



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF212]

Determination of Size Standard Review

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

ACTION: Notice of determination.

SUMMARY: This action serves as notice that NMFS has determined, after review consistent with NMFS' small business size standards regulations, the U.S. Small Business Administration's review requirements under the Small Business Jobs Act of 2010, the Small Business Administration's regulations establishing size standards, and Small Business Administration's size standards methodology, the NMFS-established and codified single small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry continues to reflect the size distribution of all businesses in the commercial fishing industry and is appropriate for continued use for Regulatory Flexibility Act purposes only. Therefore, no revision to the standard is warranted at this time.

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SUPPLEMENTARY INFORMATION: On December 29, 2015, the National Marine Fisheries Service (NMFS) issued a final rule establishing a single small business size standard of \$11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (North American Industry Classification System [NAICS] 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015) (see 50 CFR 200.2). For the purposes of the rule, a

“commercial fishing business” is a business primarily engaged in commercial fishing, the “commercial fishing industry” is composed of all such businesses, and the \$11 million standard only applies to this industry (Idem at 81194). The standard is used in place of the U.S. Small Business Administration’s (SBA) current standards of \$25 million, \$14 million, and \$11.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016. This standard does not apply to businesses primarily engaged in seafood processing (NAICS 311170), seafood wholesale activities (NAICS 424460), or any other activity within the seafood industry. Under the RFA, an agency must prepare an initial and final regulatory flexibility analysis (IRFA/FRFA) for each proposed and final rule, respectively, unless it certifies that a rule will not have a significant economic impact on a substantial number of small entities. Agencies generally rely on the SBA size standards to identify small entities for RFA purposes. For NMFS, rulemaking activities that may be impacted by changes to the size standards for defining “small” businesses include, but are not limited to, regulatory actions and analyses undertaken pursuant to the Magnuson-Stevens Fishery Conservation and Management Act Endangered Species Act Marine Mammal Protection Act and National Environmental Policy Act.

Consistent with NMFS’ small business size standards regulations (50 CFR 200.2), SBA’s review requirements under the Small Business Jobs Act of 2010 (Pub. L. 111-240, 124 Stat. 2504, Sept. 27, 2010 regulations establishing size standards (13 CFR 121.102), and SBA’s Size Standards Methodology (available at <https://www.sba.gov/document/support-2024-size-standards-methodology-white-paper> and noticed in 89 FR 74109), NMFS reviews this standard at least once every 5 years to determine if a change is warranted. A change may be warranted because of changes in industry structure, market conditions, inflation, or other relevant factors (50 CFR

200.2(b)). NMFS reviews all of the applicable factors simultaneously as part of its size standard review, in order to minimize the frequency of changes to the standard and the need for additional rulemakings.

Review Methodology

In establishing the \$11 million size standard during 2015, NMFS determined that the data used by SBA to develop size standards were not representative of all commercial fishing businesses. Specifically, in establishing commercial fishing size standards during 2013 (78 FR 37198, June 20, 2013), SBA relied primarily on specialized tabulations from the U.S. Census Bureau's economic census. The sample frame for the economic census and related Census Bureau data such as County Business Patterns or Quarterly Census of Employment and Wages from the Bureau of Labor Statistics (BLS) are for establishments or firms that are subject to payroll tax. While some commercial fishing businesses do have wage-based employees, remuneration for the majority of commercial fishing business crew is based on a share of total revenue on each fishing trip. For this reason, commercial fishing crew are considered co-ventures or sole proprietorships and not subject to payroll tax, which means that the majority of fishing businesses do not have wage-based employees.

Given the determination that the data used by SBA were not representative of how fishing businesses operate, NMFS used available Census Bureau data for the limited number of commercial fishing businesses that did have wage-based employees and requested specialized data from the Census Bureau's non-employer series. The non-employer series includes any commercial fishing establishment or individual that files income tax (*e.g.*, Schedule C) and that does not report any paid employees. These data were combined with the data for wage-based commercial fishing businesses to establish a single size standard of \$11 million solely for purposes of conducting NMFS' regulatory analyses under the RFA (80 FR 81194, December 29, 2015).

