PART 1 - Administrative

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Chapter 1 - Authority

Authority for the USDC Seafood Inspection Program (SIP) to provide product inspection (audit) services can be found within the Agricultural Marketing Act of 1946, the Fish and Wildlife Act of 1956, and the regulations promulgated under 50 CFR Parts 260 and 261.

Chapter 2 - Introduction/Scope

A. Mission/Vision Statement

Mission

To ensure the safety and quality, as well as enhance the marketability of seafood products for the benefit of the American consumer by providing science based inspection services to the seafood industry.

Vision

"An informed society that has confidence in the seafood that they purchase, sell and consume today and in the future."

Chapter 3 - Employee Practices

A. Ethical Conduct

- Attachment #1 - 15 CFR 0 Employee Responsibilities and Conduct
- Attachment #2 - 18 USC 1905 Disclosure of confidential Information
- Attachment #3 - Ethical Conduct Agreement

The following policy has been established to ensure that each Seafood Inspection Program employee has a full knowledge and understanding of the Department of Commerce (DOC) regulations covering employee responsibilities and conduct, and his/her obligations with regard to the disclosure of confidential information obtained in connection with his/her official duties.

As a DOC employee responsible for enforcing the Regulations Governing Processed Fishery Products, the employee must follow acceptable professional standards of conduct during the discharge of his/her duties. The references cited here spell out clearly and comprehensively the responsibilities and conduct required of DOC employees; and delineate the penalties for the unauthorized disclosure of confidential information. Although the regulations pertain to all DOC employees, they are particularly germane to Program personnel who, in the normal course of their duties, acquire an intimate knowledge of the policies, operational methods, production levels, etc., of official establishments. Such employees must be ever mindful of an establishment's inviolable right to safeguard its operational procedures from unauthorized persons, including competitive establishments.

A. Consumer Safety Officers/Inspectors/Food Technologists/Supervisors

- All identified personnel are required to read and understand 15 CFR 0, Employee Responsibilities and Conduct (See ATTACHMENT #1.)
- All identified personnel are required to read and understand 18 USC 1905, Disclosure of Confidential Information (See ATTACHMENT #2.)
- All identified personnel are required to sign the Ethical Conduct Agreement annually (see ATTACHMENT #3.)

B. Branch Chiefs. The Branch Chief is responsible for assuring that all identified personnel under his/her supervision read and understands 15 CFR 0 and 18 USC 1905. He/She is also responsible for assuring that each identified employee signs the Ethical Conduct Agreement at least once annually.

The signed Ethical Conduct Agreement will be maintained in the office of the Branch Chief and be available for review at any time by any authorized party.

ATTACHMENT #1

- Title 15 - Commerce and Foreign Trade
- SUBTITLE A - Office of the Secretary of Commerce
- CHAPTER I - Bureau of the Census, Department of Commerce
- PART 0 - Employee Responsibilities and Conduct
- 15 CFR Subtitle A (1-1-02 Edition)

Subpart A-General Provisions, http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-1.xml

0.735-1 Purpose.
0.735-2 Relation to basic provisions.
0.735-3 Applicability.
0.735-4 Definitions.
Subpart B-General Policy, http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-8.xml

0.735-5 General principles.

0.735-6 Standards required in the Federal service.
0.735-7 Special requirements of the Department.
0.735-8 Limitations on private activities and interests.

Subpart C-Statutory Limitations Upon Employee Conduct, http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-9.xml

0.735-9 Employee responsibilities.

Subpart D-Regulatory Limitations Upon Employee Conduct, http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-10a.xml

0.735-10 Administrative extension of statutory limitations.

0.735-10a Proscribed actions.
0.735-11 Gifts, entertainment, and favors.
0.735-12 Outside employment or other activity.
0.735-13 Financial interests.
0.735-14 Use of Government time or property.
0.735-15 Misuse of employment or information.
0.735-16 Indebtedness.
0.735-17 Gambling, betting, and lotteries.
0.735-18 General conduct prejudicial to the Government.
0.735-19 Reporting undue influence to superiors.

Subpart E-Statements of Employment and Financial Interests, http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-28.xml

0.735-20 General provisions.
0.735-21 Form and content of statements.
0.735-22 Employees required to submit statements.
0.735-22a Employee's complaint on filing requirement.
0.735-23 Employees not required to submit statements.
0.735-24 Time and place for submission of original statements.
0.735-25 Supplementary statements.
0.735-26 Interests of employees' relatives.
0.735-27 Information not known by employees.
0.735-28 Information not required.
0.735-29 Confidentiality of employees' statements.
0.735-30 Relation of this part to other requirements.
0.735-31 Special Government employees.
Subpart F-Supplementary Regulations, http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-34.xml

0.735-32 Departmental.

0.735-33 Operating units.

0.735-34 Effective date of supplementary regulations.

Subpart G-Administration, http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-37.xml

0.735-35 Responsibilities of employees.
0.735-36 Responsibilities of operating units.
0.735-37 Procedure.
0.735-38 Availability for counseling.
0.735-39 Authorizations.
0.735-40 Disciplinary and other remedial action.
0.735-41 Inquiries and exceptions.

Subpart H-Disciplinary Actions Concerning Post-Employment Conflict of Interest Violations,
http://www.gpo.gov/fdsys/pkg/CFR-2002-title15-vol1/xml/CFR-2002-title15-vol1-sec0-735-44.xml

0.735-42 Scope.
0.735-43 Report of violations and investigation.
0.735-44 Initiation of proceedings.
0.735-45 Notice.
0.735-46 Hearing.
0.735-47 Decision absent a hearing.
0.735-48 Administrative appeal.
0.735-49 Sanctions.
0.735-50 Judicial review.

Appendix A-Statutes Governing Conduct of Federal Employees

Appendix B-Position Categories, Grade GS-13, and Above, Requiring Statements of Employment and Financial Interests by Incumbents

1) Auditors
2) Attorneys other than attorneys engaged in patent examining or trademark examining operations.
3) Heads of divisions or comparable organization units, GS–15 or above.
4) Heads of field offices or installations, GS–15 or above.
5) Employees in positions involving assigned duties and responsibilities which require the incumbent to make fact-finding determinations or to exercise judgment in recommending a decision or an action in regard to:
   a) Evaluation, appraisal, or selection of contractors or sub-contractors, prospective contractors or prospective subcontractors, proposals of such contractors or subcontractors, the activities performed by such contractors or subcontractors, or determination of the extent of compliance of such contractors or subcontractors with contract provisions.
   b) Negotiation, modification, or approval of contracts or subcontracts.
   c) Evaluation, appraisal, or selection of prospective project sites, or locations of work or activities, including real property proposed for acquisition by purchase or otherwise.
   d) Inspection and quality assurance of material, products, or components for acceptability.
   e) Review or approval for access permits.
   f) Technical planning or design which involves the preparation of specifications or technical requirements.
   g) Negotiation of agreements for cooperation or implementing arrangements with foreign countries, international organizations, or non-Federal enterprises.
   h) Analysis, evaluation, or review of license applications.
   i) Analysis, evaluation, or review of licensees' compliance with Department of Commerce regulations and requirements.
   j) Utilization or disposal of excess or surplus property.
   k) Procurement of materials, services, supplies, or equipment.

l) Authorization or monitoring of grants or subsidies to educational institutions or other non-Federal enterprises.
m) Audit of financial transactions.
n) Promulgation of safety standards, procedures, and hazards evaluation systems.
o) Other activities where the decision or action has a substantial economic impact on the interests of a non-Federal enterprise.

Appendix C-Position Categories below GS-13 Requiring Statements of Employment and Financial Interests by Incumbents

1) Employees in the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, who are in the following categories of positions:
   a) Special Agents (Fish and Wildlife), Series GS–1812, grades 5 through 12.
   b) Fishery Products Inspectors, Series GS–1863, grades 5 through 12. (5 CFR 735.104, 735.403) [50 FR 2276, Jan. 16, 1985]

ATTACHMENT #2

- TITLE 18 – Crimes and Criminal Procedure
- PART I. Crimes
- CHAPTER 93. Public Officers and Employees
- SECTION 1905. Disclosure of Confidential Information
- 18 USC 1905 (1/03/2007), http://uscode.house.gov/download/pls/18C93.txt

ATTACHMENT #3

U.S. Department of Commerce
NOAA Fisheries
Seafood Inspection Program
Silver Spring, MD 20910

ETHICAL CONDUCT AGREEMENT
For Seafood Inspection Program Personnel

In my capacity as an employee of the Department of Commerce, I hereby state that I will not, either individually or as a member of a group, directly or indirectly, ask for, accept, or receive any gift, favor, service, loan or entertainment, which might reasonably be interpreted as tending in any degree to influence the performance of my official duties, from any person whom I might reasonably expect to have official relations.

In addition, I will not divulge any confidential commercial or financial information to any other members of industry or to any NOAA Fisheries personnel who are not directly involved in the inspection activities

of the plant. This includes, but is not limited to, production procedures, equipment, proposed changes in production and food safety and quality assurance plans and procedures. I furthermore state that I have no private business activities or interests which might conflict with the proper performance of my official duties and will not acquire such interests or activities during my employment with the Department. I have read and understand the Department of Commerce regulations on Employee Responsibilities and Conduct which are attached.

_____

Signature/Date

B. Dress Code

Introduction:

The Seafood Inspection Program (SIP) dress code policy is designed to help us all provide a consistent professional appearance to our program users and colleagues. Our appearance reflects on ourselves and the agency. The goal is to be sure that we maintain a positive appearance and not to offend clients or colleagues.

Who does this policy apply to?

The SIP dress code policy applies to all employees.

SIP Dress Code Policy:

- Employees are expected to dress in business casual attire unless the day's tasks require otherwise. We ask that employees wear pants, blouses, polo shirts, button-up shirts, or sweaters, and close-toed shoes.
- Employees must always present a clean, professional appearance. Everyone is expected to be well-groomed and wear clean clothing, free of holes, tears, or other signs of wear. Everyone is expected to be free of offensive or overpowering (perfumes/colognes) odors.
- Clothing with offensive or inappropriate designs or stamps are not allowed.
- Clothing should not be too revealing.

Dress Code Violations:

Managers or supervisors are expected to inform employees when they are violating the dress code. Employees in violation are expected to immediately correct the issue. This may include having to leave work to change clothes.

Repeated violations or violations that have major repercussions may result in disciplinary action being taken up to and including termination.

C. Time and Attendance Reporting

Work plan

Each employee must complete and have on file with their supervisor a work plan, indicating hours that you intend to work on a regular basis (e.g., 9 – 5:30). A supervisor may require that a work plan be filed on a biweekly basis.

Time and Attendance (T&A) Report

Employees shall use the official T&A report form, provided by the timekeeper, to record their actual work on a daily basis.

Complete and signed T&A reports should be provided by the employee to the timekeeper by mid-day Friday before the beginning of the new pay period. T&A reports, leave slips (which are the responsibility of the employee) and associated documents must be submitted together. Employees who will be away when T&A reports are due must provide the timekeeper in advance with the information necessary to complete an accurate T&A report.

The timekeeper shall review all individual T&A reports, work plans, and other accompanying documentation to ensure project and task numbers and hours of work and leave are properly recorded. If no discrepancies are found, the timekeeper shall generate a Draft T&A Report using the NOAA T&A reporting system.

The timekeeper shall report discrepancies to the supervisor/leave approving official. Once all discrepancies are corrected and initialed, a Draft T&A Report shall be generated.

Draft T&A Reports shall be completed by the timekeeper and initialed by the employee no later than mid-day Monday following the end of the pay period. If the employee is away, the best available data, including draft work plans, shall be used for submitting the T&A report. Corrections to any incomplete T&A records shall be completed during the pay period in which the employee returns.

Timekeepers shall make every attempt to provide a Draft T&A Report to employees for confirmation before the T&A is finalized and transmitted. By COB on the Monday following the end of the pay period, the timekeeper shall forward the Draft T&A documents to the supervisor for review.

The supervisor shall then review all T&A documents. If the supervisor determines that an employee's T&A documents are acceptable, the supervisor shall sign the documents and return them to the timekeeper for transmission via NOAA's T&A Reporting System. If the supervisor has concerns regarding a T&A package provided, the supervisor shall address these issues directly with the employee, as appropriate, prior to ultimate approval and transmission.

The timekeeper in charge of transmitting shall transmit the final, Certified T&A data to the National Finance Center for payment. This shall be done no later than 4:00 P.M. eastern time Tuesday following the end of the pay period. If, under extenuating circumstances, the supervisor or his/her designee cannot approve the Certified T&A reports, the Certified T&A reports shall be transmitted and reviewed after the fact.

Attendance Policy

Any employee taking unscheduled or emergency leave is responsible for notifying his or her immediate supervisor as early as possible, preferably before the beginning of the regular tour of duty. If the supervisor is not available, the employee should leave a message with a phone number where he or she may be contacted as necessary. However, every effort should be made to call during a time when the leave approving official would normally be available. It is the employee's responsibility to communicate with the leave approving official directly.

Employees should not assume that leave has been granted unless written or verbal confirmation has been received from the supervisor. Also, when calling in, employees should alert their supervisor of pending deadlines, file locations, etc., that will assist office coverage during their absence.

An employee's supervisor is not required to grant leave. If the supervisor determines that the needs of the work unit precludes granting leave, or if the reasons expressed by the employee for absence are not acceptable, the supervisor may order the employee to report to duty. Failure in obtaining approval of leave requests shall be charged as absent without leave (AWOL). Abuse of leave, including multiple instances of being AWOL, may result in disciplinary action that may lead to dismissal.

