolidating grade standards wherever possible, and SIP's effort to improve the

uniformity and reliability of seafood inspections services. Our responses to all comments that are pertinent to this action are described below.

Comment 1: Some commentators recommended that periods of public comment be longer than 30 days, and that NMFS should give all operational alterations, including ones such as this proposed rule, at least nine weeks of industry consideration. There was also a request for industry-facing seminars/informational sessions, as well as consideration for seasonal timing impacts and that all change actions allow for industry dialogue and participation going forward.

Response: A 30-day comment period is generally considered by courts to be sufficient to allow for meaningful public participation pursuant to the Administrative Procedure Act. Longer comment periods may be necessary where a rule is technically complex or lengthy. However, as the proposed rule codified NMFS's current practices and did not make any changes to NMFS's operation, a longer comment period was not necessary. NMFS does agree that before implementing any changes to policy that will affect how industry operates or responds, they will notify industry and engage in dialogue to ensure all parties understand the changes and have sufficient time to implement any changes required.

Comment 2: One commenter asked NMFS to focus on Gulf shrimp and raise tariffs against Thai shrimp.

Response: The authority to raise tariffs against any country or product is outside the scope and regulatory authority of the NMFS SIP.

Comment 3: One commenter asked whether NMFS conferred with FDA (U.S. Food and Drug Administration) regarding definitions of "fish", "fishery product", "inspection service", "product", "wholesome." Similarly, another commenter recommended examination of the final definitions for clarity, as well as the inclusion of sourcing for each new definition implemented in the event industry needs additional guidance.

Response: NMFS confirms that the FDA reviewed and provided feedback on the proposed rule prior to publication. The definitions used in the proposed rule are also in alignment with the definitions in current regulations, both under 50 CFR part 260 and 21 CFR parts 123 and 117. In the proposed rule, the definition for "fish" was revised from ". . . other than birds or mammals, and all mollusks, . . ." to ". . . other than birds or mammals, and including all mollusks, . . ." to help clarify that all mollusks are defined as

fish, which has been a source of confusion since the HACCP regulations in 21 CFR part 123 were implemented. The definition of fish was also expanded to include "other non-food uses." These definitions remain unchanged in the final rule. NMFS disagrees with the need to source definitions, as the terms defined here pertain specifically to use within this regulation and source definitions to the use of these terms in other contexts would not provide accurate guidance to industry.

Comment 4: One commenter noted that some definitions refer to "animal" consumption (fish, inspection services) and others do not include "animal consumption" (fishery product, product, wholesome).

Response: The inclusion of "animal" or "animal consumption" in definitions varies based on the end use of the product. The definitions for "fish" and "inspection services" identify that the end use of the product could be for consumption other than as human food. NMFS inspects and certifies a variety of non-human food fishery products, whether they be for animal feed, use in making animal food, or other industrial uses. The terms "fishery product" and "wholesome" refer specifically to the end use being for human consumption. The definition for "product" does not include the word "animal", but conveys that end use with the phrase "whether or not destined for human consumption".

Comment 5: Several commenters asked how NMFS will notify industry of changes to the online manual. For example, one commenter suggested highlighting or striking out changes, or listing date(s) of revisions on each title page for transparency. Another commenter suggested that SIP establish a method of providing a summary of any modifications to the NMFS Fishery Products Inspection Manual (SIP Manual or Manual) so stakeholders are aware of and can locate the changes. A third commenter recommended a regular update period for the Manual, wherein industry may expect to review potential new Manual language annually or biannually, rather than needing to react to NMFS actions on short timelines when they are communicated. Another commenter recommended that amendments to the Manual or other policy changes be marked and displayed in ways that make it easy for users to see what is changing and how.

Response: NMFS agrees that changes to the online SIP Manual should be communicated to the public in a timely manner and in a transparent way.

However, NMFS declines to adopt the suggestion to strike out or highlight changes in the Manual as this could create confusion and make the Manual more difficult to navigate. Additionally, restricting updates to only once or twice a year would make the online format less flexible, undermining NMFS' goal for the Manual to remain current and up to date. Therefore, NMFS will continue to make updates when needed, but will make sure to notify all stakeholders and/or staff members when changes are made that affect the way in which they interact with NMFS SIP. Currently, NMFS adds revision dates to chapter and section headings when changes occur to highlight such updates for stakeholders and will continue to assess practices which support transparency.

Comment 6: Several commenters noted that moving procedural changes into the Manual will make future changes easier, but is less transparent than the formal rulemaking process and can limit the opportunity for stakeholder engagement afforded through the open comment periods of FR notices. Similarly, some commentators noted that the move to the online Manual has led to confusion as to how and when updates take place.

Response: Proposed changes to NMFS SIP policy or operational procedures that run counter to current regulations will continue to follow the formal rulemaking process, including public notice and opportunity for comment. Changes to NMFS SIP's day-to-day operational procedures or policies that do not run counter to current regulations may be updated in the Manual as needed, with ample notice of these changes given to the public. Changes such as updates to the SIP fees schedule or new Grade Standards, will also continue to be published in the **Federal Register**.

Comment 7: One commenter requested that NMFS allow users time to make changes to their programs before implementing compliance actions whenever the Manual is updated.

Response: NMFS agrees that whenever the Manual is updated with changes required to operational procedures, time will be given to stakeholders to fully understand and implement the changes. NMFS also will continue to provide outreach and training when changes necessitate a more involved response from stakeholders.

Comment 8: One commenter wrote that NMFS should hold informational sessions for users when making revisions so the users can better understand the new or revised criteria.

Response: NMFS agrees that outreach is beneficial to both stakeholders and SIP when substantial changes to a system or procedure are enacted, and will continue to engage in such activities with stakeholders when warranted.

Comment 9: One commenter wrote that NMFS must ensure that latest standards and Sensory Quality indicators are readily available to users so they can meet the criteria.

Response: NMFS agrees that all standards and criteria must be available and informed to users prior to their implementation, and will continue to ensure that happens. The SIP Manual is updated in real-time as new methodologies and standards are developed and employed, and whenever clarification is required. Emailed notices go out broadly to industry members and program participants when these changes occur, and all relevant standards and criteria are housed in the online Manual, which is available to the public on the NMFS website at <https://www.fisheries.noaa.gov/national/seafood-commerce-certification/seafood-inspection-manual>.

Comment 10: One commenter wrote that moving to the proposed "one size fits all" sampling plan of six and zero is a significant departure from the current sampling plans. The proposed changes to the sampling plan will not have the positive impact for firms who currently use a sampling plan with a sample size of three or four. A sampling plan allowing for more samples and specific number of non-conformances should still be allowed. Further, National Fisheries Institute disagrees with the assessment that the proposed rule will not have a significant economic impact on small entities. The proposed sampling plan of six and zero will influence inspection and destructive sampling costs for many SIP participants in a negative way.

