

260.103 Operations and operating procedures shall be in accordance with an effective sanitation program.

260.104 Personnel.

#### LABELING REQUIREMENTS

260.200-260.201 [Reserved]

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

SOURCE: 31 FR 16052, Dec. 15, 1966, unless otherwise noted.

### Subpart A—Inspection and Certification of Establishments and Fishery Products for Human Consumption

#### § 260.1 Administration of regulations.

The Secretary of Commerce is charged with the administration of the regulations in this part except that he may delegate any or all of such functions to any officer or employee of the National Marine Fisheries Service of the Department in his discretion.<sup>1</sup>

[36 FR 21037, Nov. 3, 1971]

#### DEFINITIONS

#### § 260.6 Terms defined.

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

<sup>1</sup>All functions of the Department of Agriculture which pertain to fish, shellfish, and any products thereof, now performed under the authority of title II of the Act of August 14, 1946, popularly known as the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627) including but not limited to the development and promulgation of grade standards, the inspection and certification, and improvement of transportation facilities and rates for fish and shellfish and any products thereof, were transferred to the Department of the Interior by the Director of the Budget (23 FR 2304) pursuant to section 6(a) of the Act of Aug. 8, 1956, popularly known as the Fish and Wildlife Act of 1956 (16 U.S.C. 742e). Reorganization Plan No. 4 of 1970 (84 Stat. 2090) transferred, among other things, such functions from the U.S. Department of the Interior to the U.S. Department of Commerce.

lowing terms shall have the following meanings:

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

*Act.* "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.).

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

*Case.* "Case" means the number of containers (cased or uncased) which, by the particular industry are ordinarily packed in a shipping container.

*Certificate of loading.* "Certificate of loading" means a statement, either written or printed, issued pursuant to the regulations in this part, relative to check-loading of a processed product subsequent to inspection thereof.

*Certificate of sampling.* "Certificate of sampling" means a statement, either written or printed issued pursuant to the regulations in this part, identifying officially drawn samples and may include a description of condition of containers and the condition under which the processed product is stored.

*Class.* "Class" means a grade or rank of quality.

*Condition.* "Condition" means the degree of soundness of the product which may affect its merchantability and includes, but is not limited to those factors which are subject to change as a result of age, improper preparation and processing, improper packaging, improper storage, or improper handling.

*Department.* "Department" means the U.S. Department of Commerce.

*Deviant.* "Deviant" means a sample unit affected by one or more deviations or a sample unit that varies in a specifically defined manner from the requirements of a standard, specification, or other inspection document.

*Deviation.* "Deviation" means any specifically defined variation from a particular requirement.

*Director.* "Director" means the Director of the National Marine Fisheries Service.

*Establishment.* “Establishment” means any premises, buildings, structures, facilities, and equipment (including vehicles) used in the processing, handling, transporting, and storage of fish and fishery products.

*Inspection certificate.* “Inspection certificate” means a statement, either written or printed, issued pursuant to the regulations in this part, setting forth in addition to appropriate descriptive information relative to a processed product, and the container thereof, the quality and condition, or any part thereof, of the product and may include a description of the conditions under which the product is stored.

*Inspection service.* “Inspection service” means:

(1) The sampling pursuant to the regulations in this part;

(2) The determination pursuant to the regulations in this part of:

(i) Essential characteristics such as style, type, size, or identity of any processed product which differentiates between major groups of the same kind;

(ii) The class, quality, and condition of any processed product, including the condition of the container thereof by the examination of appropriate samples;

(3) The issuance of any certificate of sampling, inspection certificates, or certificates of loading of a processed product, or any report relative to any of the foregoing; or

(4) Performance by an inspector of any related services such as to observe the preparation of the product from its raw state through each step in the entire process; or observe conditions under which the product is being harvested, prepared, handled, stored, processed, packed, preserved, transported, or held; or observe sanitation as a prerequisite to the inspection of the processed product, either on a contract basis or periodic basis; or checkload the inspected processed product in connection with the marketing of the product, or any other type of service of a consultative or advisory nature related herewith.

*Inspector.* “Inspector” means any employee of the Department authorized by the Secretary or any other person

licensed by the Secretary to investigate, sample, inspect, and certify in accordance with the regulations in this part to any interested party the class, quality and condition of processed products covered in this part and to perform related duties in connection with the inspection service.

*Interested party.* “Interested party” means any person who has a financial interest in the commodity involved.

*Licensed sampler.* “Licensed sampler” means any person who is authorized by the Secretary to draw samples of processed products for inspection service, to inspect for identification and condition of containers in a lot, and may, when authorized by the Secretary, perform related services under the act and the regulations in this part.

*Lot.* “Lot” has the following meanings:

(1) For the purpose of charging fees and issuing certificates, “Lot” means any number of containers of the same size and type which contain a processed product of the same type and style located in the same or adjacent warehouses and which are available for inspection at any one time: *Provided, That:*

(i) Processed products in separate piles which differ from each other as to grade or other factors may be deemed to be separate lots;

(ii) Containers in a pile bearing an identification mark different from other containers of such processed product in that pile, if determined to be of lower grade or deficient in other factors, may be deemed to be a separate lot; and

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

(2) For the purpose of sampling and determining the grade or compliance with a specification, “Lot” means each pile of containers of the same size and type containing a processed product of the same type and style which is separated from other piles in the same warehouse, but containers in the same pile bearing an identification mark different from other containers in that

pile may be deemed to be a separate lot.

*Official establishment.* “Official establishment” means any establishment which has been approved by National Marine Fisheries Service, and utilizes inspection service on a contract basis.

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

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

*Plant.* “Plant” means the premises, buildings, structures, and equipment (including, but not being limited to, machines, utensils, and fixtures) employed or used with respect to the manufacture or production of processed products.

*Processed product.* “Processed product” means any fishery product or other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to, canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

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

*Rejection number.* “Rejection number” means the number in a sampling plan that indicates the minimum number of deviants in a sample that will cause a lot to fail a specific requirement.

*Sample.* “Sample” means any number of sample units to be used for inspection.

*Sample unit.* “Sample unit” means a container and/or its entire contents, a

portion of the contents of a container or other unit of commodity, or a composite mixture of a product to be used for inspection.

*Sampling.* “Sampling” means the act of selecting samples of processed products for the purpose of inspection under the regulations in this part.

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

*Shipping container.* “Shipping container” means an individual container designed for shipping a number of packages or cans ordinarily packed in a container for shipping or designed for packing unpackaged processed products for shipping.

*Unofficially drawn sample.* “Unofficially drawn sample” means any sample that has been selected by any person other than an inspector or licensed sampler, or by any other person not authorized by the Director pursuant to the regulations in this part.

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

[31 FR 16052, Dec. 15, 1966, as amended at 36 FR 21037, Nov. 3, 1971]

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

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