D. Credit Hours, Overtime, and Travel Compensation

Credit Hours

Credit hours are base, non-overtime hours which an employee on a flexible work schedule voluntarily chooses to work, with supervisory approval, during the office hours. An employee may earn a maximum of two credit hours per day and carryover a maximum of 24 credit hours to the next pay period. It is the supervisor's responsibility to approve the work assignment and credit hours in advance. Credit hours shall not be approved based on the employee's desire to obtain additional leave, i.e., workload must justify the need for credit hours. These accumulated hours may be used by an employee as substitution for working an equivalent number of office hours on another business day or across multiple days. Credit hours are not overtime and should not be confused as such. Credit hours are hours worked voluntarily by the employee with supervisory approval.

The following specifications apply to credit hour accrual:

- An employee's right to use earned credit hours is subject to supervisory approval.
- Supervisors may limit the number of credit hours an employee may work on a daily (maximum of 2 hours per day), weekly, or biweekly basis.
- Supervisors may set the time frame within which an employee may apply credit hours after they have been earned.
- An employee is restricted by law from carrying forward more than 24 credit hours to the next pay period.
- An employee may not be paid Sunday pay or holiday pay for credit hours.
- Credit hours are distinguished from overtime hours in that management has not, in advance, officially ordered the employee to work. Rather, the employee, by choice, and with proper approval, has decided to work additional hours.
- Credit hours may not be earned for training or during travel status.

- Use of credit hours shall be requested using Form SF-71.

Overtime and Compensatory Time

The Fair Labor Standards Act (FLSA) provides for minimum standards for both wages and overtime entitlement, and spells out administrative procedures by which covered work time must be compensated.

Overtime and compensatory time are hours of work that management officially orders and/or approves in advance on Form CD-81 and that are in excess of the employee's daily work schedule.

"Overtime hours" for employees on a flexible AWS schedule means all hours in excess of 8 in a day or 40 hours in a week which are officially ordered in advance, not including credit hours. If the employee wants to work more than 8 hours they will earn credit hours, if they are told they need to work more than 8 hours in a day or 40 hours in a week they will be paid overtime.

For employees on a compressed schedule, overtime is hours of work which are officially ordered or approved and which are in excess of the employees' basic work requirement. Compensatory time off is time off on an hour for hour basis in lieu of overtime pay.

FLSA non-exempt employees (all inspectors and admin staff) must indicate their voluntary consent to substitute comp time for overtime pay by signing their name in column 10 of the CD-81 form authorizing the comp time. In addition, no employee may carry over more than 80 hours of comp time into a new leave year. The Director, Chiefs, and Supervisors are considered exempt and will not be paid overtime, all other Seafood Inspection employees are eligible for overtime and will only receive comp time when requested by the employee.

E. Leave Policy

The following leave policy, in compliance with Civil Service Commission, DOC, and NOAA regulations, applies to all field personnel working in processing plants. The chief inspector of each field inspection office is responsible for applying the leave policy stated herein equally and impartially to each Consumer Safety Officer (CSO) and Consumer Safety Inspector (CSI) under his/her supervision.

It is the policy of this division to assure whenever possible that each employee be scheduled a period of annual leave during each calendar year. Therefore, each chief inspector will establish at the beginning of each calendar year a mutually agreeable leave schedule for each employee under his/her supervision.

Annual Leave

Annual leave is a period of approved absence with pay from official duty. It is intended to allow the employee vacation, rest, and recreation. It is also intended for the employee's use in attending to personal or emergency business, to extend the time available to the employee under some other leave programs, and for use with specific military leave entitlements. All full-time employees assigned to an 80-hour tour of duty shall earn and be credited with annual leave for each full biweekly pay period in accordance with 5 U.S.C. 6303. Annual leave accruals shall be credited at the end of each pay period. An

employee may not use leave that has yet to be credited, i.e., leave cannot be earned and used within the same pay period.

Employees must make every effort to report planned absences to their supervisor at least two weeks in advance, using govTA, for all annual leave. An employee may request leave in quarter hour increments. As with any absence, an employee should alert the supervisor of pending deadlines, file locations, etc., that will assist office coverage during his/her absence. The employee is also responsible for coordinating with colleagues to ensure coverage of essential tasks during the employee's period of leave and access to files, computers, etc.

Advance Annual Leave

Leave may be advanced up to the amount of annual leave an employee would accrue in the remainder of the leave year. It is at the discretion of the supervisor to approve a request for advanced annual leave.

- *Abuse of Annual Leave*

When an employee violates procedures (for example, by chronic requests for unplanned emergency leave, whether under dubious circumstances or not), the employee may be required to comply with special leave procedures more stringent than those applied to other employees. For example, the employee may be required to notify the leave-approving official, in person, of an unanticipated absence or to document, with evidence, any unscheduled, emergency absence(s). An employee who is placed on special leave procedures must be notified in writing, before procedures take effect, of the details of the procedures and their duration, as well as the possible results of non-compliance.

- *Granting Advanced Annual Leave*

Employees may request and be granted annual leave which is expected to accrue under their current appointment by the close of the leave year. An employee must request advanced annual leave by submission of an SF-71 annotated to indicate "advanced annual leave." Supervisors authorized to approve advanced leave should have reasonable assurance that the employee will be in duty status long enough to repay or liquidate the advanced leave granted. When it is known at the time the advanced leave is requested that the employee will not be returning to duty, advanced annual leave may not be granted.

When an employee has been granted the maximum amount of advanced leave he or she is eligible to be granted in a leave year, further grants of advanced leave cannot be approved. In cases where the employee is subsequently required to be absent from duty and other types of leave are not appropriate for the absence, the employee may request to be placed in a non-pay status. The granting of such a request is at management's discretion.

Sick Leave

Sick leave accruals shall be credited at the end of each pay period. Sick leave not used during the year in which it accrues shall accumulate without limitation and be available for use in succeeding years. All

full-time employees assigned to an 80 hour tour of duty shall earn sick leave at the rate of one-half day (4 hours) for each full biweekly pay period.

All sick leaves must be requested, either in advance through govTA, or after leave has been verbally approved by the supervisor. A supervisor may request evidence or supporting documentation when granting sick leave. However, for an absence in excess of 3 workdays, or for a lesser period when determined necessary by a supervisor, a medical certificate or other administratively acceptable documentation regarding the reason for an absence is required.

In accordance with the Family Friendly Leave Act, sick leave may also be used by an employee to provide for the health care needs of a family member. In all cases of sick leave used for family care, the supervisor shall require an employee to request the leave through govTA, and may also require the employee to provide medical certification regarding the family member's need for personal care and/or psychological comfort. In these instances, the health care provider must document: (1) that the family member requires physical and/or psychological care; (2) that the family member would benefit from the employee's care or presence; and (3) the period of incapacitation over which the employee will need to care for the family member.

Advanced sick leave – a maximum of 30 days of sick leave may be advanced to an employee with a medical emergency or for purposes related to the adoption of a child. A maximum of 5 days of sick leave may be advanced for family care or bereavement purposes. It is at the discretion of the supervisor to approve a request for advanced sick leave.

It should be noted that while annual leave may be used in lieu of sick leave, sick leave may NOT be used in lieu of annual leave.

- *Granting Advanced Sick Leave*

Unless it is otherwise restricted, employees may be advanced sick leave in addition to the sick leave to their credit regardless of whether they have annual leave to their credit. By law, the amount advanced to a full-time employee who has completed a probationary or trial period in the Federal government may not exceed 240 hours. Part-time employees or those with uncommon tours of duty are advanced sick leave on a pro rata basis.

Supervisors are advised not to advance sick leave in excess of 13 days (104 hours) to probationary employees or to advance sick leave to temporary employees in excess of the amount which they will earn during the period of temporary employment.

An employee must request advance sick leave through govTA, annotated to indicate "advanced sick leave." Supervisors authorized to approve advanced sick leave should have reasonable assurance that the employee will be in duty status long enough to repay or liquidate the advanced leave granted. When it is known at the time advanced leave is requested that the employee will not return to duty, advanced sick leave may not be granted. Sick leave must not be advanced to an employee who has filed application for disability, inasmuch as payment for such leave is not recoverable upon the employee's subsequent separation from service.

When an employee has been granted the maximum amount (240 hours) of advanced sick leave, no further requests of advanced sick leave may be approved. However, when an employee's advanced sick leave balance is subsequently reduced (e.g., by sick leave accruals), an advance of sick leave may again be granted.

Leave Without Pay

Leave without pay (LWOP) is a temporary non-pay status and absence from duty that may be granted at the employee's request. An employee may request LWOP for 30 calendar days or less through govTA. In most instances, granting LWOP is a matter of supervisory discretion. The employee's time and attendance reports will show the exact dates of LWOP. For LWOP in excess of 30 calendar days, or requests for extension of LWOP which in total would exceed 30 calendar days, the supervisor must provide the Human Resources Office with an SF-52, Request for Personnel Action. If the LWOP request is made for health reasons, the employee may be requested to furnish a statement from a physician, or other licensed health care practitioner, indicating the need for the absence and the prognosis of the employee's ability to return to work at the end of the LWOP period. Employees have an entitlement to LWOP in the following situations:

- The Family and Medical Leave Act of 1993 (FMLA) (Public Law 103-3, February 5, 1993), provides covered employees with an entitlement up to a total of 12 weeks of unpaid leave (LWOP) during any 12-month period for certain family and medical needs. (See 5 CFR part 630, subpart L,
- The Uniformed Services Employment and Reemployment Rights Act of 1994 (Pub. L. 103-353) provides employees with an entitlement to LWOP when employment is interrupted by a period of service in the uniformed services. (See 5 CFR 353.106, Executive Order 5396, July 17, 1930, provides that disabled veterans are entitled to LWOP for necessary medical treatment. Employees should be aware that the accumulation of LWOP may affect certain Federal benefits and entitlements.

Absence Without Official Leave

Absence Without Official Leave (AWOL) is a period of absence without pay for which the employee did not obtain approval or for which a request for approved leave was denied. AWOL is based on the supervisor's determination that no form of leave (annual, sick, LWOP, etc.) has been or should be approved for the absence based on existing evidence. AWOL may be converted to appropriate leave when a supervisor receives and is satisfied with documentation justifying the absence. AWOL is not disciplinary in nature, but may be the basis for disciplinary action. A supervisor must consult with the Consulting Services Division, Human Resources Office when considering disciplinary action.

Adjustment of Work Schedules for Religious Observances

To the extent that modifications in work schedules do not interfere with the efficient accomplishment of an agency's mission, an employee whose personal religious beliefs require that he or she abstain from work at certain times of the workday or workweek must be permitted to work alternative work hours so that the employee may meet the religious obligation. The hours worked in lieu of the normal work schedule do not create any entitlement to premium pay (including overtime pay). Adjustments of work

schedules for religious observances may be approved for an employee who is employed in or under an executive agency, as defined in section 105 of title 5, United States Code. Agencies should require employees to submit a written request for an adjusted work schedule in advance. An employee should specifically state that his or her request for an adjusted work schedule is for religious purposes and should provide acceptable documentation of the need to abstain from work.

Early Dismissal

On certain occasions, the Department of Commerce grants employees an early dismissal in anticipation of an upcoming holiday or special event. The wording within the dismissal notice may state, "with the exception of emergency or essential employees, all Department of Commerce employees present in a duty status (including employees on telework) may be excused from duty prior to their normal departure time." The Seafood Inspection program obligations may prevent inspection personnel in specific locations from participating in such early dismissal as the industry has either contracted for the services or an inspection or certificate is required. Either of these situations would mean the commerce would be impacted if we cannot provide the service. The Seafood Inspection Program's long term policy on plant shutdowns and holidays makes it clear we will service the industry during these special times, this same policy is followed for early dismissals.

Where possible SIP permits the early dismissal. However, if the inspector is at a location where the normal business will continue and we do not have the other means to staff the essential duty, no early dismissal is possible. This may also occur in some instances where the firm works on a Federal Holiday.

When an early dismissal is announced, inspection personnel must contact their supervisor to make certain the seafood inspection program has the proper staff coverage. If the supervisor is unable to cover obligations, the early dismissal will not apply.

F. Plant Shutdowns

It is the policy of this division to assign other productive work to inspectors who have become temporarily inactivated due to scheduled or unscheduled shutdowns of the plant(s) to which they have been assigned. To the maximum extent possible, such inspectors will be assigned revenue-producing work. If revenue-producing work is not available, inspectors may be assigned to non-revenue-producing activities which are essential to the efficient, effective, and timely conduct of the inspection program. Whenever possible, work will be assigned in the following order:

1. **Revenue producing**, such as contract, lot, consultative services, etc., or consumer/trade education efforts.

2. **Special assignments**, such as staff assignments and/or special projects commensurate with employees' abilities.

3. **Training assignments** which will increase employees' knowledge, expertise, and ability to function more efficiently on the job.