Response: NMFS previously experimented with the model sampling plan of six and zero (sample size of six with zero non-conforming units) and found that it did not have the overall positive impact expected. Therefore, NMFS has decided not to go forward with the proposed six and zero sampling plan, and will continue to use the single and multiple sampling plans formerly found in 50 CFR 260.61, which are also found in the Manual. NMFS also allows the use of other validated and internationally recognized sampling plans, and participants are encouraged to use the sampling plan that works best for their situation.

Comment 11: One commenter suggested that NMFS consider changing

the way we test for Paralytic Shellfish Poisoning (PSP).

Response: The mouse bioassay is the current regulatory method for determining the presence of PSP and other toxins in shellfish in the United States, and is recognized internationally. Changing the approved methodology falls outside the scope of NMFS' regulatory authority.

Comment 12: Several commenters asked how NMFS would cover other marine ingredients, such as algae and kelp, which are not covered by FDA under 21 CFR part 123.

Response: NMFS, as the U.S. Competent Authority for export health certification for fishery products for human consumption, has for years been providing export certification for products such as edible algae and kelp when requested by stakeholders, in an effort to keep trade flowing. This expansion of NMFS to non-consumer and other marine products is an opportunity to facilitate trade for U.S. businesses. The inclusion of non-human-consumption fish and fishery products and other marine ingredients to the program allows U.S. businesses to compete better with industry members from other countries in providing these valuable resources to the worldwide marketplace. Adding inspection and certification services for non-food, by-products, and other marine ingredients in this regulation codifies the ability of NMFS to provide services to businesses trading in marine products that traditionally the FDA and the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) do not provide.

Comment 13: One commenter wrote that NMFS should be more transparent with costs and billing invoices and be more aware of their impact to industry users. Another commenter requested further consideration into how the payment structure can be adjusted to allow industry to better anticipate and absorb these costs, as well as implementing controls to minimize overtime and holiday work by auditors.

Response: NMFS strives to maintain fairness and equity in all billing processes. When an inspector travels to conduct multiple audits at multiple facilities in one geographic location, the total travel expenses are divided equally among all facilities involved in that trip, while the actual audit time per facility is charged directly. The regional inspection offices manage their personnel and duty assignments, and to the extent practical, manage working hours to avoid overtime and holiday work. However, given the nature of the industry, inspections often have to take

place on evenings, weekends, and holidays due to the constraints of specific requests. For example, live product that requires inspection and/or certification and is harvested and shipped on a weekend also requires weekend work from an inspector. SIP rates are analyzed annually and updated as needed to ensure that NMFS recovers as nearly as possible the operating expenses of the Program, without generating a profit.

Comment 14: Several commenters wrote that SIP inspectors and industry will need time to adjust to the changes in the final rule. Companies will need time to make internal changes to their documentation and procedures, as well as train employees. Commenters further noted that NOAA should recognize the seasonal contracts for inspection services to allow for sufficient timing and outreach to these participants.

Response: Since the proposed rule did not make any changes to the way in which NMFS SIP currently operates, the agency does not believe that an adjustment period is necessary. NMFS does agree that before implementing any changes to policy that will affect how industry operates or responds, stakeholders will be notified and engaged in dialogue to ensure all parties understand the changes and have sufficient time to implement any changes required.

Comment 15: One commenter wrote that NMFS being the only organization to provide export health certification and grading for other agency purchases does not make it a true voluntary program if industry wants to distribute and market their seafood products in a global community.

Response: NMFS offers services to industry that are required as part of doing business in the international arena, or with the U.S. Government Purchasing Programs. Since SIP operates as a fee-for-service agency, and does not have appropriated funding, it is necessary to charge for these services. NMFS calculates the rates to recover as nearly as possible the operating costs of the Program without generating a profit, and analyzes and adjusts them annually. NMFS does not mandate the inspections and certification required from importing countries and other U.S. Government agencies, but is the Competent Authority within the U.S. Government to provide inspection and export certification for fish and fishery products. SIP's provision of those services allows customers to participate in international trade and government purchase programs only if they choose to do so, and at the level they choose to participate. NMFS represents the U.S. in

negotiations with other countries regarding their import requirements, and works to reduce the inspection and certification burdens imposed on U.S. exporters.

Changes From the Proposed Rule

NMFS made no changes to the regulatory text from the proposed rule to the final rule. NMFS made one change regarding a sampling approach that was described in the proposed rule preamble. SIP has decided not to go forward with the proposed six and zero sampling plan, and will continue to use the single and multiple sampling plans formerly found in 50 CFR 260.61, which are also found in the Manual.

Classification

This final rule is published under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). The NMFS Assistant Administrator has determined that this final rule is consistent with the provisions of this and other applicable laws.

Executive Order 12866

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

Executive Order 13175

A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 was not required for this final rule because this action does not impose substantial direct compliance costs on Indian Tribal Governments and this action does not preempt Tribal law. A Tribal summary impact statement is not required and none has been prepared.

Final Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this final rule would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

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. This final rule to update 50 CFR part 260 is procedural and administrative in nature, in that it merely reflects the actual operations of the SIP today. Neither fishing activity nor trade in seafood products are 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 required and none has been prepared.

Paperwork Reduction Act

This final rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995. The existing collection of information requirements would continue to apply under the following OMB Control Number: 0648-0266, Seafood Inspection and Certification Requirements. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a 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 260

Inspection, Inspection Services, Certification, Approved Establishment, Sampling, Imports, Exports, Fish and Fisheries Products, Marine Ingredients, Grade Standards, Marks.

Dated: December 6, 2024.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, NMFS revises 50 CFR part 260 as follows:

PART 260—INSPECTION AND CERTIFICATION

Subpart A—Inspection and Certification of Establishments, Fishery Products, and Other Marine Ingredients

Sec.

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Authority: Sec. 6, 70 Stat. 1122, 16 U.S.C. 742e; secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624; Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

Subpart A—Inspection and Certification of Establishments, Fishery Products, and Other Marine Ingredients

§ 260.1 Administration of regulations.

The Secretary of the Department of Commerce is charged by the Agricultural Marketing Act of 1946 with the administration of the regulations in

this part, except that they may delegate any or all of such functions to any officer or employee of the National Marine Fisheries Service (the *Agency*) of the Department at their discretion.

Definitions

§ 260.2 Terms defined.

Words in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand. For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

Acceptance number means the number in a sampling plan that indicates the maximum number of nonconformities permitted in a sample of a lot that meets a specific requirement.

Act means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 *et seq.*, as amended; 7 U.S.C. 1621 *et seq.*) or any other act of Congress conferring like authority.

Administrator means the Administrator of NOAA (Under Secretary of Commerce for Oceans and Atmosphere) or a designee.

Agency means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

Applicant means any interested party who requests inspection service under the regulations in this part.

Approved Establishment means an establishment which has been approved by the Agency pursuant to this Part and the NMFS Fishery Products Inspection Manual (SIP Manual) and utilizes inspection service on a contract basis.

Certificate of loading means an official certificate or document that makes a statement relative to check-loading of a fish or fishery product or other marine ingredient subsequent to inspection thereof issued pursuant to the regulations in this part.