Since 2015, the SBA changed the methods for determining size standards from an anchor-based size standard to one in which industry factors are ranked relative to the 20th and 80th percentile within a group of industries. The revised SBA methodology was published in 2019 and then updated in 2024. Additionally, the SBA changed the basis for calculating receipts-based size standards from a 3-year to a 5-year average (84 FR 66561, December 5, 2019). In addressing these changes, NMFS has determined that commercial fishing revenue reported through NMFS seafood dealers or first-receivers would be the best available data upon which to update the commercial fishing size standard. All commercial fishing businesses that fish in the U.S. Exclusive Economic Zone (EEZ) waters are required to have a Federal permit, which also carries a requirement to report commercial fishing landings and revenue through a NMFS dealer reporting or a trip-ticket system. This means that the NMFS commercial fishing receipts data would include both entities that have wage-based employees and some but not all establishments included in the Census Bureau's non-employer series. The non-employer series includes establishments that own fishing vessels but also includes individuals who fish from shore, as well as fishing crew, who would not be included in the commercial fishing receipts data. This creates uncertainty over whether or not an establishment is a "small business concern," as defined under the RFA and over the number of non-employer establishments that would not be directly regulated by NMFS's actions, and therefore, would not be counted for RFA purposes, because they fish exclusively in State waters. By contrast, the NMFS data focuses on commercial fishing businesses that are most likely to be regulated under the RFA. NMFS revenue data is also more current than alternative data from either BLS or Census Bureau and is replicable, which improves responsiveness to updates for inflation or any future adjustments to the size standard. Importantly, use of NMFS data makes it possible to evaluate the robustness of size standards to potential economic

effects and it ensures consistency with the data used for conducting small entity impact analysis under the RFA.

In order to undertake a more precise review, NMFS developed a National database of total annual receipts from commercial fishing operations constructed from data reported to NMFS in the Pacific Islands, Alaska, West Coast, Southeast, and Greater Atlantic regions, and for Atlantic Highly Migratory Species. Total nominal receipts from all available sources of fishing revenue earned while fishing in State or EEZ waters from any commercial fishing vessel issued a Federal permit were included. Annual total revenues were compiled for the most recent 5-year period of available complete data, which was from 2019 to 2023. Ownership information of fishing vessels is included on the forms submitted by vessel owners for annual renewal of fishing permits for some but not all fisheries. For this reason, vessel-level annual receipts were the unit of observation for each commercial fishing entity. This is an establishment-based definition for entity size.

The resulting database consisted of 16,374 entities with average annual receipts from 2019 to 2023 of \$2.956 billion for all establishments (table 1). The distribution of fishing revenue by interval of fishing revenue size is also shown in table 1. Nation-wide, there were 5,923 vessel entities (36 percent of the total) with 5-year average revenue of less than \$5,000 with aggregate receipts of \$7.2 million or 0.24 percent of total receipts. By contrast, the largest share of aggregate receipts was 28.8 percent for the 572 entities (3.5 percent of the total) with average receipts of between \$1 million and less than \$2.5 million.

The SBA methodology identifies four primary factors for describing industry structure; average firm size, start-up costs, industry competition, and size distribution of firms. Following the SBA methodology, average firm size is measured by the simple and weighted average of annual receipts; startup costs are measured by average assets;

industry competition is measured by the four-firm concentration ratio; and the size distribution of firms is measured by the Gini coefficient (13 CFR 121.102(a)). Of these primary factors, NMFS does not have sufficient data on the capital value of fishing vessel assets and permits to reliably estimate fishing firm asset values. For this reason, NMFS used the simple average, weighted average, four-firm concentration ratio, and Gini coefficient measures of commercial fishing industry structure. The values for these four metrics based on the 5-year average receipts for each of the 16,374 entities are shown in column two of table 2. The SBA's industry factors at the 20th and 80th percentiles for receipts-based size standards for all industries, excluding Subsectors 111 and 112 (see SBA, SBA's Size Standards Methodology, p. 37, table 5, June 2024), are shown in columns one and three, respectively, in table 2.

Following the size standard estimation procedures and applying the formulas in SBA's Size Standards Methodology (June 2024) results in the size standards shown in column 4 of table 2. The estimated size standards are rounded to the nearest \$500 thousand as required by SBA. Specifically, the size standard for the NMFS National simple average of \$180 thousand would be \$10 million; the size standard for the NMFS National weighted average of \$1.84 million would be \$13 million; the size standard for the NMFS National four-firm concentration ratio of less than 2 percent would be \$9 million; and the size standard for the NMFS National Gini coefficient of 0.811 would be \$35.5 million. Applying these size standards to the national database of commercial fishing establishments results in a range of small entities from 16,361 small (13 large) to 16,374 small (0 large) (see table 3). For purposes of comparison, the current NMFS size standard of \$11 million is shown in the bottom row of table 3. Under the current NMFS size standard there would be 16,367 entities classified as small and 7 classified as large. All entities would be classified as small using the Gini coefficient factor. For all other industry structure factors, at least 99 percent of NMFS national commercial fishing

establishments would be classified as small entities. Omitting the Gini coefficient, the average of the size standards for simple average, weighted average, and four-firm concentration ratio is \$10.7 million, which rounded to the nearest whole million would be \$11 million.