When no such assignments are available during a scheduled or unscheduled shutdown, administrative leave and annual leave will be used as follows:

1. Administrative Leave
    - When an unscheduled plant shutdown occurs for less than one full day, inspectors will be granted administrative leave for the inoperative hours.
    - When an unscheduled plant shutdown occurs for one or more days, inspectors will be granted a minimum of one (1) workday of administrative leave during the inoperative period. A maximum of three (3) workdays of administrative leave may normally be granted when the shutdown occurred because of emergency conditions. Emergency conditions are defined as unanticipated breakdown of equipment, power failure, fuel shortages, water shortages, raw material shortages, repairs to plant facilities which are required to correct conditions which are contributing to product contamination, or other conditions which the supervisor judges to be of a like nature.
    - Administrative leave will normally not be granted in excess of three (3) workdays per 30 day period in either of the above situations. However, administrative leave may be granted for a period not to exceed 5 workdays per 30 day period under unusual conditions. Unusual conditions are those in which several shutdowns occur during a 30 day period for separate and distinct reasons.
2. Annual Leave
    - Inspectors will be placed on annual leave when a plant has been scheduled for shutdown. A scheduled plant shutdown is one which was planned and the inspection service notified one week or more in advance of the intended shutdown.
    - Inspectors will be placed on annual leave during unscheduled plant shutdowns for non-work periods in excess of that time for which administrative leave was granted, as detailed above.

G. Policy for Office Closures

In the event of weather-related or other emergencies, the regional inspection offices may be closed. The following procedures will be used to determine when an office may be officially closed.

For St. Petersburg:

The SE Region Chief will make the decision based on personal observation and on news media reports regarding weather forecasts, street flooding, school and business closures, instructions from local and county officials, etc. If this office is closed, Headquarters is notified.

For Supervisory Offices (Seffner, Hollywood, and Mobile):

The SE Region Chief will make the decision based on news media reports and discussion with the Supervisor. Since the supervisor has first-hand knowledge of local conditions, his/her judgment is really the deciding factor. If this office is closed, Headquarters is notified.

For Satellite Offices and Inspectors:

The supervisor and, ideally, *the SE Region Chief* will discuss with the affected individuals the prevailing conditions. This is to be supplemented by information from the news media. Unless there is credible information to the contrary, the inspectors' judgment will prevail. Headquarters is not routinely notified of these closures.

Since street flooding is not uniform in given areas (terrain and drainage vary), it is conceivable that some people can safely get to work while others are cut off. This is a judgment that each individual inspector must make, but safety must always be the deciding factor.

In *Gloucester, the Regional Director (NERO)* or her designate determines whether the office is open or closed due to an emergency. All staff in SIP including TS stationed in Gloucester will abide by their decision with no exceptions. The SIP Regional Chief will decide, unless the Regional Office (NERO) has done so already, if the Fairhaven Office and/or the Hampton Office shall remain open. That decision will be based on information communicated to the SIP Regional Chief. If the Chief is not available, the Supervisor in those areas will make the decision to stay open or close based on their best judgment. In areas outside of these three offices, inspectors will communicate to their appropriate supervisor if a situation arises that they feel should prevent them from being at work. The supervisor will then determine if the situation warrants a granting of administrative leave allowance.

Any inspector can expect to be granted A/L if s/he believes that they will be in danger if they go to work. Under this type of event, each supervisor will assess these events after the fact and if s/he believes that the inspector is over reacting, a discussion with the inspector will ensue.

In all these cases, communication up the line is essential. A field inspector must communicate to his/her supervisor by e-mail or phone, the supervisor must communicate to the Branch and the Branch Chief must communicate to headquarters whenever an office or area has been closed.

In addition to the above, if the governor of a state declares a state of emergency and requires that you do not leave your home, this will also be considered administrative leave until the state of emergency is lifted.

All possible scenarios cannot be covered in such a policy but certainly good communication practices must be followed so at the very least, when an emergency arises, the SIP can account for its entire valued staff.

And finally, just because the "industry is working" is no excuse to ignore official closings. Inspection services will cease during these official closings and the SIP will deal reasonably and rationally with our inspection responsibilities when it is safe to return to work.

H. Rotating Inspectors in Facilities

The following procedures have been implemented to establish a national policy on the rotation of Consumer Safety Officers/Inspectors between inspection assignments.

Regular rotation of inspectors between assignments helps minimize the potential for inspectors to become overly familiar with plant personnel and plant operational practices to the extent that they could become less objective in their performance of inspectional duties. Within the USDC Seafood

Inspection Program, inspectors are rotated insofar as practical given the financial constraints imposed upon the program by its self-supporting mandate. Rotation is done on a regional basis at the discretion of the Region Inspection Branch Chiefs, under informal direction furnished by the Central Office.

It is Seafood Inspection Program policy to rotate Consumer Safety Officers/Inspectors between work assignments at intervals not exceeding one (1) year, wherever two (2) or more inspectors are located within the same commuting area, i.e., where no permanent change of station is required, and where the change of assignment does not require the payment of mileage allowances to the inspector(s).

The Region Inspection Branch Chief is responsible for assuring that inspectors are rotated in accordance with this policy, and for maintaining records of inspector assignments. Records will be made available to authorized persons upon request.

I. Employee Relations/Agency Personnel Policies

All of NOAA's current Employee Relations and Agency Personnel policies can be found online at NOAA Workforce Management Office, http://www.wfm.noaa.gov/. This includes information and policies on grievances, awards, Employee Assistance Programs, performance management, benefits, diversity, and labor relations, among others.

a. SIP Personnel Course Remediation

When SIP personnel course scores fall below the determined threshold, remediation will occur. When possible, remediation may include arranging for the personnel to retake the course, with specific guidance on how to approach it differently.

Remediation could also include:

- *providing additional training resources, such as online tutorials, workshops, or one-on-one coaching sessions, to support their development,*
- *assigning a more experienced colleague to mentor the personnel, offering guidance in the skill area,*
- *ensuring the personnel has supervised opportunities to practice and apply these skills in real-world settings, such as through shadowing, simulations, or relevant tasks, and/or*
- *temporarily removing the personnel from said duties until there is clear evidence of improvement.*

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Chapter 4 - Security

A. Use and Security of Stamping Devices

To assure that all official stamping devices are stored, used, and managed in a manner such that only authorized personnel have access to them, and are accountable for them; and to assure that such devices are used only by or under the supervision of USDC personnel or officially cross-licensed personnel on products approved to bear official marks and in the manner prescribed by the regulations.

General

The Inspection Program has taken a number of steps to improve its control of official marks and devices. These steps include redesigning of the official stamping devices to include an accountable number, requiring the signature receipt of each device issued to authorized personnel, and restricting the purchase, use, and storage of U.S. Grade "A" and PUFI mark stamping devices used on approved products. These instructions contain the procedures for implementing an official stamping device management system which will be operated by the Documentation Approval and Supply Services (DASS) of the Technical Services Branch (TSB).

Procedures

A. Documentation Approval and Supply Services Section

1. Devices

a. The USDC Lot Inspection Devices

i. Officially Sampled; and

ii. Accepted Per Specifications

b. Official U.S. Grade A and Processed Under Federal Inspection (PUFI) Marking Devices

2. Unit of Issue: Each

3. Source: All official stamping devices for use by inspectors will be purchased, inventoried, and issued using and documenting certified mail with return receipt requested by the TSB, DASS, Pascagoula, Mississippi

4. Issuing Authority: Seafood Inspection Program Operations Branch

5. Accountability: Official Stamping Devices. Headquarters will be accountable for all pre-serial numbered official stamping devices issued to requesting regions.

6. Missing official stamping devices: Upon being notified of lost or stolen official stamping devices, it will be the responsibility of Headquarters to alert all RIB offices via Fax and/or interoffice electronic mail within twenty-four (24) hours listing any identifying and pertinent information.

B. Regional Branch Chiefs

1. Accountability: It will be the responsibility of the director to:

a. Assure that all official stamping devices are used and stored by personnel under his/her supervision as prescribed by this instruction;

b. Establish and maintain an inventory (log) which incorporates the issue and receipt of stamping devices (transfers, resignations, or discharges), a copy of which will be submitted quarterly to Headquarters;

c. Require that the accountability document (see Attachment), which accompanies each device(s) issued to field personnel be signed and returned to the Regional Branch Office. Also, if the signed accountability document is not received within 10 days by the regional office, the requesting party must be called to determine whether the device(s) have been received, with follow-up action taken as indicated by the facts; and

d. Use and document certified mail with return receipt requested when issuing devices.

2. Ordering: It will be the responsibility of each regional Branch chief to order new or replacement official stamping devices in a timely manner to assure that sufficient useable devices are on hand when needed.

3. Missing official stamping devices: It will be the responsibility of each regional director to notify headquarters of lost or stolen official stamping devices within twenty-four (24) hours of receipt of such information from an inspector. Notice will be via electronic mail or fax and shall include:

a. Inspector to whom devices(s) were issued.

b. Amount and type of devices(s), as well as inspector identification number(s).

c. Locations and brief description of incident resulting in missing device(s).

d. Date and approximate time of loss.

C. USDC Inspectors and Other Authorized Personnel

1. All USDC inspectors and other authorized personnel will be responsible for the security of all accountable stamping devices issued to them. Storage will be in a locked drawer, cabinet, safe, or other secure area safeguarded by key or combination which is available to or known by only official NMFS or cross-licensed inspection personnel.

2. All devices which are out-of-date, damaged, worn, or otherwise unusable must be returned to Headquarters, through the Regional Inspection Director, for destruction by certified mail, return receipt requested.

3. When a USDC inspector or other authorized person is transferred, resigns, or is discharged, all official devices used by such a person must be returned to the Regional Inspection Branch Office in person or by certified mail, return receipt requested.

4. All USDC inspectors or other authorized personnel will be responsible for reporting lost or stolen stamping devices to the regional director within twenty-four (24) hours with the required information in V.B.3 above.

D. Official Devices: The approved inspection marks and devices listed in 50 CFR Part 260 will be under the official device management system.

ATTACHMENT

PLEASE COMPLETE AND RETURN TO ADDRESS GIVEN BELOW

I, _____(Name-Please Print)_____, do hereby acknowledge that I have received the below listed item(s):

I.D. No. (ITEM NAME)

1.
2.
3.
4.

and understand that I am held responsible for said item(s) as long as I am officially employed or cross-licensed as a Federal USDC Inspector.

I understand that: (1) if I resign or am transferred, said item(s) must be returned and receipted prior to leaving said duty station; and (2) if said item(s) are worn or broken and need repair or replacement, said item(s) will be returned to supply point listed below for repair or replacement.

SUPPLY POINT

_____
SIGNATURE

_____
LOCATION

_____
MAILING ADDRESS

_____
STATE ZIP

_____
DATE

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Chapter 5 - Cross Licensing Inspectors

The purpose of this section is to ensure the uniform review, training, and use of cross- licensed inspectors.

General

NMFS enters into Federal-State agreements (MOUs) with cooperating states and other federal agencies to adopt uniform operational procedures to perform the inspection, grading, testing, and certification of fishery products, and to conduct audits of USDC official establishments. Cross-licensed inspectors are used to carry out sampling, inspection, grading, auditing, and certification procedures on behalf of the Seafood Inspection Program.

Procedures

The Chief of the SIP Regional Office coordinates the Federal-State agreement based on the needs and activities of each region. All cross-licensed inspectors are employed by their respective state or agency with the authority to perform equivalent work to that of SIP inspectors. Cross-licensed inspectors receive a noaa.gov email account with access to all required online training tools and workspaces, and must complete SIP Consumer Safety Officer (CSO) equivalent training to perform SIP inspection activities. SIP Regional supervisors are responsible for managing the training progress for each cross-licensed inspector, evaluating the experience and skills of each inspector, and approving inspection assignments based on inspector qualifications and Program needs. All cross-licensed inspectors must meet the same training and performance standards as SIP inspectors, as outlined in the MOUs.

Chapter 6- MOU with FDA

The purpose of this section is to standardize the implementation of the provisions of the Memorandum of Understanding (MOU) so as to promote an effective working relationship between the participating agencies which will benefit industry, consumer, and government.

General

The success of the MOU (see Attachment #1) will depend in large part on the appropriate and timely exchange of information between the two agencies. The NMFS Branch inspection offices play a significant role in communications with the FDA District offices. A current listing of the FDA District offices is furnished to the Branch offices at each updating.

Memorandum of Understanding Responsibilities

The MOU provides ten services to be provided by NMFS, eight responsibilities for FDA, and eleven points of mutual agreement. Many of the aspects of the MOU involving the Branch offices are self-explanatory, and spell out functions, responsibilities, and requirements which inspectors are responsive to on a continuing basis. The following aspects are modifications or additions to current procedures and will be implemented upon receipt of this manual release. The item numbers refer to their respective paragraph numbers of the MOU.

A. The National Marine Fisheries Service:
    1. Item A.l. - Branch offices will immediately advise the Division Office in writing when 1) participating plants withdraw or are suspended from inspection service, 2) contracts are terminated, 3) inspection services are denied because of insanitation or current good manufacturing practice deficiencies, and 4) plants are reinstated in the USDC voluntary Seafood Inspection Program. The Inspection Division Office will provide FDA headquarters with a complete list of plants operating under NMFS inspection on a contract basis, and will notify FDA headquarters of any changes in plant status with

reasons therefore. A copy of the notification will be furnished to the appropriate FDA District office.