Certificate of sampling means an official certificate or document that makes a statement pursuant to the regulations in this part identifying officially drawn samples and may include a description of the condition of containers and the condition under which the fish or fishery product or other marine ingredient is stored.

Class means a grade or rank of quality.

Condition means the degree of soundness of the product that may affect its merchantability and includes but is not limited to those factors that are subject to change due to age, improper preparation and processing, improper

packaging, improper storage, or improper handling.

Cross-Licensed Inspector means a qualified person employed and licensed by the agency to perform specified inspection services under a joint Federal-State inspection service arrangement.

Department means the U.S. Department of Commerce.

Director means the Assistant Administrator for Fisheries, NOAA, or a designee.

Establishment means the premises, buildings, structures, facilities, and equipment (including machines, utensils, fixtures and transit vehicles) used with respect to the receipt, processing and transport of fish and fishery products and other marine ingredients.

Fish means a fresh or saltwater finfish, crustaceans, other forms of aquatic animal life (including, but not limited to, alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and including all mollusks, where such animal life is intended for human or animal consumption or for other non-food uses.

Fishery product means any human food product in which fish is a characterizing ingredient.

Inspection certificate means a statement, either written or printed, issued pursuant to the regulations in this part, setting forth the quality and condition of the product, or any part thereof, in addition to appropriate descriptive information relative to a fish, fishery product, or other marine ingredient, and the container thereof. It may also include a description of the conditions under which the product is stored.

Inspection service means:

- (1) The performance of sampling pursuant to the regulations in this part;
- (2) The determination pursuant to the regulations and requirements in this part:

- (i) Assessing compliance with statutory and regulatory requirements pertaining to the interstate commerce of fish and fishery products or other marine ingredients for human or animal food;

- (ii) Identifying the essential characteristics such as style, type, size, or identity of any fish or fishery product or other marine ingredient; or

- (iii) Assessing the class, quality, and condition of any fish or fishery product or other marine ingredient, including the condition of the container thereof by the examination of appropriate samples;

- (3) The issuance of any certificates of sampling, inspection certificates, or

certificates of loading of a fish or fishery product or other marine ingredient, or any report relative to any of the foregoing; or

(4) The performance by an inspector of any related services, such as:

(i) Observing the preparation of the product from its raw state through each step in the entire process;

(ii) Observing the conditions under which the product is being harvested, prepared, handled, stored, processed, packed, preserved, transported, or held;

(iii) Observing the sanitation conditions as a prerequisite to the inspection of the processed product, either on a contract basis or periodic basis;

(iv) Check-loading the inspected processed product in connection with the marketing of the product; or

(v) Conducting any other type of service of a consultative or advisory nature related herewith as outlined in the NMFS Fishery Products Inspection Manual. *Inspector* means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary to investigate, sample, inspect, and certify in accordance with the regulations in this part to any interested party the class, quality and condition of processed products covered in this part and to perform related duties in connection with the inspection service.

Interested party means any person who has a financial interest in the fish or fishery product or other marine ingredient involved.

Licensed sampler means any person who is authorized by the Secretary to draw samples of fish and fishery products or other marine ingredients for inspection service, to confirm the identification and condition of containers in a lot, and may, when authorized by the Secretary, perform other related services under the act and the regulations in this part.

Lot means a defined quantity of product accumulated under conditions considered uniform for sampling purposes.

(1) For processors who manufacture fish and fishery products or other marine ingredients, a lot is a production unit as defined by mutual agreement between the processor and SIP, consisting of fish or fishery products or other marine ingredients of the same type, style, form and size, which have been marked or labeled as such and produced under conditions as nearly uniform as possible, during a single 8 hour shift (or as defined and approved) on an individual processing line.

(2) For establishments that receive fish or fishery products or other marine

ingredients and perform no additional processing, such as distribution warehouses and foodservice distributors, a lot is defined by mutual agreement between the establishment and SIP and must consist of fish or fishery products or other marine ingredients located in a discrete grouping that consists of fish or fishery products or other marine ingredients of the same type, style and size and are marked or labeled as such. Except that: Fish or fishery products or other marine ingredients located in separate groups that differ from each other as to grade or other factors may be deemed as separate lots in some cases, for example:

(i) Fish or fishery products or other marine ingredients located in the same group bearing an identification mark different from other containers in that group may be deemed as separate lots;

(ii) Containers of fish or fishery products or other marine ingredients in a group bearing an identification mark different from other containers in that group, if determined to be of lower grade or deficient in other factors, may be deemed as separate lots; or

(iii) If the applicant requests more than one inspection certificate covering different portions of a lot, the quantity of the product covered by each certificate shall be deemed a separate lot.

Marine ingredient means any product of marine origin, whether or not intended for human consumption, including, but not limited to, fishmeal, fish oil, fish-based fertilizer, seaweed, kelp, and algae.

NMFS Fishery Products Inspection Manual (SIP Manual) means the online handbook, housed at <https://www.fisheries.noaa.gov/national/seafood-commerce-certification/seafood-inspection-manual>, that provides procedures of how services shall be scheduled, planned, conducted, and documented and describes services that conform to global activities that harmonize inspection protocols.

Officially drawn sample means any sample that has been selected from a particular lot by an inspector, licensed sampler, or by any other person authorized by the Secretary pursuant to the regulations in this part.

Person means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not); the United States (including, but not limited to, any corporate agencies thereof) any State, county, or municipal government; any common carrier; and any authorized agent of any of the foregoing.

Processing means, with respect to fish and fishery products and other marine ingredients, activities that an establishment engages in including handling, storing, preparing, heading, eviscerating, shucking, freezing, changing into different market forms, manufacturing, preserving, packing, labeling, dockside unloading, or holding.

Product means any fish or fishery product or other marine ingredient, whether or not destined for human consumption, presented to NMFS for inspection and/or certification service.

Quality means the inherent properties of any processed product that determine the relative degree of excellence of such product, includes the effects of preparation and processing, and may or may not include the effects of packing media or added ingredients.

Rejection number means the smallest number of nonconformities, defectives (or defects) in the sample or samples under consideration that will require rejection of the lot.

Sample means the number of sample units drawn from a lot for purposes of inspection to reach a decision regarding acceptance of the lot and for purposes of quality to reach a conclusion regarding conformity of the lot.

Sample unit means a "unit of product", a primary container and its contents that makes up the sample that is inspected to determine whether it complies with regulatory criteria and that is quality assessed to determine whether it conforms to quality criteria.

Sampling means the process of selecting sample units that comprise the sample for the purpose of inspection and quality assessment under the regulations of this part.

Seafood Inspection Program (SIP) means the program within the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, which offers inspection and grading services for seafood and other marine products as well as audit and consultative services to domestic and international processors, importers, and international competent food safety authorities.

Secretary means the Secretary of the Department of Commerce or any other officer or employee of the Department authorized to exercise the powers and to perform the duties of the Secretary with respect to the matters covered by the regulations in this part.

Shipping container means an individual container designed for shipping a number of packages or cans ordinarily packed in a container for shipping or designed for packing

unpackaged fish or fishery products or other marine ingredients for shipping.

