

## SUBCHAPTER H—FISH AND SEAFOOD PROMOTION

### PART 270—SPECIES-SPECIFIC SEAFOOD MARKETING COUNCILS

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#### § 270.1 Scope.

This part 270 describes matters pertaining to the establishment, representation, organization, practices, procedures, and termination of Seafood Marketing Councils.

#### § 270.2 Definitions.

The following terms and definitions are in addition to or amplify those contained in the Fish and Seafood Promotion Act of 1986:

*Act* means the Fish and Seafood Promotion Act of 1986 (Public Law 99–659) and any subsequent amendments.

*Consumer education* means actions undertaken to inform consumers of matters related to the consumption of fish and fish products.

*Council* means a Seafood Marketing Council for one or more species of fish and fish products of that species established under section 210 of the Act (16 U.S.C. 4009).

*Expenditure* means monetary or material worth of fishery products. Expenditure is determined at the point a receiver obtains product from a harvester or an importer obtains product from a foreign supplier. Value may be expressed in monetary units (the price a receiver pays to a harvester or an importer pays to a foreign supplier).

*Fiscal year* means any 12-month period as NMFS may determine for each Council.

*Fish* means finfish, mollusks, crustaceans, and all other forms of aquatic animal life used for human consumption; the term does not include marine mammals and seabirds.

*Harvester* means any person in the business of catching or growing fish for purposes of sale in domestic or foreign markets.

*Importer* means any person in the business of importing fish or fish products from another country into the United States and its territories, as defined by the Act, for commercial purposes, or who acts as an agent, broker, or consignee for any person or nation that produces, processes or markets fish or fish products outside of the United States for sale or for other commercial purposes in the United States.

*Marketer* means any person in the business of selling fish or fish products in the wholesale, export, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products in preparation for sale.

*Marketing and promotion* means any activity aimed at encouraging the consumption of fish or fish products or expanding or maintaining commercial markets for fish or fish products.

*Member* means any person serving on any Council.

*Participant* means a member of a sector or business identified in an application for a Council charter as being subject to the referendum or assessment process.

*Person* means any individual, group of individuals, association, proprietorship, partnership, corporation, cooperative, or any private entity of the U.S. fishing industry organized or existing

under the laws of the United States or any state, commonwealth, territory or possession of the United States who meets the eligibility requirements as defined in a proposed charter to vote in a referendum.

*Processor* means any person in the business of preparing or packaging fish or fish products (including fish of the processor's own harvesting) for sale in domestic or foreign markets.

*Receiver* means any person who owns fish processing vessels and any person in the business of acquiring (taking title to) fish directly from harvesters.

*Research* means any type of research designed to advance the image, desirability, usage, marketability, production, quality and safety of fish and fish products.

*Secretary* means the Secretary of Commerce, or the Secretary's designee.

*Sector* means

- (1) The sector consisting of harvesters;
- (2) The sector consisting of importers;
- (3) The sector consisting of marketers;
- (4) The sector consisting of processors;
- (5) The sector consisting of receivers; or
- (6) The consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products;

*Sector participant* means any individual, group of individuals, association, proprietorship, partnership, corporation, cooperative, or any private entity of the U.S. fishing industry organized or existing under the laws of the United States or any state, commonwealth, territory or possession of the United States who meets the eligibility requirements as defined in a proposed charter to vote in a referendum.

*Species* means a fundamental category of taxonomic classification, ranking after genus, and consisting of animals that possess common characteristic(s) distinguishing them from other similar groups.

*Value* means monetary or material worth of fishery products. Value is the difference between what a receiver is willing to pay for a product provided

by a harvester and its market price or an importer is willing to pay for a product from a foreign supplier and its market price. Value may be expressed in monetary units representing consumer surplus or producer surplus.

### § 270.3 Submission of application.

(a) Persons who meet the minimum requirements for sector participants as described in the proposed charter may file an application with NMFS for a charter for a Seafood Marketing Council for one or more species of fish and fish products of that species. One signed original and two copies of the completed application package must be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, 1315 East-West Highway, Silver Spring, MD 20910. Applications should not be bound.

(b) The application consists of four parts:

- (1) A document requesting NMFS to establish a Council;
- (2) A proposed charter under which the proposed Council will operate;
- (3) A list of eligible referendum participants; and
- (4) Analytical documentation addressing requirements of applicable law.

(c) *Content of application*—(1) *Application or requesting document*. The application or requesting document submitted by the applicants to NMFS requesting that the Council be established, to the extent practicable, must include the signatures or corporate certifications, of no less than three sector participants representing each sector identified in accordance with paragraph (c)(2)(v) of this section and who, according to the available data, collectively accounted for, in the 12-month period immediately preceding the month in which the application was filed, not less than 10 percent of the value of the fish or fish products specified in the charter that were handled during such period in each sector by those who meet the eligibility requirements to vote in the referendum as defined by the application. The application must also include a statement that, if established, the Council will have sufficient resources (e.g., cash, donated office space, services, supplies,