2. Item A.4. - Branch offices will furnish any pertinent information regarding specific lots of products inspected or graded by NMFS to the appropriate FDA District office upon request. Telephone requests will be followed by written confirmation. In addition, the Branch office will furnish a copy of the information to the Division Office.
3. Item A.6. - Branch offices will report by telephone or other electronic means, with follow-up written confirmation, to the appropriate FDA District office, information regarding any product found by NMFS to be adulterated or misbranded under the Federal Food, Drug, and Cosmetic Act and/or exceeds the criteria published in the FDA Compliance Policy Guides UNLESS the product is reconditioned so as to comply with FDA requirements, or is segregated and disposed of for non-food use or otherwise LAWFULLY shipped or sold. This applies to products inspected by NMFS under Types I, II, and III inspections without exception.
4. Item A.7. - The re-inspection of samples of product which have previously been inspected or graded by NMFS and are subject to FDA seizure, prosecution, injunction, or import detention action will be performed by NMFS only when clearance has been received.

B. The Food and Drug Administration
   1. Item B.5. - FDA review of labels, legends, stamps, and other official works will be directed to the Chief, Inspection Services Division, NMFS for submittal to FDA. Requests for such review will not be made to FDA District offices.
   2. Item B.8. - The NMFS inspector should make every effort to participate and cooperate in inspections of official establishments conducted by FDA inspectors. Joint inspections are mutually beneficial, and educational to both inspectors.

C. Mutual Responsibilities:
   1. Item C.7. - Branch inspection offices should develop and maintain close working relationships with appropriate FDA District offices. Meetings may be held on a scheduled or unscheduled basis but should be held periodically to coordinate, evaluate, and review inspectional matters of mutual interest.

Reports

In addition to the reports required by the MOU and the Rejection and Retention of Products and Equipment section of this manual, Branch inspection offices will complete the NMFS/FDA Liaison Activities Report (see ATTACHMENT #1), on a monthly basis and forward one copy to the Division Office, ATTN: Chief, Inspection Services Division, and retain a copy in the Branch office file.

ATTACHMENT #1 – **FDA-NOAA Memorandum of Understanding**

ATTACHMENT #2

MEMORANDUM FOR: F/SI - Director, Seafood Inspection Program
FROM: F/SI - Chief, Inspection Branch
SUBJECT: NMFS/FDA Liaison Activities Report for (Month, Year)

The following FDA contacts were made during the report period.
(The report should be substantially as follows.)

Number the contacts, i.e., a separate paragraph for each contact.
For each contact include:
NMFS inspector/official present.

FDA inspector/official present.
Location of visit - plant, office, etc.
Purpose of visit.
Summary of discussions.

Follow-up actions required.

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Chapter 7 - Agreements with State and Federal Agencies

The purpose of this section is to assure uniform implementation of Federal/State agreements which provide for the inspection of fishery products by USDC licensed state inspectors based upon Federal requirements.

Policy

It is the policy of the Seafood Inspection Program to use cross-licensed state inspectors to perform the inspection, grading, and certification of fishery products, and to conduct sanitation inspections of USDC official establishments within the boundaries of the states with whom the NMFS has entered into formal inspection agreements.

General

Under standardized cooperative agreements between the states and NMFS each agency has agreed to adopt certain uniform operational procedures to carry out the program. Implementation of the provisions and their procedures rests with the chief inspectors that are responsible for the overall effectiveness of inspection activities in their geographical area of concern. They will work directly with their counterparts in the state agency to arrange for cross-licensing, training and technical supervision of state personnel.

Procedures

Many of the aspects of the agreements are self-explanatory. The responsibilities of each agency are given in the cooperative agreement with the respective state. The following points are intended to further explain or clarify some of their general provisions. They are numbered to correspond with the paragraphs of the cooperative agreement.

2. (A) The chief inspector responsible for the administration of the respective Federal/State Agreement will arrange for the cross-licensing of state inspectors as mutually agreed upon by both parties.

2. (D) NOAA administrative and supervisory inspection personnel will periodically review inspections performed by state personnel to determine that they are conducted in accordance with applicable Federal regulations and operational procedures contained in this inspection manual.

2. (H) NOAA will furnish to each state inspection agency sufficient supplies of inspection standards, specifications, instructions, score sheets, certificates and official stamps necessary for it to carry out its inspections under the cooperative agreement. It is the responsibility of the chief inspector administering the agreement to make certain that an adequate supply of all necessary materials are available for use by licensed state inspectors.

4. (A) At a minimum, onsite and on-the-job training will be provided to specific state inspectors at the time the first request for inspection is received by the state agency, and thereafter as the need arises.

4. (G) The chief inspector will request a copy of each State's annual audit report as required by this paragraph of the Agreement.

Chapter 8 - Shellfish Sanitation Program

The National Shellfish Sanitation Program (NSSP) is the federal/state cooperative program recognized by the U. S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. It was established to promote and improve the sanitation of shellfish (oysters, clams, mussels and scallops) moving in interstate commerce through federal/state cooperation and uniformity of State shellfish programs. Participants in the NSSP include agencies from states, FDA, EPA, NOAA, and the shellfish industry, as well as foreign governments. The NSSP also includes program guidelines, State growing area classification and dealer certification programs, and FDA evaluation of State program elements.

Chapter 9 - Violations

A. Reporting Violations of the Agricultural Marketing Act, the Food, Drug & Cosmetic Act, and Regulations Governing Processed Fishery Products

The purpose of this policy is to provide the basic information necessary to assist inspectors in reporting violations of the Agricultural Marketing Act and the regulations promulgated thereunder, i.e., 50 CFR 260; and to point out evidence which may be necessary to prepare cases involving violations of the law and regulations for debarment action. The procedures described are general guidelines and not intended to be inflexible rules.

The Agricultural Marketing Act of 1946 (the Act), as amended, provides for the voluntary inspection and grading of numerous agricultural commodities, including fish and shellfish, under regulations promulgated by the U.S. Department of Commerce (USDC). The Act protects consumers against false claims concerning the Federal inspection or grading of seafood, and makes it a criminal offense for anyone knowingly to represent that seafood has been officially inspected or graded under the provisions of the Act when, in fact, it has not been so inspected or graded.

Strict enforcement of the Act is necessary to protect consumers and processors who operate under the USDC Voluntary Seafood Inspection Program. Our goal is to assure full compliance with the Act and regulations. One method of encouraging compliance is for the Consumer Safety Officer/Inspector to advise interested persons and processing firms of the Act's requirements on a timely and continuing basis. Inspectors should be thoroughly familiar with the Act and USDC regulations so they may effectively communicate with concerned parties.

The following procedures must be followed whenever violations to the Act are suspected:

A. Establishing Proof of Alleged Irregularities or Violations. It is necessary that each instance of detected or reported irregularity or violation of the Act or its implementing regulations is thoroughly investigated. The information contained in Attachment #1 will be helpful to inspection personnel during the investigative processes.
B. Investigating and Reporting Alleged Irregularities and Violations.
    1. Assigned Inspector: When an irregularity or violation is detected by or reported to the assigned inspector he/she shall:
        a. Notify his/her supervisor immediately by the most expeditious means.

b. Secure evidence to support a possible debarment, suspension, or legal action. See Attachment #2.
    1. Observe, when possible, the irregularity or violation in progress and record the incident, noting the date and time of occurrence. A witness, if possible, should verify the irregularity or violation.
    2. Explore all recorded sources which could provide reliable information relevant to the incident.
    3. Interview individuals who might have knowledge of the incident.
c. Prepare, with the direct assistance of the supervisor, a written draft of the situation including all pertinent information available. See Attachments #3 and #4.
d. Forward a copy of the report through the supervisor to the Regional Chief for review.

2. Supervisor: When a supervisor receives a report of an alleged violation he/she shall:
    a. Assist the assigned inspector in developing and conducting the investigation.
    b. Assist the assigned inspector in preparing a written draft of the incident to assure that all information, evidence, and reports from the assigned inspector are complete, accurate, and properly documented.
    c. Advise the Regional Chief of the situation and keep him/her informed of developments.
3. Regional Chief: The Regional Chief shall:
    a. Provide necessary assistance to the supervisor to assure that the investigation is properly conducted.
    b. Review the draft report prepared by the assigned inspector for completeness, accuracy, proper documentation, etc., and prepare the final report for submission to Headquarters.
    c. Keep Headquarters advised of the status of the investigation.
4. Headquarters: The Headquarters staff shall:
    a. Initiate all correspondence from NMFS to the alleged violator when the investigation conducted by field inspection personnel indicates that a violation of the Act or its implementing regulation did in fact occur. The correspondence will specify the details of the alleged violation and the provisions of the law; and will provide the opportunity for the violator to present written or oral views concerning the alleged violations.
    b. Act in a liaison capacity with appropriate Government agencies (i.e., Food and Drug Administration, Federal Trade Commission, Department of Defense, Department of Justice, etc.), which may be involved in investigating products, records, etc., which are located in facilities outside of NMFS jurisdiction.
    c. When substantial evidence of a violation exists, (a) refer the matter to the Office of General Counsel with a request to initiate debarment action or (b) forward the case to the Department of Justice recommending the initiation of criminal action.

ATTACHMENT #1
Developing Proof

A. Agricultural Marketing Act
The purpose of the Act is to provide for the voluntary inspection and grading of agricultural products, e.g., to “inspect, certify, and identify the class, quality, quantity, and condition of

agricultural products." No person is required to use the services provided for in the Act. The Secretary of Commerce has issued extensive regulations under the Act providing for the inspection, sampling, and grading of various commodities, and the issuance of licenses to perform such functions. This Act also provides the criminal penalties which may be assessed upon conviction for violations of the Act. It is the responsibility of inspectors to check on reported irregularities and/or investigate alleged violations of the Act. The Agricultural Marketing Act provides sanctions as follows:

"Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever knowingly shall possess, without promptly notifying the Secretary of Agriculture or his representative, utter, publish, or use as true, or cause to be uttered, published or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than $1,000 or imprisoned not more than one year, or both."
(7 U.S.C. 1622(h))

B. Information Required Defined:
The following information should be helpful in establishing and reporting alleged irregularities and/or alleged violations. The chart lists the elements of the various offenses prohibited by Section 203(h) and the subsequent information describes the meaning of the various terms used in the law.

Evidence is needed on one or more of the elements in each column as indicated.

1. Knowingly	Falsely 1. Make 2. Issue 3. Alter 4. Forge or 5. Counterfeit	Official 1. Certificate 2. Memorandum 3. Mark or other identification or 4. Device for making such mark or identification	With respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under Sec. 203
2. Knowingly	1. Cause or procure 2. Aid 3. Assist in or 4. Be a party to		Such false 1. Making 2. Issuing 3. Altering 4. Forging or 5. Counterfeiting

3. Knowingly	1. Possess, without promptly notifying the Secretary of Agriculture or his representative 2. Utter 3. Publish 4. Use as true or 5. Cause to be a. Uttered b. Published or c. Used as true	Any such falsely made, altered, forged, or counterfeited official 1. Certificate 2. Memorandum 3. Mark 4. Identification or 5. Device
4. Knowingly	Represent that an agricultural product has been officially inspected or graded under the authority of Sec. 203	When such product has not been so inspected or graded

1. Knowingly: Defendant's knowledge of the law is not required, but the defendant must have knowledge of the facts constituting the offense. Defendant is responsible only for intentional, rather than accidental or inadvertent, acts. For example, in order to establish the offense of false making of an official identification by use of an approved U.S. Grade A label on fishery products that had not been graded under the Act, proof would be needed to show that the defendant knew that the label was applied to non-graded fishery products, but it would not be necessary to show that the defendant knew that such application was illegal. If the label was accidentally or inadvertently applied, no offense was committed.

Falsely Make: Proof of falsity and proof of making must be shown. For example, to prosecute defendant for falsely making an official identification, it would be proper to prove that he applied an approved U.S. Grade A label to fishery products which had not been graded under the Act. Falsely making is deemed to include, among other things, manufacturing of official devices without authorization, inserting incorrect information in an official certificate, and applying an official grade or inspection mark to fishery products which have not been graded or have not been inspected under the Act. The same activities may constitute falsely making and counterfeiting.

Falsely Issue: Issue means to put into circulation. The offense of falsely issuing is deemed to include the distribution of labels bearing official grade identifications by a label or box manufacturer to plants not eligible to use such labels when there is proof that the manufacturer knew that the labels would be used on products for which they were not eligible.

Falsely Alter: Proof is needed of alteration and of falsity. For example, proof that the defendant altered an inspection certificate issued under the Act so as to show more product had been inspected or graded than was actually the case.

Forge: This offense consists of the false making or material altering, with intent to defraud, of any writing which, if genuine, might be of legal efficacy. For example, the writing of an inspector's signature on a certificate by someone other than the inspector himself and without his consent.

Counterfeit: This offense consists of the making of any official certificate, memorandum, mark, or other identification or device under the Act without authority. Proof is needed that the article made closely resembled and was represented to be, but was not, the genuine article and that the defendant made it without authority from this Department.

Official Certificates, Memoranda, Marks, other Identifications and Devices: The Act prohibits the offenses specified above only with respect to certificates, memoranda, marks, other identifications, and devices which are defined by the regulations under the Act as "official." (See 260.7 of the voluntary fishery products inspection and certification regulations.)

With Respect to Inspection, Class, Grade, Quality, Size, Quantity or Condition Issued or Authorized Under Section 203: The certificates, memoranda, marks, other identifications, or devices must relate to inspection, class, grade, quality, size, quantity, or condition and must be issued or authorized under Section 203 of the Agricultural Marketing Act.