Unofficially drawn sample means any sample that has been selected by any person other than an inspector or licensed sampler.

Wholesome means the minimum basis of acceptability for human food purposes of any fish or fishery product or other marine ingredient as defined in section 402 of the Federal Food, Drug, and Cosmetic Act, as amended.

§ 260.3 Designation and use of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Section 203(h) of the Agricultural Marketing Act of 1946 provides criminal penalties for various specified offenses relating to the misuse of official certificates, memoranda, marks or other identifications and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said section and the provisions in this part, the terms listed below shall have the respective meanings specified:

Official certificate means any form of written, printed or electronic certification, including those defined in § 260.2, used under this part to document and/or certify the compliance of fish or fishery products and other marine ingredients to applicable specifications with respect to inspection compliance and conformity to class, grade, quality, size, quantity, or condition requirements.

Official device means a mechanically or manually operated tool, appliance or other means approved by the Agency to apply an official mark or other identification to any product or the packaging material thereof that is approved by the Director, including, but not limited to, a stamping appliance, branding device, stencil, or printed label.

Official identification means any designation of class, grade, quality, size, quantity, condition, or attribute specified by this part or any symbol, stamp, label, seal, or official statement indicating that the product has been inspected or graded using specifications deemed appropriate by SIP or otherwise evaluated for any buyer specified attribute.

Official insignia means a grade mark, inspection mark, combined inspection and grade mark, shield, stamp, other emblem, and/or official statement approved by the Secretary, authorized by the Agency, and used in accordance with the NMFS Fishery Products Inspection Manual (SIP Manual).

Official document means a record of findings made by an authorized person having performed any inspection, certification, grading, audit or any other service pursuant to this part.

Inspection Service

§ 260.4 Where inspection service is offered.

Inspection services may be furnished where an inspector, cross-licensed inspector, or licensed sampler is available and when the establishment's facilities and conditions are appropriate for the conduct of such service. This location can include, but is not limited to, SIP regional and field offices, warehouses, processing facilities, docks, and vessels, as detailed in the SIP Manual.

§ 260.5 Who may obtain inspection service.

Any person engaged in the processing, shipping or receiving of fish and fishery products or other marine ingredients in interstate commerce may apply for inspection service.

§ 260.6 Application for inspection service.

Prospective service participants must submit an application for inspection service per the Application for Inspection Services procedures in the SIP Manual. To be considered for approval, applications for inspection service must be complete and conform to all SIP inspection service requirements as specified in the SIP Manual.

§ 260.7 Rejection of application for inspection service.

Applicants will be notified if an Application for Inspection Service is rejected. Inspection Service applications may be rejected when: (a) the application is incomplete or in contravention of regulations and/or policy; (b) there is a noncompliance with NOAA financial policy, such as nonpayment for previous inspection services rendered; (c) the fish or fishery product or other marine ingredient is not properly identified; or (d) it appears that the performance of the inspection service would not be in the best interests of the Government.

§ 260.8 Withdrawal of an application for inspection service.

The applicant may withdraw an Application for Inspection Service at any time before the inspection is performed, provided that the applicant shall pay for all costs and expenses which have been incurred by the inspection service in connection with such application.

§ 260.9 Disposition of inspected samples.

Any product sample that has been used for inspection may be returned to the applicant, at its request and expense; otherwise it shall be destroyed or, when appropriate, diverted to a charitable institution.

§ 260.10 Basis of inspection, grade and compliance assessment.

(a) Finished product inspection and certification services shall be performed on the basis of the specifications deemed appropriate by SIP.

(b) Unless otherwise approved by SIP, compliance with the appropriate specifications shall be determined by evaluating the product, or sample, in accordance with the product inspection and quality assessment procedures outlined in the SIP Manual. *Provided*, that:

(1) Such sample complies with the applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act;

(2) Such sample complies with the product description;

(3) Such sample meets the indicated grade with respect to factors of quality which are not rated by score points; and

(4) The number of sample units classed as deviants does not exceed the applicable acceptance number indicated in the sampling plans approved and used. A "deviant," as used in this paragraph, means a sample unit that falls below the indicated grade or specification parameter.

§ 260.11 Order of inspection service.

Inspection services shall be performed, insofar as practicable, in the order in which Application for Inspection Service is made, except that precedence is given first to the United States (including, but not limited to, any instrumentality or agency thereof); second, to an inspection contract holder; and third, to an interested party without an inspection contract.

§ 260.12 Financial interest of inspector.

No inspector shall inspect any product in which s/he has a direct or indirect financial interest.

§ 260.13 Official forms for inspection services.

Inspection certificates, memoranda, reports and other documents associated with inspection services shall only be issued on forms approved by the Agency.

§ 260.14 Issuance of certificates.

Inspection Certificates and Certificates of Loading may be issued by an inspector authorized by the Agency

to affix their signature to a certificate that has been prepared in accordance with the documented evidence in connection with the inspection service provided.

§ 260.15 Issuance of corrected certificates.

When an issued inspection certificate contains errors or otherwise requires revision, the inspector who issued the original document or another employee of the Agency may issue a corrected inspection certificate. The corrected certificate will supersede the original document, which will become null and void after the issuance of the corrected certificate.

§ 260.16 Issuance of an inspection report in lieu of an inspection certificate.

A written report in lieu of an inspection certificate may be issued by an inspector when such action appears to be more suitable than an inspection certificate.

§ 260.17 Retention and provision of inspection certificates.

Inspection certificate copies or other documents issued under the regulations in this part shall be retained by the Agency in accordance with Agency record retention policies. The original certificate (electronic or other) or copy is provided to the inspection service requester, and copies may be provided to other interested parties as identified by the Agency.

§ 260.18 Report of inspection results prior to issuance of formal report.

Upon request by any interested party and approval by the Agency, the interim inspection findings may be provided.

Appeal Service

§ 260.19 Requesting an appeal.

(a) An application for an appeal may be made by any interested party who has cause to disagree with the results of a product inspection or audit finding. An official appeal inspection of a product inspection may only be performed when the lot of fish or fishery products or other marine ingredients can be positively identified by the inspection service as the lot from which officially drawn samples were previously inspected.

(b) Such application shall be made in adherence with the SIP Manual and shall be made within 30 days following the day on which the previous result was communicated, except that upon approval by SIP the time may be extended.

§ 260.20 Withdrawing an appeal application.

An application for appeal may be withdrawn by the applicant at any time before the appeal service is performed, provided that the applicant shall pay for all costs and expenses which have been incurred by the inspection service in connection with such application.

§ 260.21 Declining an appeal application.

A request for an appeal may be declined when:

- (a) The reasons for the appeal are frivolous or not substantial;
- (b) The quality or condition of the product has undergone a material change since the inspection covering the product on which an appeal inspection is requested;
- (c) The lot relative to which an appeal inspection is requested is not, or cannot be made, accessible for the selection of officially drawn samples;
- (d) The lot relative to which an appeal inspection is requested cannot be positively identified by the inspector as the lot from which officially drawn samples were previously inspected; or
- (e) There is noncompliance with the regulations in this part. The applicant shall be notified promptly if a request for appeal is declined, as outlined in the SIP Manual.