Table 1 -- Receipts category for NMFS national data for commercial fishing establishments (i.e., average number of establishments, average annual gross receipts, and share of total receipts for 2019-2023)

Establishment receipts size	Number of establishments	Receipts (\$1000)	Share of total receipts (percent)
All establishments	16,374	\$2,956,652	
Less than \$5,000	5,923	\$7,206	0.24%
\$5,000-\$9,999	1,087	\$7,878	0.27%
\$10,000-\$24,999	1,547	\$25,596	0.87%
\$25,000-\$49,999	1,310	\$47,546	1.64%
\$50,000-\$99,999	1,484	\$108,630	3.67%
\$100,000-\$249,999	2,156	\$350,619	11.86%
\$250,000-\$499,999	1,386	\$487,422	16.49%
\$500,000-\$999,999	803	\$549,451	18.58%
\$1,000,000-\$2,499,999	572	\$850,552	28.77%
\$2,500,000-\$4,999,999	75	\$255,409	8.64%
\$5,000,000 or more	31	\$266,342	9.01%

Table 2 -- Size standards by industry structure factors for NMFS national data for commercial fishing establishments

Industry structure factors	SBA industry factor 20th percentile	NMFS National data	SBA industry factor 80th percentile	Size standard (\$millions)
Simple average receipts (millions)	1.09	0.18	8.34	\$10.0
Weighted average receipts (millions)	26.82	1.84	1,155.04	\$13.0
Four-firm concentration ratio (Percent)	8	1.94	41.9	\$9.0
Gini coefficient	0.697	0.811	0.835	\$35.5

Table 3 --Number of small and large entities for small business size standard by industry factor

Industry structure Factors	Size standard (\$millions)	Number of small entities	Number of large entities	Percent small
Simple average receipts	\$10.0	16,365	9	99.95%
Weighted average receipts	\$13.0	16,371	3	99.98%

Four-firm concentration ratio	\$9.0	16,361	13	99.92%
Gini coefficient	\$35.5	16,374	0	100%
Current NMFS size standard	\$11.0	16,367	7	99.96%

Sensitivity Analysis

For the initial estimation of size standards reported in tables 2 and 3, the 5-year average revenue was based on all vessels reporting fishing revenues during at least 1 year from 2019 to 2023. This means that the 5-year average revenue includes years where commercial fishing receipts for some establishments or entities were zero. Additionally, the 5-year period from 2019 to 2023 includes the year 2020, during which the COVID-19 global pandemic had general effects on the U.S. economy but was also particularly disruptive for seafood markets and trade. More recently, prices received by commercial fishing vessel owners were down by a nation-wide average of 10 percent during 2023 compared to average prices during 2019 to 2022. While the declines in prices received in Alaska were more pronounced, prices were also lower in other fisheries throughout the United States.

To examine the robustness of the size standards reported in table 2, adjusted average receipts were estimated to 1) account for participants with zero receipts in some years by using only non-zero receipts for the years from 2019 to 2023; 2) remove the effects of the COVID-19 global pandemic by using the 4-year average from 2019 to 2023, excluding 2020; and 3) remove the 2023 Low Price Effects by using the 4-year average from 2019 to 2022. The resulting industry metrics and size standards for the three evaluated scenarios are reported in table 4. For each scenario, the industry metrics differed from the “Base” reported in table 2; however, the small entity size standard for weighted average was unchanged at \$13 million and the size standards for the simple average and four-firm concentration ratio differed by no more than \$0.5 million. Across all three scenarios the Gini coefficient was lower than the Base, but, as was the case

shown in table 3 for all of the sensitivity scenarios, 100 percent of commercial fishing establishments would still be classified as small (see table 5). Additionally, at least 99 percent of small entities would be classified as small under any of the evaluated scenarios.

Table 4 -- Sensitivity analysis of a change in 5-year average, COVID-19, and low price effects on the size standard

Industry structure factors	Non-zero revenue		Excluding 2020 COVID-19 effects		Excluding 2023 low price effects	
	Industry statistic	Size standard (\$millions)	Industry statistic	Size standard (\$millions)	Industry statistic	Size standard (\$millions)
Simple average receipts	\$205,924	\$10.5	\$190,630	\$10.0	\$199,835	\$10.0
Weighted average receipts	\$1,745,870	\$13.0	\$1,865,573	\$13.0	\$1,801,200	\$13.0
Four-firm concentration ratio (percent)	1.70%	\$8.5	1.92%	\$8.5	1.85%	\$8.5
Gini coefficient	0.779	\$29.5	0.805	\$34.5	0.800	\$33.0

Table 5 -- Sensitivity analysis of a change in 5-year average, COVID-19 Effects, and low price effects on the percent of commercial fishing establishments classified as a small entity

Industry structure factors	Non-zero revenue		Excluding 2020 COVID-19 effects		Excluding 2023 low price effects	
	Size standard (\$millions)	Percent small	Size standard (\$millions)	Percent small	Size standard (\$millions)	Percent small
Simple average receipts	\$10.5	99.95%	\$10.0	99.94%	\$10.0	99.96%
Weighted average receipts	\$13.0	99.98%	\$13.0	99.98%	\$13.0	99.98%
Four-firm concentration ratio (percent)	\$8.5	99.91%	\$8.5	99.91%	\$8.5	99.93%
Gini coefficient	\$29.5	100.00%	\$34.5	100.00%	\$33.0	100.00%
Current NMFS size standard	\$11.0	99.96%	\$11.0	99.96%	\$11.0	99.97%

The size standards by industry structure metric for the Base (5-year average including \$0 receipts values) and for the three sensitivity scenarios are reported in table 6.