2. Knowingly: See remarks under 1. For an offense in this group, there must be enough evidence to establish a false making, issuing, altering, forging, or counterfeiting of an official certificate, memorandum, mark, or other identification as discussed under 1., and proof that the defendant knowingly caused, procured, aided, assisted in, or was a party to such offense.

3. Knowingly: See remarks under 1.

Possess: Need proof that the defendant consciously had possession and did not promptly notify the Secretary of Commerce or his representative of such possession.

Utter, Publish: These terms mean about the same thing. Need proof that the defendant put into circulation or made public as genuine the offending article involved.

Use as True: Need proof of use by defendant under circumstances showing the offending article was represented to be genuine. For example, selling fishery products bearing pressure-sensitive stickers with counterfeit U.S. Grade A marks.

Cause to be Uttered, Published, or Used as True: Need proof of acts by the defendant which caused the utterance, publication, or use as true of the offending article. For example, a statement of an employee of the defendant that the defendant ordered him to apply pressure- sensitive stickers bearing counterfeit U.S. Grade A marks to non-graded fishery products and deliver them to a purchaser.

Falsely Made, Altered, Forged, or Counterfeited Official Certificate, Memorandum, Mark, Other Identification, or Device: See remarks under 1.

4. Knowingly: See remarks under 1.

Represent That an Agricultural Product Has Been Officially Inspected or Graded Under the Act: Need proof of such a representation with respect to fish and shellfish, and products thereof. The representation may be made in any way that conveys the idea to the public that the product was officially inspected or graded under the Act. For example, by label or sticker, retail store window sign or counter placard, store employee's statement or newspaper advertisement; and either by use of an official inspection or grading mark or by descriptive words. Report all the facts in these cases very precisely. Give exact words used that are deemed to constitute the representation. Obtain copies of labels, stickers, or advertisements if possible. Determine the quality of the fishery products under the United States standards or indicate that such a determination could not be made, in each case involving representation of grade. When it appears appropriate, purchase one or more packages of the product allegedly in violation. Do not remove or alter anything printed or written thereon. Hold product for future reference or evidence to be used in connection with a court action.

C. Typical Violations of the Agricultural Marketing Act
    1. Advertising by trade periodical, newspaper, or circular, U.S. inspected or graded fishery products when such products have not been so inspected or graded.

2. Using U.S. inspection or grade marks in connection with fishery products not so inspected or graded.
3. False alteration of official memoranda or certificates.

ATTACHMENT #2
Investigating Alleged Violations

A. Information Sources
To check on or investigate an alleged violation of the Agricultural Marketing Act, we must first have some indication that a violation has taken place. Such information can be developed in various ways. A common source is from someone in the fishery products business. Since the industry is highly competitive, it would be rare if any person or firm could operate in violation of the Agricultural Marketing Act for a long period of time without having their actions detected and reported to us. On many occasions we may get valuable information from city, county, or state officials and officials of other Federal agencies, particularly those in the area of health and food control. Inspectors should make it their business to know these people and to be helpful to them in return for their help to us.

Many good leads come from inspectors as a result of observations made in the course of their duties in official establishments and elsewhere. Each irregularity or violation should be followed through. The preliminary investigation should be made in such a way that it will not be embarrassing to the person or firm suspected in the event that there is no foundation to the alleged violation. If an informant requests that his identity be kept secret, such a request must be strictly honored; otherwise, sources of information would disappear. In some cases, the informant may be an employee of the company which is the alleged offender and the situation should be handled in such a manner that his position would not be jeopardized. Maintenance of good relationships with members of industry and the public is essential. Situations should never be permitted to develop where any of these contacts will be harmed without just reason. Investigations should always be conducted in such a manner as to avoid damage to the reputation of innocent persons. Inspectors should make sure that anyone who might be a potential source of reliable information knows them and knows where and how they may be reached. Regardless of how the information is presented, we should be sure they know our office address, phone number, and office hours.

B. Interviews
Information discussed during an interview may be extremely important in the event legal action becomes necessary or is deemed appropriate. Therefore, information which will be of value as evidence should be recorded in the form of a written signed statement. Such a policy will protect the inspector against claims by witnesses of being misquoted or misunderstood and will fortify the witness in resisting pressure to alter his testimony.

Simple, clear-cut language, readily understood, and in words customarily used by the person making the statement should be used. Under no circumstances should intimidation, inducement, or force of any kind be used against the subject of an investigation (or any other person) in order to obtain a statement. Methods of obtaining signed statements will vary with individual inspectors. Some will emphasize the importance to all involved that a true recital of the facts should be established and some will point out that this insures that the signer's side of the case will be accurately presented. Others will show by their very manner that they take it for granted that the subject would be willing to sign a statement of truth. In the event the interviewee furnishes sufficient information for the preparation of a statement and afterwards declines to sign the statement, the unsigned statement should be retained for use in the

report. Reasons for refusal to sign should be reported. Under no circumstances should an interviewee be provided with a copy of an unsigned statement. They may be provided with a copy of a signed copy upon request.

C. Proof of Violation

To secure successful prosecution, we must have proof of the alleged violation. This is often difficult to get, but without proof we have no case against the alleged violator. As an example, we cannot assume that fishery products were not federally graded and/or inspected; rather, we must prove that fishery products were not so graded or inspected. The Office of the General Counsel and the Justice Department will not take legal action unless there is good and sufficient evidence. The proof of a violation must be based on evidence. This may be in the form of personal observation, copies of invoices, bills of lading, freight waybills, cancelled checks, labels, sections of containers, receipts, receiver's statements, and statements made by those having knowledge of the facts. The more clearly this evidence proves that a specified amount of fishery products bearing official inspection or grade marks was not inspected or graded, the better the case.

ATTACHMENT #3
Developing the Report

A. Initiating Reports

The reporting of information developed in connection with an alleged violation is a very important phase of investigation work. Each and every step taken must be clearly documented, fully explained, and spelled out in the report. Both positive and negative evidence must be included, otherwise, the reviewer may wonder, "Did he check on_____?" Reports must be factual and based on observations and evidence and not on assumptions or opinions. The inspectors' reports should be prepared in a clean, neat, and grammatically correct manner. Just as people in the NMFS may form an opinion of the inspector from the appearance of the records he prepares, so people outside our organization will form an opinion of the NMFS from the documents we present. You can imagine the reaction of the Office of the General Counsel or a U.S. Attorney when reviewing a narrative containing incomplete sentences, misspelled words, erasures, and improperly documented evidence. Their interest in proceeding with a poorly presented case is reduced while a well-documented report will naturally bring better results.

The following self-examination shall be made in preparing a case file:

1. Is there sufficient evidence to support the allegation?
2. Does it include all the facts at hand?
3. Are there references to supporting documents in the narrative?
4. Are the narrative and other documents properly paragraphed? Margin neat? Correctly punctuated? Acceptably free of smudges and erasures? Properly assembled?
5. Have I correctly identified the legal and/or ownership status of the firm or person involved?
6. Have I checked references to names, addresses, dates, and numbers in different parts of the report so I am sure they are accurate and identical?

A complete case file on a violation should contain such information as the reason for the investigation, the manner in which the investigation was conducted, the evidence secured, and the conclusion of the inspector. The numbered exhibits in the file should be referred to by number as the report progresses.

B. Writing Reports

An investigation report may be generally divided into four sections, which should be clearly defined either by headings or paragraphing. The sections can be generally categorized (1) Introduction and Justification, (2) Synopsis or Brief, (3) Details, and (4) Conclusions.

1. The opening paragraph of the report should contain the true and/or legal name and address of the person, partnership, company, or corporation under investigation. Citation of the statute or the regulation under which the investigation is being made should be shown. In case the individual or company does business under other names and at different addresses than its legal name and address, these should also be recorded.
2. A brief summary of the evidence as disclosed by the investigation is helpful to persons who are required to review reports. The synopsis or brief should be limited to one short paragraph where possible, except that in the case of lengthy and complex reports, a longer brief may be necessary. In short reports dealing with relatively simple subject matter, the brief or summary may be eliminated. In no case, however, should the brief exceed the detailed reporting of the case.
3. In the 'Details' section of the report, the inspector should narrate in detail how he conducted the investigation and obtained evidence of the violation. Evidence per se is of the utmost importance in dealing with these violations but the method by which evidence is obtained is also important. In charging wrong-doings, the burden of proof is on the Government. Therefore, extreme care should be exercised so that the person who is suspected shall not be deprived of rights guaranteed by the law and rigidly enforced by the courts. In narrating the details of an investigation, the inspector should refrain from imparting extraneous details and trivia which have no bearing on the issues. Reviewing reports loaded with details which are not germane can become extremely tedious and consequently the report may completely fail to inform the reader of the subject. The inspector must be able to assure himself that he can support any statements made by him in the report of investigation. All supporting evidence should be described, and the resting place of such evidence should be carefully noted in the report, as in the work papers, etc.
4. Finally, the 'Conclusion' section of the report should relate the conclusions formed by the inspector on the basis of the evidence obtained during the investigation. Since the inspector is neither the prosecutor nor the judge, it is unnecessary to go into great detail as to the value of the evidence, but he can briefly describe his attitude toward the allegation based on the evidence.

C. Sources of Information

1. Commercial bills of lading and shippers certificates are excellent evidence that a product has moved interstate. This is especially true if we can also secure a copy of the delivery receipt.
2. Copies of invoices, delivery receipts, order forms, and cancelled checks.
3. Labels and master cartons from fishery products involved.
4. Reference to letters of caution or correspondence establishing knowledge of the respective law violated. If possible, two sets of all papers making up the file should be forwarded to the Headquarters office. Recommendations may be made by the inspector by a separate memorandum.

D. Conclusion

We must bear in mind that each violation is different and the development of the investigation is different. We must also bear in mind our goal is to obtain compliance with the law and related regulations under which the inspection and grading program operates. As indicated previously, criminal and/or debarment action is usually reserved for those persons or firms who, by record, have knowledge of the provisions of the law referenced herein and who in turn subsequently, with intent, violate this law or regulation.

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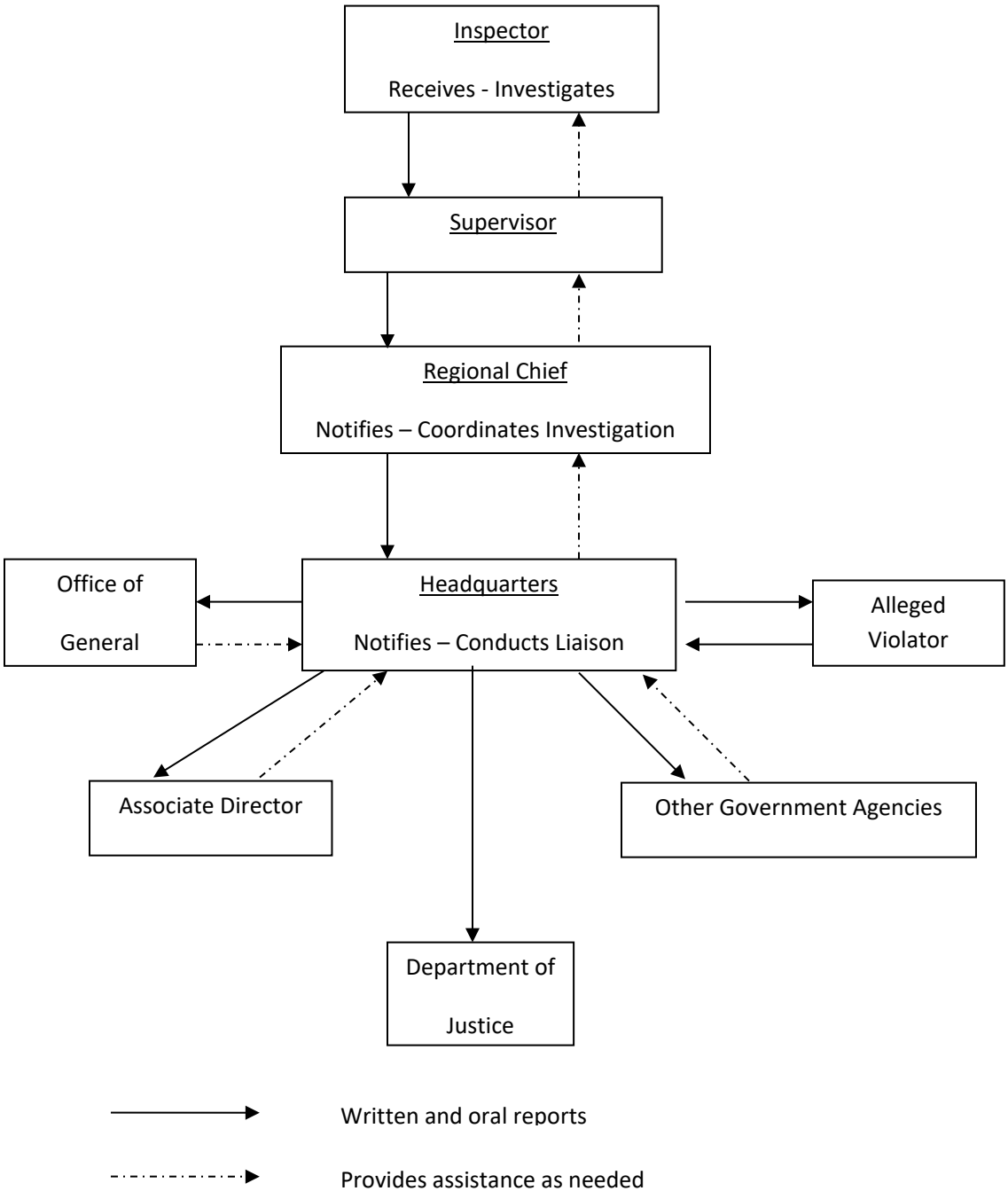
ATTACHMENT #4
Report Flow

VIOLATIONS OF THE AGRICULTURE MARKETING ACT AND
REGULATIONS GOVERNING PROCESSED FISHERY PRODUCTS



B. Regulation and Policy Interpretive Decisions

The following policy has been established to provide a uniform procedure whereby USDC Seafood Inspection Program Branches and personnel may request regulation and policy interpretive decisions, and to have those decisions disseminated for use by all inspectors in a timely manner.