§ 260.22 Appeal inspector selection protocol.

(a) An inspector who did not perform the original product inspection shall be assigned to perform the appeal service; provided that the inspector who made the original product inspection on which an appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.

(b) Whenever practical, the appeal service shall be conducted jointly by two inspectors.

§ 260.23 Appeal documentation.

(a) After an appeal service has been completed, the results will be recorded on an appropriate document, as outlined in the SIP Manual. Any appeal document shall supersede the certificate or report previously issued for the product or establishment involved.

(b) The superseded document shall become null and void upon the issuance of the appeal document and shall no longer represent the quality or condition of the product, system, or establishment described therein.

(c) If the original document and all copies have not been returned to the inspector(s) performing the appeal service, the appeal document shall be

issued to the person(s) the inspector(s) considers necessary to prevent misuse of the superseded document.

(d) All provisions in this regulation concerning the use, issuance and disposition of inspection certificates shall apply to appeal inspection certificates, except that electronic copies of the appeal inspection certificates shall be furnished to all interested parties who received the superseded certificate.

Licensing of Inspectors and Samplers

§ 260.24 Inspectors.

(a) Federal Government employees licensed or authorized as inspectors will perform inspections.

(b) In addition, qualified persons may be employed and licensed (Cross-Licensee) by the Agency to perform specified inspection services under a joint Federal-State inspection service arrangement.

(c) An Inspector or Cross-Licensee shall perform their duties pursuant to the regulations in this part as directed by the Director.

§ 260.25 Licensed samplers.

(a) Any person deemed to have the necessary qualifications may be approved as a licensed sampler.

(b) Licensed samplers are authorized to draw samples, to confirm the identity of the lot, and assess the condition of containers in the lot.

(c) Licensed samplers are not authorized to inspect fish or fishery products or other marine ingredients.

§ 260.26 Suspension or revocation of licensed inspector or licensed sampler.

In adherence to Federal and Agency requirements, the Agency may suspend or revoke the license of a licensed inspector or licensed sampler when deemed necessary, as outlined in the SIP Manual.

§ 260.27 Surrender of license.

Upon suspension, revocation and/or termination of the services of a licensed inspector and/or licensed sampler, or in the case of an expired license, the licensee shall surrender their license to the Agency.

Sampling

§ 260.28 Sampling plans and procedures.

(a) When finished product inspections of fish and fishery products and other marine ingredients are performed, the Sampling Plans and Sampling Procedures set forth in the SIP Manual will be followed.

(b) Defined lots of product must be accessible, allowing thorough and proper sampling in accordance with the

regulations of this part. Failure to make lots accessible for proper sampling shall be sufficient cause for postponing or canceling inspection service.

(c) Lots must be readily identifiable; if lots to be sampled are not suitably identified, the inspector or licensed sampler will mark the lot in a manner prescribed by the agency in the regulations and in the SIP Manual.

(d) Samples shall be furnished for inspection at no cost to the Agency.

(e) A certificate of sampling shall be prepared and signed by the inspector or licensed sampler.

(f) Officially drawn samples shall be marked by the Agency representative so such samples can be properly identified for inspection.

§ 260.29 Shipment of samples.

Samples that require shipment to an Inspection Office shall be shipped in a manner to avoid, if possible, any material change in the quality or condition of the product. Costs associated with shipments shall be at the expense of the applicant.

Fees and Charges

§ 260.30 Inspection fees, payment guarantees, charges and payments.

(a) A schedule of fees, charges, payment guarantees and payments for inspection services shall be made in accordance with the applicable provisions of the regulations in this part and the Financial Policy provided in the SIP Manual.

(b) The Schedule of Fees to be charged and collected for any inspection service performed under the regulations of this part will be determined annually, or as required, and published as a Notice in the **Federal Register**.

(c) Fees for inspection under a cooperative agreement with any State or person shall be transferred and collected in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be remitted in accordance with this section and the Financial Policy as provided in the SIP Manual.

(d) Charges may be made to cover the cost of travel and other expenses incurred in connection with the performance of any inspection service, including appeal inspections, as provided in the SIP Manual.

(e) Inspection services may be made on a contract basis or via a memorandum of understanding with other Federal and State entities pursuant to the Agricultural Marketing Act of 1946, provided the Agency is reimbursed for the full cost of such service.

(f) For each calendar year, SIP will calculate the rate for services, per hour per program employee, using the following formulas:

(1) *Regular rate.* The total SIP inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service. The regular rate shall be the contract rate.

(2) *Overtime rate.* The total SIP inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5 plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total SIP inspection program personnel direct pay divided by direct hours which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(g) For each calendar year, based on previous fiscal year/historical actual costs, SIP will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime and holiday rates as follows:

(1) *Benefits rate.* The total SIP inspection program direct benefits costs divided by the total hours (regular, overtime, and holiday) worked, which is then multiplied by the next calendar year's percentage cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(2) *Operating rate.* The total SIP inspection program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(3) *Allowance for bad debt rate.* Total allowance for bad debt divided by total hours (regular, overtime, and holiday) worked.

(h) The calendar year cost of living expenses and percentage of inflation factors used in the formulas in this section are based on the most recent Office of Management and Budget's Presidential Economic Assumptions.

(1) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be determined using the formulas in this section.

Requirements for Approved Establishments

§ 260.31 Application for SIP Approved Establishment.

Any person desiring to process and pack fish and fishery products and other marine ingredients as an SIP Approved Establishment must receive approval of their written and implemented food management system per the application procedures which are detailed in the SIP Manual.

§ 260.32 Requirements for the provision of Inspection Services for Approved Establishments.

All establishments must remain in good standing in order to receive services per this Part.

(a) The determination as to the inspection effort required to adequately provide inspection service at any establishment will be made by NMFS. The person-hours required may vary at different establishments due to factors such as, but not limited to, size and complexity of operations, volume and variety of products produced, and adequacy of control systems and cooperation. The inspection effort requirement may be reevaluated when the contracting party or NMFS deems there is sufficient change in production, equipment and change of quality control input to warrant reevaluation. Inspectors will not be available to perform any of the employee or management duties; however, they will be available for consultation purposes. NMFS reserves the right to reassign inspectors as it deems necessary.

(b) Assessment of an establishment's good standing will be made by the Agency through systems, process, and product auditing and inspection activities, which are further specified in the SIP Manual.

(c) The Agency shall not be held responsible:

(1) For damages occurring through any act of commission or omission on the part of its inspectors when engaged in performing services; or

(2) For production errors, such as processing temperatures, length of process, or misbranding of products; or

(3) For failure to supply enough inspection effort during any period of service.