Table 6 -- Summary of size standards compared to the Base

Industry structure factors	Base size standard (\$millions)	Non-zero revenue size standard (\$millions)	Excluding 2020 COVID-19 effects size standard (\$millions)	Excluding 2023 low price effects size standard (\$millions)
Simple average receipts	\$10.0	\$10.5	\$10.0	\$10.0
Weighted average receipts	\$13.0	\$13.0	\$13.0	\$13.0
Four-firm concentration ratio	\$9.0	\$8.5	\$8.5	\$8.5
Gini coefficient	\$35.5	\$29.5	\$34.5	\$33.0

As previously noted, the size standard for weighted average receipts is unchanged and the simple average size standard was \$10 million for Base and two of the three sensitivity scenarios. The four-firm concentration ratio was \$8.5 million for all three sensitivity scenarios compared to \$9 million for the Base. Excluding the Gini coefficient, when averaging across all other factors, the Base and the three sensitivity scenarios yield an average size standard of \$10.6 million, which rounded to the nearest whole million would be \$11 million.

Market Conditions

NMFS produces an annual summary of economic performance for U.S. commercial fisheries in the Fisheries Economics of the United States Report (FEUS). The most recent report, from 2022, is available at

<https://www.fisheries.noaa.gov/resource/document/fisheries-economics-united-states-reports>.

The report provides information on landing, revenue and trends. The report also describes the U.S. commercial fisheries' economic impact on the economy. Per the FEUS 2022 report, there was a continued decline in revenue over the prior 5 years (see table 1 on page 6 and figure 3 on page 7). Specifically in 2022, U.S. commercial fisheries experienced a 16-percent decrease in revenues as a result of falling prices, which dropped

11 percent in real 2022 dollars. The report also notes that while average landing prices had increased in 2021 likely due to inflationary pressures and stronger recovery from the COVID-19 global pandemic, 2022 landing prices had reverted back to pre-pandemic levels. The primary species that contributed the most to the decline in revenue were Alaska pollock, Gulf shrimp, American lobster, and sea scallops. The FEUS 2022 report also notes a number of structural factors throughout the supply chain that likely contributed to the decline in landing prices and the resulting decline in average revenue.

NMFS recently published the Alaska Seafood Snapshot in August of 2024 (available at <https://www.fisheries.noaa.gov/s3/2024-10/ak-seafood-industry-snapshot-10-31-2024-afsc.pdf>), which reported that the Alaska seafood industry experienced a direct loss of \$1.8 billion between 2022 and 2023. The decrease in revenues in 2023 was largely driven by low seafood prices across nearly all Alaska species as a result of global market forces; high inventories and high levels of global supply; lower global consumer demand for seafood due to inflation; and lower cost of seafood production and processing in countries that compete with U.S. seafood products.

With regards to Gulf Shrimp, revenue decline is largely attributable to decreased landings price as domestic shrimp producers faced a supply and demand mismatch and unfair competition from imports, as determined by the U.S. International Trade Commission. In an article by Blank, C., they noted that U.S. shrimp sales were down in 2023, and market difficulties were expected to continue in 2024 (available at <https://www.seafoodsource.com/news/premium/foodservice-retail/shrimp-sales-down-in-2023-experts-forecast-continued-difficulties-in-2024> (accessed July 11, 2025)). To date, the Department of Commerce has levied countervailing and antidumping duties on imports of select countries and the NMFS' Shrimp Futures Initiative is working to understand the challenges facing the Southeast's shrimp fisheries.

NMFS does not anticipate these various structural factors throughout the supply chain to be fully resolved in the near term. Therefore, NMFS will continue to monitor these factors and assess if additional reviews or revisions to the size standard are warranted.

Determination

Based on the results of the review, NMFS has determined the small business size standard of \$11 million in annual gross receipts continues to reflect the size distribution of all businesses in the commercial fishing industry and is appropriate for continued use for RFA purposes only. Therefore, no revision to the standard is warranted at this time. NMFS will monitor industry structure, market conditions and other relevant factors as necessary to ensure the size standard remains appropriate to meet the intent of the RFA.

Dated: November 20, 2025.

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