Periodically a situation arises during the conduct of Program business which appears to be outside the scope of the regulations, policies, or procedures. Sometimes these situations require interpretive decisions which may impact on the routine conduct of inspection services. Prompt decisions are always desirable, but some questions require legal or policy guidance, or coordination between agency units, and possibly industry, before a decision can be issued.

Requests for Regulation and Policy Interpretive Decisions

1. Requests shall be submitted in writing to the Chief Quality Officer, or his designee. The request should be submitted via e-mail, but a fax or memorandum is acceptable. In an emergency situation, when telephone requests are deemed necessary, they must be followed by a written confirmation from the requester.
2. Requests must contain 1) a **clear** statement of the problem, 2) its immediate and potential impact on the Seafood Inspection Program, 3) **all** feasible alternatives to the problem, and 4) recommended solution(s). The solution(s), as well as all listed alternatives, must be well researched and documented in the request. Reasons for the recommended course of action should be provided, as well as all references to research which are pertinent to the issue and used to arrive at the recommended course of action.
3. Requests will be logged and tracked upon receipt at the Headquarters Office.
4. The Chief Quality Officer, or his designee, will evaluate the request, conduct any additional research necessary, and provide a complete package to the Director of the Seafood Inspection Program. It will be the responsibility of the Chief Quality Officer to obtain concurrence on the proposed course of action, or a modified course of action, from appropriate Program Management and support units, depending on the nature of the issue.
5. Once a decision is made regarding the request, the Chief Quality Officer will provide a written reply to all parties affected.

Chapter 10 - Processing Requests for Inspection Services (Rev 01/2026)

Beginning July 1, 2024, USDC SIP stakeholders will be required to make inspection services requests via the online Seafood Inspection Services Portal (SISP). This is a change from the former manner of requests that were received via fax and/or email and utilized NOAA Form 89-814. This system streamlines and simplifies the process for Seafood Inspection Program services.

These instructions establish policies and procedures and provide implementation guidance for the Inspection Request component of SISP. This guidance will assure uniformity in the application of the SISP Inspection Request system regarding product inspections and export health certifications.

A. Requesting Inspection and Certification through SISP

All requests for inspection services must be submitted through the SISP Online Request System at https://seafoodinspection.nmfs.noaa.gov/customer/customerlogin.html. New customers will follow the online instructions to set up an account, and returning customers will sign in to their existing account.

Program participant requirements:

- Requestors must have an active SISP account and are encouraged to have multiple individuals that are familiar with using the SISP system.

- Requestors must complete all required fields within the system, including accurate product information and values for the product to be inspected. Inaccurate or incomplete requests will be returned to the Requestor for correction.
- Requestors are responsible to select the correct type of Inspection, such as Net weights, Quality and Condition, Counts, Check Loading, and U.S. Grade A, as well as the disposition of the samples following completion of the inspection.
- Requestors shall confirm the availability of the cold storage/ warehouse to release and stage products at the requested appointment time.
- Requestors shall verify that their firm and/or product(s) are eligible to ship to their desired export countries. All lists can be found at https://www.fisheries.noaa.gov/national/seafood-commerce-trade/foreign-approved-lists
- Requests for Health Certificates that are based on completed inspection service requests must include product and shipping information. Information must be entered into SISP accurately, and the requester shall attest to the accuracy and validity of the submitted information.
- Products presented for inspection must have either been formally released by the U.S. Customs and Border Protection (CBP) or must have exited a U.S. Foreign-Trade Zone (FTZ). Products that have not met one of these conditions are not eligible for inspection and shall not be presented, scheduled, or accepted for inspection services. Documentation verifying CBP clearance or FTZ exit must be available upon request.
- Additional comments or details can be added in the "Comments to Seafood Personnel" section

USDC SIP staff requirements:

- USDC SIP staff will review pending inspection service requests in a timely manner to ensure accuracy, completeness, and inspector availability.
- Each request for service will be reviewed, verified for eligibility requirements and approved by inspection personnel
- USDC SIP staff shall verify that a firm is approved for certification and shipping to certain countries. All lists can be found at https://www.fisheries.noaa.gov/national/seafood-commerce-trade/foreign-approved-lists.
- Any discrepancies noted during an evaluation of documents and inspections will be communicated to the Requestor.
- USDC SIP staff will review the requested dates and schedule inspections based on availability of personnel in the appropriate inspection office.
- USDC SIP will give scheduling priorities to requestors with USDC SIP contracts in place. If a scheduled inspection needs to be adjusted, USDC SIP will contact the customer with the changes.
- Once the inspection service is completed, USDC SIP staff will enter the results into the Results and Remarks portion of the service request, process any associated certificates, and submit all billing associated with the inspection and certification.

Chapter 11 - Financial Policies

A. Fees:

Fees are evaluated annually and remain in effect until changed and broadcast via Federal Register Notice. Effective November 1, 2024, the per-hour fees and charges for fishery products inspection services will be as follows. Any travel associated with a billable service will be an additional charge.

Contract Rates

Regular time: Services provided during any 8-hour shift.

Overtime: Services provided outside the inspector's normal work schedule.

In addition to any hourly service charge, a night differential fee equal to 10 percent of the employee's hourly salary will be charged for each hour of service provided after 6:00 p.m. and before 6:00 a.m. A guarantee of payment is required for all contracts equal to three months of service or $10,000, whichever is greater.

Non-contract Rates

Regular time: Services provided within the inspector's normal work schedule, Monday through Friday.

Overtime: Services provided outside the inspector's normal work schedule.

Contract Rates	
Non-HACCP Contracts	
Regular Time	$238
Overtime	$357
Sundays & Holidays	$476
HACCP/QMP Contracts	
Regular	$238
Overtime	$357
Sundays & Holidays	$476

All Non-Contracted Work Rates	
Regular Time	$357
Overtime	$536
Sundays & Holidays	$714

Certificates

All certificate requests, whether or not a product inspection was conducted, will be billed at a set flat rate of $97 per request.

See more details at https://www.fisheries.noaa.gov/national/seafood-commerce-certification/inspection-and-analytical-services-fees.

B. Payment Guarantees

To establish uniform requirements and procedures for handling guarantee of payment requirements posted by contract establishments.

The Chief of the regional inspection office which serves the area in which inspection services are to be performed shall require a guarantee of payment in a minimum amount equal to three (3) months cost for providing the contracted inspection services prior to the initiation of such service. Inspections services at an establishment operating under contract shall be discontinued at such time as the receivables due are of an amount equal to the amount of the guarantee of payment posted by the participant. When discontinued under these circumstances, inspection services shall be reinstituted only after the accounts receivable from the participant are significantly reduced. The discontinuance and reinstatement of services will be determined by the Headquarters Office.

Procedures
Two options are available to participants by which they may comply with the contract requirement for providing a guarantee of payment for inspection services rendered.

A. An advance of funds in a minimum amount equal to three (3) months cost from providing inspection services may be posted. The advance shall be paid by check, wire transfer or credit card. The regional office will forward to NOAA Finance noting funds are in lieu of surety bond. The deposit will be non-interest bearing.
B. A surety bond in a minimum amount equal to three (3) months cost from providing inspection services may be posted. **NOAA form 89-801**, Surety Bond (attached) may be used for this purpose. Upon receipt, the regional office should review the bond to determine that is has been properly completed, signed and seals affixed, and that a power of attorney from the bonding company is attached that authorized its representative to sign the bond on its behalf. A copy will be retained in the regional office and the original will be forwarded along with the contract to headquarters. The surety bond requires the surety to provide thirty (30) days written notice to Seafood Inspection Headquarters and the regional office prior to terminating the bond. Should the regional office receive notice that a surety bond is being withdrawn on a specific date, the office should take immediate steps to advise the participant that a new surety bond or other

guarantee of payment will be required effective on or before the termination date of the existing bond if inspection services are to continue beyond that date.

Attachment #1

NOAA FORM 89-801
(Prescribed by NOAA Inspection Manual 25)
(10-92)

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE

SURETY BOND

PRINCIPAL(S) (Legal NAME and Business Address)

TYPE OF ORGANIZATION (Check One)
☐ INDIVIDUAL ☐ PARTNERSHIP
☐ JOINT VENTURE ☐ CORPORATION
☐ UNINCORPORATED BUSINESS

STATE OF INCORPORATION | BOND NUMBER

STATE AUTHORIZED FOR SURETY BUSINESS

SURETY(IES) NAME(S) AND BUSINESS ADDRESS

SUM OF BOND
MILLION(S) | THOUSAND(S) | HUNDRED(S) | CENT(S)

CONTRACT DATE | CONTRACT NUMBER

OBLIGATION

The Principal(s) cited above has/have requested, and will, in the future, request the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, United States Department of Commerce, to provide inspection services to said paid principal and has/have agreed to pay (at fees effective when inspected) for said services rendered under the referenced contract.

If the principal pays, when due, all fees, including any interest or penalty imposed for late payment, to NMFS for the services rendered, then no other obligation will be incurred for the principal or surety. However, the principal's failure to make prompt payment will bind, jointly and severally, the principal and surety to an obligation which will not be terminated until all indebtedness for inspection services so incurred under the contract shall be liquidated.

The United States of America, acting by and through the Regional Inspection Chief, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, United States Department of Commerce, _____
(Region, Address, Phone Number)

_____, reserves the right at any time to terminate this bond by a written notice of such termination to the surety and thereupon this bond shall terminate and be of no more force or effect, except as to any liability already incurred or accrued as to which it shall remain in full force and effect.

The surety herein reserves the right to withdraw as surety from this bond and may do so upon giving thirty (30) days written notice to the aforementioned Regional Inspection Chief, after which time its liability under this bond shall cease, and said bond shall thereupon terminate and be of no further force or effect, except as to any liability or indebtedness already incurred or accrued thereunder prior to the date of termination.

It is mutually agreed that the effective date of this bond shall be _____

IN WITNESS WHEREOF the above bounded parties have executed this instrument under their several seals this _____ day of _____, 19_____, the name and corporate seal of each corporate party being hereto affixed and duly signed on its behalf by the undersigned representative, pursuant to authority of its governing body.

CORPORATE PRINCIPAL(S)

SIGNATURE(S)
1. 2.

NAME(S)/TITLE(S) (Typed)
1. 2.

CORPORATE SEAL

CORPORATE SURETY(IES)

NAME/ADDRESS | STATE OF INC. | LIABILITY LIMIT
$

SIGNATURE(S)
1. 2.

NAME(S)/TITLE(S) (Typed)
1. 2.

CORPORATE SEAL

NAME/ADDRESS | STATE OF INC. | LIABILITY LIMIT
$

SIGNATURE(S)
1. 2.

NAME(S)/TITLE(S) (Typed)
1. 2.

CORPORATE SEAL

The rate of premium on this bond is _____ per thousand.
Total amount of premium charged is $ _____.

(ABOVE MUST BE FILLED IN BY CORPORATE SURETY)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____ of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know this signature thereto is genuine; and that said bond is duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

_____ (SIGNATURE) _____ (DATE)

CORPORATE SEAL

Sample

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C. Daily and Monthly Reporting

Monthly Activities Report

The Monthly Inspection Activities Report provides information about field inspection activities on a current basis. The usefulness of the information depends in large part on its timeliness and accuracy. Its availability should reduce the need for hurried calls to field inspection offices for information and data.

Instructions

A. Report Preparation:
    1. The report will be submitted in memorandum format using the paragraph headings shown in the attached example.
    2. Information will be entered under the appropriate paragraph in accordance with the instructions contained in the example.
    3. Paragraphs which are not applicable will be annotated "not applicable," "N/A," or "none."
    4. Much of the information required will be obtained from the Daily Production Summary, NOAA Form 89-812, submitted by an official establishment's assigned inspector. To further simplify data collection it is suggested that the "Remark" paragraph of the Production Summary be used by the inspector to convey information through the Chief of the Regional Inspection Branch to the Division Chief. Such usage will eliminate the need for additional paperwork, and serve as a permanent record. Information such as lot inspection data, FDA liaison visits, etc., could be recorded here.
B. Report Submittal:
    The report will be mailed to the Central Office not later than the 16th of the month following the month covered by the report.

Submittal of Daily and Monthly Summary Reports

The Daily Summary is used to record poundage of products inspected, and/or graded on a daily basis for a one month period. The Monthly Summary is used to record data and information about contract and lot inspection activities on a monthly basis. The summaries are consolidated by the Seafood Inspection Program (SIP) to report regional and national inspection data.