(d) Approved Establishments shall:

(1) Use, handle, process, store and distribute only raw materials and finished products that meet processing

and sanitation statutory and regulatory requirements for food safety, wholesomeness and labeling;

(2) Adequately code each primary container and master case of products sold or otherwise distributed from a manufacturing, processing, packing, or repackaging activity to enable lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use;

(3) Provide adequate office space in the designated establishment, if required by the Agency, and furnish suitable desks, office equipment, internet services access, laboratory facilities and equipment required to perform product verification and inspection, as prescribed by the Agency;

(4) Furnish and provide laundry service for coats, trousers, smocks, and towels used by inspectors during performance of duty in establishments if required by the Agency; and

(5) During all reasonable times, provide representatives of the Agency free and immediate access to the establishment under the applicant's control for the purpose of performing any and all inspection services.

(e) Retention tags:

(1) Any equipment such as, but not limited to, conveyors, tillers, sorters, choppers, and containers which fail to meet appropriate and adequate sanitation requirements will be identified by the inspector in an appropriate and conspicuous manner with the word "RETAINED." Following such identification, the equipment shall not be used until the discrepancy has been resolved, the equipment re-inspected and approved by the inspector and the "RETAINED" identification removed by the inspector.

(2) Lot(s) of processed products that may be considered to be mislabeled and/or unwholesome by reason of contaminants, or which may otherwise be in such condition as to require further evaluation or testing to determine that the product is properly labeled and/or wholesome, will be identified by the inspector in an appropriate and conspicuous manner with the word "RETAINED." Such lot(s) of product shall be held for re-inspection or testing. Final disposition of the lot(s) shall be determined by NMFS and the removal of the

"RETAINED" identification shall be performed by the inspector.

(f) Termination of inspection services:

(1) The fishery products inspection service, including the issuance of inspection reports, shall be rendered from the date of the commencement specified in the contract and continue until suspended or terminated:

(i) by mutual consent;

(ii) by either party giving the other party 60 days' written notice specifying the date of suspension or termination;

(iii) by written notice by the Agency in the event the applicant does not meet financial obligations;

(iv) by written notice by the Agency, terminating service in the event the applicant fails to meet statutory and/or regulatory requirements, or in the event the applicant fails to comply with any provisions of the regulations contained in this part;

(v) by automatic termination in case of bankruptcy, closing out of business, or change in controlling ownership.

(2) In case the contracting party wishes to terminate the fishery products inspection service under the terms of paragraph (f)(1)(i) or (ii) of this section:

(i) the service must be continued until all unused containers, labels, and advertising material on hand or in possession of his supplier bearing official identification marks or reference to the fishery products inspection service have been used;

(ii) all unused containers, labels, and advertising material bearing official identification marks or reference to the fishery products inspection service must be destroyed;

(iii) official identification marks and all other reference to the fishery products inspection service on all unused containers, labels, advertising material must be obliterated; or

(iv) assurance satisfactory to NMFS must be furnished that all unused containers, labels, and advertising material bearing official identification marks or reference to the fishery products inspection service will not be used in violation of any of the provisions of the regulations in the part.

(3) In case the fishery products inspection service is terminated for cause by NMFS under the terms of paragraph (f)(1)(iii) or (iv) of this section, or in case of automatic termination under terms of paragraph (f)(1)(v) of this section, the contracting

party must destroy all unused containers, labels, and advertising material on hand bearing official identification marks or reference to the fishery products inspection service or must obliterate official identification marks and all reference to the fishery products inspection service on said containers, labels and advertising material. After termination of the fishery products inspection service, NMFS may, at such time or times as it may determine to be necessary, during regular business hours, enter the establishment(s) or other facilities in order to ascertain that the containers, labels, and advertising material have been altered or disposed of in the manner provided herein, to the satisfaction of NMFS.

§ 260.33 Compliance with statutory and regulatory requirements.

Approved Establishments shall comply with all statutory and regulatory requirements and provisions pertaining to the production of fish and fishery products and other marine ingredients for human or animal consumption.

Miscellaneous

§ 260.34 Policies and procedures.

The policies and procedures pertaining to the Agency's inspection services are contained within the SIP Manual.

§ 260.35 Approved marks, shields, stamps and official statements.

As prescribed by the SIP Manual, Inspection Service participants meeting the requirements may request approval to utilize specified SIP Grade Marks, Shields, Stamps and Official Statements (collectively *SIP Insignia*).

(a) *Participants as approved establishments.* (1) Fish and Fishery products and other marine ingredients that are processed under Federal inspection to assure compliance with all applicable regulatory requirements through the SIP Approved Establishments Program may be eligible to bear an:

(i) Approved Establishment inspection mark; and/or,

(ii) Approved Establishment Official Statement.

Figure 1 to Paragraph (a)(1)(ii)—USDC Approved Establishment Inspection Mark



(2) Fish and Fishery products and other marine ingredients that are processed under Federal inspection to ensure compliance with all applicable regulatory requirements through the SIP Approved Establishments Program and

certified by an inspector as meeting the requirements of the applicable Approved Specification additionally may be eligible to bear (as applicable):

(i) Grade A shield;

(ii) Processed Under Federal Inspection (PUFI) mark; and/or

(iii) Other official statements and/or marks, as approved by SIP, *e.g.*

Figure 2 to Paragraph (a)(2)(i)—U.S. Grade A Shield



Figure 3 to Paragraph (a)(2)(ii)—Processed Under Federal Inspection (PUFI) Mark



(3) Approved Establishments will not make deceptive, fraudulent, or unauthorized use in advertising, or otherwise, of the fishery products inspection service marks, the inspection certificates or reports issued, or the containers on which official identification marks are embossed or otherwise identified, in connection with the sale of any processed products;

(b) *Lot inspection marks.* (1) Fish and fishery products and other marine ingredients that have not been processed under Federal inspection may not be approved for the use of Grade or Inspection Marks. Such products may, however, be inspected on a Lot Inspection basis.

(2) Master cases and inspection certificates for products that are submitted for inspection through the lot

inspection process identified in the SIP Manual and are certified by an inspector as meeting the requirements of the applicable USDC Approved Specification corresponding with the shield, may bear one or more of the following:

(i) USDC Accepted per Specifications shield;

Figure 4 to Paragraph (b)(2)(i)—USDC Accepted per Specifications Shield



(ii) Officially Sampled shield, *e.g.*

Figure 5 to Paragraph (b)(2)(ii)—Officially Sampled Shield



§ 260.36 Revocation of approval to use inspection marks and statements.

(a) Approval for use of SIP inspection marks, statements, and insignia will be rescinded when evidence indicates that processing conditions and/or product lots do not meet applicable regulatory, inspection and/or quality requirements per the SIP Manual.

(b) Any affected lot(s) shall be retained and may not enter commerce unless the lot meets minimum regulatory requirements to enter commerce and the SIP insignia is removed.

(c) The establishment or processor shall obtain written clearance from the Agency for the release of product lots that have been put on hold under this part.

§ 260.37 Compliance with other laws.

None of the requirements in the regulations in this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to the operation of food processing establishments and to processed food products.

§ 260.38 Identification.

Each inspector and licensed sampler shall have a means of identification furnished by the Agency in his/her possession and, while on duty, present such identification upon request.

§ 260.39 Debarment and suspension.