Form Overview

A. Daily Summary (ATTACHMENT #1 - **NOAA Form 89-812**) or obtain a copy at
    1. This form is used by the inspector and establishment personnel (HACCP) to record, on a daily basis, the type of inspection performed on the products and the poundage of products inspected. The form's use will simplify the completion of the Monthly Summary.
    2. The instructions for completing the form are located on the form's back and are self-explanatory.
    3. Canned product information is recorded on this form on a 1,000 pound basis and not as a number of units of an identified can size.
    4. After the data from the daily summary has been transferred to the Monthly Summary, the form will be filed in the Regional Inspection Branch (RIB).
B. Monthly Summary (ATTACHMENT #2 - **NOAA Form 89-812A**)
    1. This form is used by the inspector and establishment personnel (HACCP) to record data and information about contract and lot inspection activities on a monthly basis and is easily completed from the information recorded on the Daily Summary.
    2. As with the Daily Summary, the instructions for completing the Monthly Summary are located on the form's back and are self-explanatory.

3. Canned product information is recorded on this form on a 1,000 pound basis and not as a number of units of an identified can size.
4. After the data has been recorded on the Monthly Summary, the form will distributed as follows:
    a. Original - FIS14 - Approving Officer, Seafood Inspection Program, Technical Services Branch, DASS, P.O. Drawer 1207, Pascagoula, MS 39568-1 207.
    b. Copy – Chief, Regional Inspection Branch.
    c. Copy – Inspector's file.

Commodity Codes List

A. The Commodity Code numbers for completion of NOAA Form 89-812 and NOAA Form 89-812A are contained in the Commodity Code List in which listed in the website below https://www.fisheries.noaa.gov/topic/seafood-commerce-certification/seafood-inspection. The established code numbers are to be used in identifying the various commodities that are inspected.
B. As with previous releases of the Commodity Code List, inspectors and establishment personnel will not construct codes for commodities that may be produced that have no readily identifiable code. Refer to the unclassified codes.
C. As new codes are developed, they will be distributed by the normal Quarterly Mailouts.

ATTACHMENT #1

NOAA Form 89-812
June 2004

U.S. DEPARTMENT OF COMMERCE
SEAFOOD INSPECTION PROGRAM
DAILY SUMMARY

(Report in thousands of pounds to the first decimal)

Page_____of_____pages
Type of inspection:
In-Process
Lot
Non-human Food
Rejections
REGION
STATE
CONTR. NO.
MONTH
YEAR
PLANT NAME

COMM CODE																								
PROD. NAME																								
DAY	GRADE A		PUFI		USDC LOT INSPECTED		NO MARK		GRADE A		PUFI		USDC LOT INSPECTED		NO MARK		GRADE A		PUFI		USDC LOT INSPECTED		NO MARK	
	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP	DOM	EXP
TOT																								

Sample

INSPECTOR NAME(S)/NUMBER(S):	FOR REJECTIONS ONLY	Date of Rejection/Reason:

Guidelines and Reminders for Completing the Daily Summary

Select the Type of Inspection by checking either “In-Process” or “Lot”. A separate form must be completed for each type of Inspection or if the poundage is for non-human food or rejected products.

“In-Process” inspection means that sanitation and processing methods for the product lot were considered as part of the inspection. That is, the product was inspected and certified under either a Type 1, IQA, or HACCP contract.

“Lot” inspection means the product lot was inspected as an end-item inspection only – regardless of whether the plant had a Type 1, HACCP, IQA, or Type 3 contract. **Therefore, for product bearing the USDC Lot Inspected mark, the Type of Inspection is “Lot”**.

Under “REGION”, enter “N”, “S”, or W” to represent the region in which the facility is located.

Under “STATE”, enter the two character abbreviation for the state in which the facility is located.

Under “CONTR NO”, enter the last four digits of the contract number (e.g., 0001).

Under “MONTH”, enter the two-digit month number in which the inspection occurred (e.g., 05 for May, 11 for November)

Under “YEAR”, enter the four digit *year* number (e.g., 2004).

Under “PLANT NAME”, enter the name of the facility. Abbreviations are OK.

Data are counted according to the specific marks on the container(s). If the ‘Officially Sampled’ stamp or the ‘Accepted Per Specification’ stamp is the only mark on the master container, report the data under “NO MARK”.

Do Not Double Report! Do not duplicate where you report the data – it goes under only one category! If there is a situation (e.g., product to China) where an exported product bears a mark on the container (e.g., USDC Lot Inspected), include the data in “Export”. If it is unknown whether the product will be exported, record the data as appropriate at the time of reporting.

Rejections – If a lot of product is presented (e.g., as Grade A) and doesn’t pass, the data are reported as “Rejected.” If, however, the same lot is reworked as a new lot, is re-inspected and passed, then the data are recorded in the “Inspected and Passed” section. That is, the data are reported in both sections. If the rejected lot is NOT reworked, inspected and passed, then the data are reported only as “Rejected”.

Use abbreviated descriptions for the reason for the rejection; such as
“Adulterated”: meets the definition of adulterated food under Section 402 of the FD&C Act.
“Misbranded”: mislabeled, misrepresentation – meets the definition of misbranded under Section 403 of the FD&C Act.

“Substandard Quality”: fails to meet minimum quality requirements of a U.S. Grade Standard or Standard of Identity under Title 21.

“Failed grade/spec”: fails to meet intended grade or quality specification.

REMINDER: Be certain that the data are correctly expressed in thousands. That is, 1,534,834 pounds is 1,534.8 thousands of pounds.

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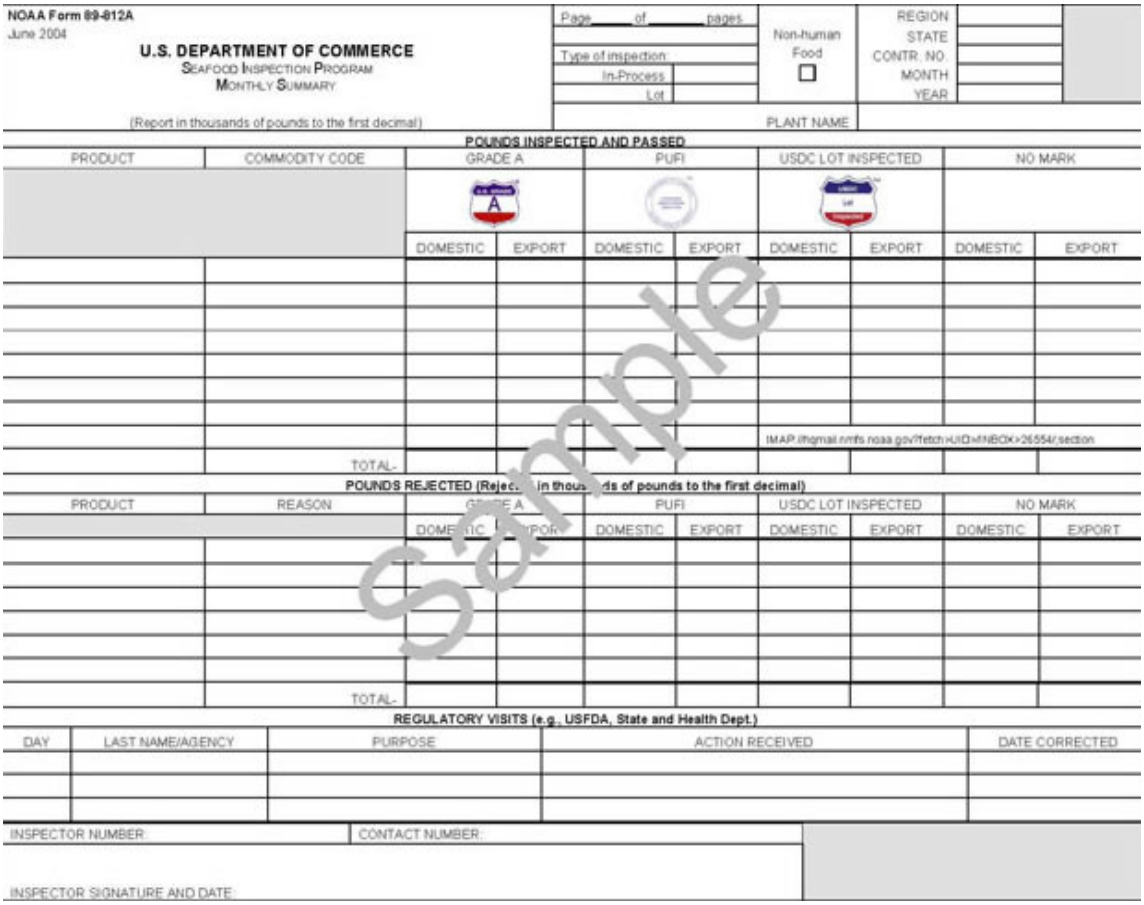
ATTACHMENT #2



NOAA Form 89-812A
June 2004

U.S. DEPARTMENT OF COMMERCE
SEAFOOD INSPECTION PROGRAM
MONTHLY SUMMARY

(Report in thousands of pounds to the first decimal)

Page ____ of ____ pages
Type of inspection: In-Process ☐ Lot ☐
Non-human Food ☐
REGION
STATE
CONTR. NO
MONTH
YEAR
PLANT NAME

POUNDS INSPECTED AND PASSED

PRODUCT	COMMODITY CODE	GRADE A		PUFI		USDC LOT INSPECTED		NO MARK	
		DOMESTIC	EXPORT	DOMESTIC	EXPORT	DOMESTIC	EXPORT	DOMESTIC	EXPORT
	TOTAL-								

POUNDS REJECTED (Reject... in thousands of pounds to the first decimal)

PRODUCT	REASON	GRADE A		PUFI		USDC LOT INSPECTED		NO MARK	
		DOMESTIC	EXPORT	DOMESTIC	EXPORT	DOMESTIC	EXPORT	DOMESTIC	EXPORT
	TOTAL-								

REGULATORY VISITS (e.g., USFDA, State and Health Dept.)

DAY	LAST NAME/AGENCY	PURPOSE	ACTION RECEIVED	DATE CORRECTED

INSPECTOR NUMBER
CONTACT NUMBER
INSPECTOR SIGNATURE AND DATE

Sample

Guidelines and Reminders for Completing the Monthly Summary

Select the Type of Inspection by checking either “In-Process” or “Lot”. A separate form must be completed for each type of inspection or if the poundage is for non-human food products.

“In-Process” inspection means that sanitation and processing methods for the product were considered as part of the inspection. That is, the product was inspected and certified under a Type 1, IQA, or HACCP contract.

“Lot” inspection means the product was inspected as an end item inspection only – regardless of whether the plant had a Type 1, HACCP, or Type 3 contract. **Therefore, for product bearing the USDC Lot Inspected mark, the Type of Inspection is “Lot**”.

Under “REGION”, enter “N”, “S”, or “W”, representing the region in which the facility is located.

Under “STATE”, enter the two character abbreviation for the state in which the facility is located.

Under “CONTR NO”, enter the last four digits of the contract number (e.g., 0001).

Under “MONTH”, enter the two-digit month number in which the inspection occurred (e.g., 05 for May, 11 for November).

Under “YEAR”, enter the four digit year number (e.g., 2011).

Under “PLANT NAME”, enter the name of the facility. Abbreviations are acceptable.

Data are counted according to the specific marks on the container(s). If the "Officially Sampled' stamp or the 'Accepted Per Specification' stamp is the only mark on the master container, report the data under "NO MARK".

Do Not Double Report! Do not duplicate where you report the data - it goes under only one category! If there is a situation (e.g., product to China) where an exported product bears a mark on the container (e.g., USDC Lot Inspected), include the data in "Export". If it is unknown whether the product will be exported, record the data as appropriate at the time of reporting.

Rejections – If a lot of product is presented (e.g., as Grade A) and doesn't pass, the data are reported as "Rejected." If, however, the same lot is reworked as a new lot, is re-inspected and passed, then the data are recorded in the "Inspected and Passed" section. That is, the data are reported in both sections. If the rejected lot is NOT reworked, inspected and passed, then the data are reported only as "Rejected".

Use abbreviated descriptions for the reason for the rejection; such as
"Adulterated": meets the definition of adulterated food under Section 402 of the FD&C Act.
"Misbranded": mislabeled, misrepresentation--meets the definition of misbranded under Section 403 of the FD&C Act.

"Substandard Quality": fails to meet minimum quality requirements of a U.S. Grade Standard or Standard of Identity under Title 21.

"Failed grade/spec": fails to meet intended grade or quality specification.

REMINDER: Be certain that the data are correctly expressed in thousands of pounds. That is, 1,534,834 pounds is 1,534.8 thousands of pounds.

D. Submitting Charges

This national uniform procedure is to be used by inspection personnel in recording charges to be used for billing applicants.

Inspector - It will be the responsibility of each inspector to keep a daily record for each assignment and to submit this completed record (see attached NOAA Form 89-811) on the last day of each month to his/her respective regional director.

Regional Inspection Director - It will be the responsibility of each director to assure he has received and verified the required records from all inspectors for all official work stations they have been assigned to during the month for billing.

The following procedures will be used in filling out the "Daily Record of Charges" (**NOAA Form 89-811**).

A. Header Section
   - Block 1 – Insert the name of the establishment to be billed.
   - Block 2 – Leave Blank.
   - Block 3 – Enter the current month.
   - Block 4 – Enter the current calendar year.
   - Block 5 – Enter the complete billing address of the establishment (this address will be used for billing purposes).