(a) *Debarment.* Any person may be debarred from using or benefiting from the inspection service provided under the regulations of this subchapter or under the terms of any inspection contract, and such debarment may apply to one or more processing establishments under their control, if such person engages in one or more of the following acts or activities:

(1) Misrepresenting, misstating, or withholding any material or relevant facts or information in conjunction with any application or request for an inspection contract, inspection service, inspection appeal, lot inspection, or other service provided for under the regulations of this subchapter.

(2) Using on a fish or fishery or other marine ingredient product any label that displays any official identification, official device, or official mark, when the label is not currently approved for use by the Director or his/her delegate.

(3) Using on a fish or fishery product or other marine ingredient any label that displays the words "USDC Approved Establishment" or "Processed Under Federal Inspection, U.S. Department of Commerce"; any official mark, official device, or official identification; or a

facsimile of the foregoing, when such product has not been inspected under the regulations of this subchapter.

(4) Making any statement or reference to the U.S. Grade of any product or any inspection service provided under the regulations of this subchapter on the label or in the advertising of any product when such product has not been inspected under the regulations of this subchapter.

(5) Making, using, issuing or attempting to issue or use in conjunction with the sale, shipment, transfer or advertisement of a product any certificate of loading, certificate of sampling, inspection certificate, official device, official identification, official mark, official document, or score sheet which has not been issued, approved, or authorized for use with such product by an inspector.

(6) Using any of the terms "United States," "Officially graded," "Officially inspected," "Government inspected," "Federally inspected," "Officially sampled," "Grade A Equivalent" or words of similar import or meanings, or using any official device, official identification, or official mark on the label, on the shipping container, or in the advertising of any fish or fishery product or other marine ingredient, when such product has not been inspected under the regulations of this subchapter.

(7) Using, attempting to use, altering or reproducing any certificate, certificate form, design, insignia, mark, shield, device, or figure which simulates in whole or in part any official mark, official device, official identification, certificate of loading, certificate of sampling, inspection certificate or other official certificate issued pursuant to the regulations of this subchapter.

(8) Assaulting, harassing, interfering, obstructing or attempting to interfere with or obstruct any inspector or licensed sampler in the performance of their duties under the regulations of this subchapter.

(9) Violating any one or more of the terms of any inspection contract or the provisions of the regulations of this subchapter.

(10) Engaging in acts or activities which destroy or interfere with the purposes of the inspection program or which have the effect of undermining the integrity of the inspection program.

(b) *Temporary suspension.* (1) Whenever the Director has reasonable cause to believe that any person has engaged in any act or activity described in paragraph (a) of this section and such act or activity, in the judgment of the Director, would cause serious and irreparable injury to the inspection

program and services provided under the regulations of this subchapter, the Director may, without a hearing, temporarily suspend, either before or after the institution of a debarment hearing, the inspection service provided under the regulations of this subchapter or under any inspection contract for one or more processing establishments under the control of such person. Notice of suspension shall be served by registered or certified mail, return receipt requested, and the notice shall specifically state those acts or activities of such person that are the basis for the suspension. The suspension shall become effective 5 days after receipt of the notice.

(2) Once a person has received a notice of a temporary suspension, a debarment hearing will be set for 30 days after the effective date of the suspension. Within 60 days after the completion of the debarment hearing, the Hearing Examiner shall determine, based upon evidence of record, whether the temporary suspension shall be continued or terminated. A temporary suspension shall be terminated by the Hearing Examiner if they determine that the acts or activities that were the bases for the suspension did not occur or will not cause serious and irreparable injury to the inspection program and services provided under the regulations of this subchapter. This determination of the Hearing Examiner on the continuation or termination of the temporary suspension shall be final, and there shall be no appeal of this determination. The initial decision by the Hearing Examiner on the debarment shall be made in accordance with paragraph (b)(1), *Decisions*, of this section.

(3) After a debarment hearing has been instituted against any person by a suspension, such suspension will remain in effect until a final decision is rendered on the debarment in accordance with the regulations of this section or the temporary suspension is terminated by the Hearing Examiner.

(4) When a debarment hearing has been instituted against any person not under suspension, the Director may, in accordance with the regulations of this paragraph (b), of this section, temporarily suspend such person, and the suspension will remain in effect until a final decision on the debarment is rendered in accordance with the regulations of this section or the temporary suspension is terminated by the Hearing Examiner.

(c) *Hearing Examiner.* All hearings shall be held before a Hearing Examiner appointed by the Secretary or the Director.

(d) *Hearing.* If one or more of the acts or activities described in paragraph (a) of this section have occurred, the Director may institute a hearing to determine the length of time during which the person shall be debarred and those processing establishments to which the debarment shall apply. No person may be debarred unless there is a hearing, as prescribed in this section, and it has been determined by the Hearing Examiner, based on evidence of record, that one or more of the activities described in paragraph (a) of this section have occurred. Any debarment or suspension must be instituted within 2 years of the time when such acts or activities described in paragraph (a) of this section have occurred.

(e) *Notice of hearing.* The Director shall notify such person of the debarment hearing by registered or certified mail, return receipt requested. The notice shall set forth the time and place of the hearing, the specific acts or activities which are the basis for the debarment hearing, the time period of debarment being sought, and those processing establishments to which the debarment shall apply. Except for the debarment hearing provided for in paragraph (b) of this section the hearing will be set for a time not longer than 120 days after receipt of the notice of hearing.

(f) *Time and place of hearing.* The hearing shall be held at a time and place fixed by the Director: *Provided,* however, the Hearing Examiner may, upon a proper showing of inconvenience, change the time and place of the hearing. Motions for change of time or place of the hearing must be mailed to or served upon the Hearing Examiner no later than 10 days before the hearing.

(g) *Right to counsel.* In all proceedings under this section, all persons and the Department of Commerce shall have the right to be represented by counsel, in accordance with the rules and regulations set forth in title 15, Code of Federal Regulations, Part 906.

(h) *Form, execution, and service of documents.* (1) All papers to be filed under the regulations in this section shall be clear and legible; and shall be dated, signed in ink, contain the docket description and title of the proceeding, if any, and the address of the signatory. Documents filed shall be executed by:

- (i) The person or persons filing same;
- (ii) An authorized officer thereof if it be a corporation; or
- (iii) An attorney or other person having authority with respect thereto.

(2) All documents, when filed, shall show that service has been made upon all parties to the proceeding. Such

service shall be made by delivering one copy to each party in person or by mailing by first-class mail, properly addressed with postage prepaid. When a party has appeared by attorney or other representative, service on such attorney or other representative will be deemed service upon the party. The date of service of document shall be the day when the matter served is deposited in the U.S. mail, shown by the postmark thereon, or is delivered in person, as the case may be.

(3) A person is deemed to have appeared in a hearing by filing with the Director a written notice of their appearance or their authority to appear on behalf of one of the parties to the hearing.

(4) The original of every document filed under this section and required to be served upon all parties to a proceeding shall be accompanied by a certificate of service signed by the party making service, stating that such service has been made upon each party to the proceeding. Certificates of service may be in substantially the following form:

“I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by:

- (1) Mailing postage prepaid, (2) delivering in person, or (3) electronically delivering a copy to each party.