B. Type Section
   - Block 6.a. – Enter the total number of REGULAR hours of TYPE I inspection services rendered to the establishment on a daily basis by each inspector assigned to the

establishment on the same day, the combined number of hours will be entered in the appropriate block(s) by the inspector-in-charge and each inspector's surname will be entered in REMARKS. ONLY ONE FORM WILL BE COMPLETED MONTHLY FOR EACH ESTABLISHMENT (except for lot inspection where it may be necessary to complete more than one).

- Block 6.b. – Same as 6.a. except applies only to OVERTIME.
- Block 6.c. – Same as 6.a. except applies only to SUNDAY AND HOLIDAYS.
- BLOCK 7.a. – Same as 6.a. except applies only to TYPE II.
- Block 7.b. – Same as 6.b. except applies only to TYPE II.
- Block 7.c. – Same as 6.c. except applies only to TYPE II.
- Block 7.d. – Enter the numeral "1" to indicate MINIMUM FEE.
- Block 8 – Write in specific TYPE III service performed (i.e. consulting, contract lot, lab, etc.).
    - Block 8.a. – Same as 6.a. except applies only to TYPE III.
    - Block 8.b. – Same as 6.b. except applies only to TYPE III.
    - Block 8.c. – Same as 6.c. except applies only to TYPE III.
    - Block 8.d. – Same as Block 7.d.
- Block 9 – Enter the number of miles only (The computer will compute the cost.).
- Block 10 – Remarks.
- Block TTL – Enter Column (a) - (d) totals for each type service performed.
- Block Other Costs - Complete OTHER COSTS as applicable at the bottom of form; check the applicable rate; sign form and forward monthly to the Regional Inspection Office.

The completed DRC is submitted to the billing clerk for entry into the billing system. If any changes to the DRC are necessary during entry into the billing system, a written explanation must be provided, approved by the applicable supervisor, and attached to the DRC. A note and brief description of this action will also be placed in the comment section of the bill within the electronic billing system. This comment will be preceded by the "###" symbol for ease of searching.

ATTACHMENT #1

NOAA FORM 89-811 (REV 5/91) U.S. DEPARTMENT OF COMMERCE NOAA-NMFS

DAILY RECORD OF CHARGES

1. Establishment Name | 2. Vendor ID

5. Establishment Bill To Address: ATTN:

3. Month | 4. Year

DAY	6. Type I (Contract)				7. Type II (Lot)				8. Type III (Other)				9. Miles	10. REMARKS
	a. Reg.	b. OT	c. Sun.-Hol.	d. Night Diff.	a. Reg.	b. OT	c. Sun.-Hol.	d. Min.	a. Reg.	b. OT	c. Sun.-Hol.	d. Min.		
1														
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31														
TTL														

Sample

OTHER COSTS: EXAMPLE:

$	COLA	$	Lab Fees	SIGNATURE	Check One:
$	POV	$	Per Diem	INSPECTOR NAME/NO.	☐ Regular Rate
$	N/D	$	Parking		☐ Alaska Rate
$	Air Fare	$	Taxi	APPROVED:	

E. Billing and Delinquencies

There are two types of services available:

A. Official Establishment & Product Inspection – Contract Basis: Under this service, one or more inspectors are assigned to a processing plant when the inspected product is being processed. Only fishery products packed in official plants operating under this inspection and in compliance with USDC inspection regulations may be labeled with the official USDC grade or inspection marks.

B. Non-Contract Inspection or consultation – Officially & Unofficially Drawn Samples: This service is designed to provide inspection services for specific lots of fishery products in which the applicant has a financial interest. Results of this inspection are reported on an official certificate. This service is performed at the request of the applicant upon acceptance by the USDC SIP. Miscellaneous Inspection & Consultative Service: These services include any inspection or related service, such as, but not limited to, initial and final establishment surveys, appeal inspection, sanitation evaluation, sampling, product evaluation, and label and product specification review, for which the charges based on the foregoing types are not applicable.

Billing Procedure

A. Billing Requirement: Fees and charges for inspection and grading services shall be billed monthly to contract participants and by individual invoice for non-contract participants. Fees and charges so billed shall be paid by the participant for such service in accordance with the applicable provisions in Part 260, Chapter II, Title 50 of the Code of Federal Regulations (CFR), as amended.
B. Surety Bond: Participants under contract for inspection services shall post a surety bond equal to approximately three (3) months cost for providing the inspection service prior to the initiation of such service. Inspection services shall not be initiated at the participant's establishment until such surety bond has been posted and received by NOAA. All inspection services at the establishments operating under contract shall be discontinued at such time as the receivables due are of an amount equal to or greater than the amount of the surety bond posted by the participant. Inspection services, where discontinued under these conditions, shall be reinstituted only after the accounts receivable from the participant are sufficiently reduced.
C. Billing Forms: The Seafood Inspection Services Portal (SISP) computer program will be used for bill preparation. Additional copies may be prepared, if necessary, for local administrative purposes. Bills should be prepared in such detail that the participant can readily ascertain what inspection services the bill covers, i.e., contract, lot or sample inspection, travel expense, consultative services, etc., including inclusive dates services were provided.
D. Computation of Billing Amount: Unless otherwise provided for in a written agreement between the applicant and the Secretary, the fees to be charged and collected for any inspection service performed under the regulation, in Part 260, Title 50 of the CFR, shall be based on the applicable rates specified in the said Part, as amended by publication in the CFR, for the type of service performed. The monthly billing amount will be computed by the ICBM computer system.

Bill Collection

All fees and charges for any inspection service performed, pursuant to the regulations in part 260 of the CFR, shall be paid by check, wire transfer, bank draft, or money order made payable to NOAA, Department of Commerce. Such payment shall be remitted to NOAA within thirty (30) days from the date of the billing. An automated SISP) follow-up letter shall be mailed sixty (60) days after the date of the bill; a second follow-up letter shall be mailed ninety (90) days after the date of the bill advising the participant that inspection services will be discontinued and the surety bond collected if payment is not received within fifteen (15) days. Copies of all follow-up letters shall be sent to the appropriate supervisor immediately after each issuance so that he/she is alerted to the delinquency.

Uncollectible Bills

Every reasonable effort shall be made to collect all outstanding bills. Debt collection procedures should provide for the use of all reasonable means of collection available and that are consistent with good business practices and the participant's ability to pay, such as:

A. Timely and aggressive demands embodying adequate description of the debt.
B. Efforts to locate the participant.
C. Set-off, when appropriate, of amounts due indebted participant under NOAA's contracts.
D. Application of the procedures prescribed in 4 GAO 55 relative to set-off amounts due indebted participants under contract with other agencies.
E. Set-off amounts due individuals when authorized by law, with particular reference to the withholding authority in Public Law 497, approved July 15, 1954 (5 U.S.C. 46d and 46e), and Public Law 633, approved August 3, 1950 (5 U.S.C. 46b).

F. Requests upon other agencies for cooperation in collecting debts from persons who are in their employ or service, or who are otherwise currently receiving payments from them.

After a diligent effort for collection has failed, the January 16, 1985 procedures for administratively uncollectible debts shall be followed as set forth in 4 GAO 56. This circular replaces NOAA Circular 75-72 dated August 6, 1975, filed as NOAA Directives Manual 34-53.

Chapter 12 – Appeal and Suspension Procedures

Appeals Procedure

Policy

The regulations, 50 CFR 260.19 through 260.23, govern the way applications for appeal inspections are submitted and accepted or declined, and the inspector selection protocol. They also direct the manner in which appeal documentation is issued and distributed.

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. Interested parties can request an appeal by completing a submission form at Sip Appeal Inquiry. Additional documentation supporting the appeal can be emailed to SIP.Appeals@noaa.gov. Once all pertinent information is received, the appeals team will investigate the matter.

General

An appeal application shall be submitted within thirty (30) days following the day on which the previous result was communicated. The Regional Branch Chief when adjudged to be appropriate may grant extensions. An application for appeal may be withdrawn by the applicant at any time before the appeal service is performed; provided that the applicant pay for all costs and expenses which have been incurred by the inspection service in connection with such application.

NOAA may refuse to perform an appeal inspection if:

1. The reason(s) for the appeal inspection is frivolous or not substantial.
2. In the case of Lot Inspection
    A. The quality or condition of the product has undergone a material change since the original inspection. In this instance, the product may be inspected as a new lot, and a certificate issued to replace the original certificate.
    B. The lot is not, or cannot be made accessible for the selection of officially drawn samples.
    C. The lot relative to which an appeal inspection is requested cannot be positively identified as the lot from which officially drawn samples were previously inspected
    D. Following an appeal of a Lot inspection, a lot inspection certificate will be issued showing the detailed, factual results of the inspection. The “appeal” inspection certificate will supersede the original certificate (or original results if no certificate was issued), which will become null and void.

The final determination of an appeal request will be communicated to the requesting party as soon as possible, followed by a written report. If the firm disagrees with the final appeal decisions, a policy change can be requested to the Chief of the Program.

Fees

For Lot Inspection appeals:

The applicant is responsible for all fees and charges associated with the sampling and inspection of the product. In the event of an appeal inspection, if the applicant for both the initial and appeal inspections is the same and the results of the appeal inspection are in favor of the applicant, there will be no charge to the applicant for the appeal inspection. If, however, the results of the appeal are not in favor of the applicant, the applicant will be charged for the appeal inspection and all related travel expenses. The inspector will complete a Daily Record of Charges, which includes time spent sampling, inspecting, and completing certificates, as well as any travel expenses incurred.

For Audit appeals:

The applicant is responsible for all fees and charges associated with the time involved in the appeal consideration. In the event of an appeal of an audit outcome, if the results of the appeal are in favor of the applicant, there will be no charge to the applicant for the appeal consideration. If, however, the results of the appeal are not in favor of the applicant, the applicant will be charged for time spent in consideration.

Roles and Responsibilities

A. **Applicant -** It is the responsibility of the applicant to:
    1. File an application for the appeal inspection by:
        a. by completing a submission form at Sip Appeal Inquiry. Additional documentation supporting the appeal can be emailed to SIP.Appeals@noaa.gov.
    2. Furnish to the Appeal review team with all information which is necessary to determine whether the appeal inspection will be performed, where it will be performed, and by whom it will be performed. As a minimum, the information will include:
        a. Product or facility location.
        b. Justification for the appeal request.

B. **Appeal Review Team -** It is the responsibility of the appeal review team to:
    1. Review the application for an appeal inspection for completeness of information.
    2. Determine whether the application for appeal can be accepted or declined
    3. In the case of an accepted Lot Inspection appeal, the appeal team will coordinate with the appropriate regional leadership to facilitate the appeal inspection.
    4. Resolve inspection operational problems which may arise during appeal inspections.

C. **SIP Regional Leadership**: It is the responsibility of the regional leadership to:
    1. Determine how and where the appeal inspection will be performed.
        A. If the product is located in a storage facility with adequate accommodations for performing the inspection, and a qualified appeal inspector is available, the appeal should be conducted at that site
        B. If adequate accommodations for inspection are not available at the product location, or if an inspector is not available, the official product sampling and shipment of the samples to a location satisfactory for the

performance of the inspection will be arranged. If samples must be shipped to a distant location because an inspector is not available at the product's location, the cost of shipping the sample will be borne by NOAA.

C. When an appeal inspection involves a product which has been shipped to a location distant from the processing plant, and the processor desires to be present during the appeal inspection, NOAA may arrange for official sampling at the product's location for shipment to the original (processing) area for the appeal inspection. In this case the cost of their transportation will be borne by the processor.

D. Select a qualified inspector to perform the appeal inspection. When possible, two (2) inspectors should be assigned to perform the inspection. The inspector who performed the original inspection will not be permitted to conduct or participate in an appeal inspection; although s/he may be permitted to conduct official sampling for the appeal in the event that another inspector or licensed sampler is not available in the area where the product is located.

2. Fix the location, date, and time for the appeal inspection and notify all concerned parties.
3. Review the results of the appeal inspection as stated on the inspection certificate to determine that the information is reported accurately and completely.

D. **Appeal Inspector -** It is the responsibility of the appeal inspector to:

1. Conduct the appeal inspection at the appointed date, time, and location. Unless otherwise requested by the applicant, the product will be examined only for those factors contested by the applicant.
2. Issue a lot inspection certificate showing the inspection results.
3. Distribute copies of the certificate to all parties who received a copy of the original certificate.
4. When the results of an appeal inspection indicate that the product is mislabeled, e.g., bears a U.S. Grade mark but does not meet the designated grade requirements, notify the product owner that the labels must be removed. In instances where a product fails to meet a U.S. Grade requirement because of an apparent change in flesh content due to moisture migration during handling and storage, the appeal inspector will consult with his/her supervisor prior to making a label removal decision.

Suspension of Services

Services to a firm, including product inspection, approved establishment listing, or certification, may be suspended if conditions are such that continuation of inspection activities is not in the best interest of the government. For example, during and audit it was determined the food safety management system was not effective and product leaving the firm is suspect. In such cases, the Region Branch Chief may request suspension of services to the Chief of Operations. The Chief of Operations will conduct a brief and expeditious investigation of the circumstances and outline the situation to the Chief of the Seafood Inspection Program. Only the Chief of the Program can suspend services and if warranted will do so through an email back to the Region Chief.

Suspension of services will be in place only for a period of 30 days. At the end of that time if the firm has not corrected the underlying issues or provided an acceptable corrective action plan, steps will be taken to cancel the contract between the firm and SIP. Other services such as product inspection and

certification will be performed on a case by case basis and a determination will be made if services can be provided effectively.

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