Dated at _____ this _____ day of _____, 20____

Signature _____”

(i) *Procedures and evidence.* (1) All parties to a hearing shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the Hearing Examiner at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this section, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary.

(j) *Duties of Hearing Examiner.* The Hearing Examiner shall have the authority to:

- (1) Take depositions or cause depositions to be taken;
- (2) Regulate the course of the hearings;
- (3) Prescribe the order in which evidence shall be presented;
- (4) Dispose of procedural requests or similar matters;
- (5) Hear and initially rule upon all motions and petitions before them;
- (6) Administer oaths and affirmations;

(7) Rule upon offers of proof and receive competent, relevant, material, reliable, and probative evidence;

(8) Prevent the admission of irrelevant, immaterial, incompetent, unreliable, repetitious, or cumulative evidence;

(9) Hear oral arguments if the Hearing Examiner determined such requirement is necessary;

(10) Fix the time for filing briefs, motions, and other documents to be filed in connection with hearings;

(11) Issue the initial decision and dispose of any other pertinent matters that normally and properly arise in the course of proceedings; and

(12) Do all other things necessary for an orderly and impartial hearing.

(k) *The record.* (1) The Director will designate an official reporter for all hearings. The official transcript of testimony taken, together with any exhibits and briefs filed therewith, shall be filed with the Director. Transcripts of testimony will be available in any proceeding under the regulations of this section at rates fixed by the contract between the United States of America and the reporter. If the reporter is an employee of the Department of Commerce, the Director will fix the rate.

(2) The transcript of testimony and exhibits, together with all briefs, papers, and all rulings by the Hearing Examiner shall constitute the record. The initial decision will be predicated on the same record, as will the final decision.

(l) *Decisions.* (1) The Hearing Examiner shall render the initial decision in all debarment proceedings before them. The same Hearing Examiner who presides at the hearing shall render the initial decision except when such Examiner becomes unavailable to the Department of Commerce. In such case, another Hearing Examiner will be designated by the Secretary or Director to render the initial decision. Briefs or other documents to be submitted after the hearing must be received not later than 20 days after the hearing unless otherwise extended by the Hearing Examiner upon motion by a party. The initial decision shall be made within 60 days after the receipt of all briefs. If no appeal from the initial decision is served upon the Director within 10 days of the date of the initial decision, it will become the final decision on the 20th day following the date of the initial decision. If an appeal is received, the appeal will be transmitted to the Secretary who will render the final decision after considering the record and the appeal.

(2) All initial and final decisions shall include a statement of findings and

conclusions, as well as the reasons or bases therefore, upon the material issues presented. A copy of each decision shall be served on the parties to the proceeding and furnished to interested persons upon request.

(3) It shall be the duty of the Hearing Examiner, and the Secretary where there is an appeal, to determine whether the person has engaged in one or more of the acts or activities described in paragraph (a) of this section, and, if there is a finding that the person has engaged in such acts or activities, the length of time the person shall be debarred and the processing establishments to which the debarment shall apply.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 241022–0278]

RIN 0648–BN08

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 33; 2025–26 Biennial Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: This final rule establishes the 2025–26 harvest specifications for groundfish caught in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP).

This final rule also revises management measures intended to keep the total annual catch of each groundfish stock or stock complex within the annual catch limits. These measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available. Additionally, this final rule makes minor corrections (e.g., correcting grammar, removing outdated regulations, revisions for clarity) to the regulations, as well as technical corrections recommended by the Pacific Fishery Management Council (Council) at their September 2024 meeting. Last, this final rule implements amendment 33 to the PCGFMP, which establishes a rebuilding plan for California quillback rockfish and revises the allocation framework for shortspine thornyhead.

DATES: Effective January 1, 2025.

ADDRESSES: The Analysis, which addresses the National Environmental Policy Act, Presidential Executive Order 12866, the Regulatory Flexibility Act, and the Magnuson-Stevens Fishery Conservation and Management Act, is accessible via the internet at the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>. The final 2024 Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Council’s website at <https://www.pcouncil.org>. The final Council Analytical Document, which describes the Council’s final recommendations on the 2025–26 harvest specifications and management measures and amendment 33, is also available from the Council’s website at <https://www.pcouncil.org>.

FOR FURTHER INFORMATION CONTACT: Lynn Massey, Fishery Management Specialist, at 562–900–2060 or lynn.massey@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Harvest Specifications

This final rule sets 2025–26 harvest specifications and management measures for the 90+ groundfish stocks

or management units which currently have annual catch limits (ACLs) or ACL contributions to stock complexes managed under the PCGFMP, except for Pacific whiting. Pacific whiting harvest specifications are established annually through a separate bilateral process with Canada.

The proposed overfishing limits (OFLs), acceptable biological catches (ABCs), and ACLs are based on the best available biological and socioeconomic data, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. See tables 1a and 2a to Part 660, Subpart C in the regulatory text supporting this rule for the 2025–26 OFLs, ABCs, and ACLs for each stock or stock complex.

A detailed description of each stock and stock complex for which the Council establishes harvest specifications set through this rule can be found in the 2024 SAFE document posted on the Council’s website at <https://www.pcouncil.org/stock-assessments-star-reports-stat-reports-rebuilding-analyses-terms-of-reference/safe-documents-4/>. A summary of how the 2025–26 harvest specifications were developed, including a description of off-the-top deductions for Tribal, research, incidental open access (IOA), and experimental fisheries, was provided in the proposed rule (87 FR 70406, August 29, 2024) and is not repeated here. Additional information on the development of these harvest specifications is also provided in the Analysis.

For most stocks, the Council recommended harvest specifications based on the default harvest control rule used in the prior biennium. The Council recommended deviating from the default harvest control rule for four stocks in 2025–2026. Table 1 presents a summary of the changes to the harvest control rules for these stocks for the 2025–26 biennium. Each of these changes was discussed in the proposed rule and that discussion is not repeated here.

TABLE 1—CHANGES TO HARVEST CONTROL RULES FOR THE 2025–26 BIENNIUM

Stock	Default harvest control rule ^a	Alternative harvest control rule ^a
Rex Sole	ACL = ABC (P* 0.40)	ACL = ABC (P* 0.45).
Shortspine thornyhead ^b	ACL < ABC (P* 0.40)	ACL < ABC (P* 0.45), 40–10 HRC applied.
Dover sole	ACL = 50,000 metric tons (mt)	ACL = ABC (P* 0.45).
Quillback Rockfish off California	ACL contribution < ABC (SPR 0.55; P* 0.45) ^c	ABC Rule ^d (ACL = ABC; P* 0.45).

^a The Default Harvest Control Rules were used to set the ACLs in 2023 and 2024. The Alternative Harvest Controls rules are the proposed changes for setting the ACLs in 2025 and 2026.

^b The 40–10 adjustment applies where a precautionary reduction is warranted, per the PCGFMP at section 4.6.1. The 40–10 adjustment reduces the harvest rate to help the stock return to the maximum sustainable yield level.