



FEDERAL ACTIONS



Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

PACIFIC OYSTER STANDARDS PROPOSED: The Secretary of Health, Education, and Welfare on November 13, 1953, proposed that the definitions and standards of identity for Pacific oysters be amended on the basis of substantial evidence received at the public hearing held recently. The proposed amended regulations appeared in the November 19 Federal Register as follows:

SHELLFISH; DEFINITIONS AND STANDARDS OF IDENTITY

NOTICE OF PROPOSED RULE MAKING

In the matter of amending the definitions and standards of identity for Pacific oysters, raw Pacific oysters, shucked Pacific oysters:

By virtue of the authority vested in the Secretary of Health, Education, and Welfare by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371; 67 Stat. 18), and upon the basis of substantial evidence received at the public hearing held pursuant to the notice published in the FEDERAL REGISTER on September 18, 1953 (18 F. R. 6827), it is proposed that the following order be made.

Findings of fact.¹ 1. The existing definitions and standards of identity for raw Pacific oysters were promulgated on evidence received at a public hearing held in 1945. At that time a substantial volume of the production of raw Pacific oysters was packed for sale on contract to the armed services. The basis of bids for Government orders required that the size of raw Pacific oysters be indicated by count per pound or pint. Raw Pacific oysters packed for the civilian market were packed in pint jars, and there was no general usage of containers smaller than pints. The standards promulgated upon the basis of evidence received at the hearing held in 1945 specified names for the various sizes of raw Pacific oysters as follows: "Pacific oysters size ----- per pint," "Raw Pacific oysters size ----- per pint," or "Shucked Pacific oysters size ----- per pint," the blank in each instance being filled in with "5 to 8," "8 to 10," "10 to 12," "12 to 15," "15 to 18," or "over 18," depending upon the size of the oysters in the container. Beginning in September 1952, packers of raw Pacific oysters began to pack their product in 12-fluidounce jars. Within a short time only a small portion

¹The citations following each finding of fact refer to the pages of the transcript of the testimony and the exhibits received in evidence at the hearing.

of the production of raw Pacific oysters was packed in pint jars, while approximately 80 percent of the production was distributed in 12-fluidounce jars. The labeling of raw Pacific oysters packed in 12-fluidounce jars, with the names showing the count per pint as specified in the standard, proved to be confusing and misleading to consumers. (R. 20-30, 32-35, 41, 71-72, 75-77, 79-81, 83-84, 86, 91, 99-101; Ex. 2-3, 5-7, 9-12, 19, 22, 27, 30.)

2. Although existing definitions and standards of identity applicable to raw Pacific oysters provide for six size categories, based upon count per pint, producers of raw Pacific oysters do not customarily pack their product in more than three or four size categories. In displaying offerings of raw Pacific oysters in retail outlets, retailers have employed the terms "large," "medium," "small," and "extra small" to describe the sizes of Pacific oysters available. Retail dealers have also used these terms in their advertisements. Designation of the size of raw Pacific oysters by the terms "large," "medium," "small," and "extra small" is suitable not only for pints but is equally suitable for containers of other sizes. Recipes for oysters in most cookbooks recite cooking times based on the time required to cook raw oysters that come from the Atlantic and Gulf Coasts. Pacific oysters are significantly larger than oysters harvested on the Atlantic and Gulf Coasts and require slower and longer cooking to be rendered palatable. Housewives need recipes that give directions for cooking Pacific oysters. Amending the existing standards to provide for using the size designations "large," "medium," "small," and "extra small" will facilitate writing such recipes for distribution to housewives. (R. 21, 36, 39-40, 56, 62-63, 65, 70, 74, 78, 81, 83, 96-97; Ex. 6, 8, 14, 20-22, 25, 27, 30.)

3. Evidence was adduced that the division of raw Pacific oysters into six size categories, as provided for in the existing standards, results in considerable overlapping of sizes to the disadvantage of consumer purchasers. Reduction of the number of size categories to four would

reduce such overlapping. (R. 56, 62, 70, 82, 85, 95; Ex. 13, 16-17, 23, 26, 28, 30)

4. The term "large," as applied to raw Pacific oysters, applies to oysters of such size that a gallon contains not more than 64 such oysters. The term "medium," as applied to raw Pacific oysters, applies to oysters of such size that a gallon contains more than 64 and not more than 96 such oysters. The term "small," as applied to raw Pacific oysters, applies to oysters of such size that a gallon contains more than 96 and not more than 144 such oysters. The term "extra small," as applied to raw Pacific oysters, applies to oysters of such size that a gallon contains more than 144 such oysters. The oysters in each of the above size categories are of such uniform size that the largest oyster in the container is not more than twice the weight of the smallest oyster therein. (R. 88-89; Ex. 1)

It is concluded that it will promote honesty and fair dealing in the interest of consumers to amend the definitions and standards of identity applicable to raw Pacific oysters by revoking §§ 36.17 to 36.22, inclusive (21 CFR 36.17-36.22, inclusive), and by promulgating new sections to read as follows:

§ 36.17 *Large Pacific oysters, large raw Pacific oysters, large shucked Pacific oysters; identity.* Large Pacific oysters, large raw Pacific oysters, large shucked Pacific oysters, are of the species *Ostrea gigas* and conform to the definitions and standards of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains not more than 64 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 36.18 *Medium Pacific oysters, medium raw Pacific oysters, medium shucked Pacific oysters; identity.* Medium Pacific oysters, medium raw Pacific oysters, medium shucked Pacific oysters, are of the species *Ostrea gigas* and conform to the definition and standard of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains more than 64 oysters, and not more than 96 oysters, and the largest oyster in the container is not more than

twice the weight of the smallest oyster therein.

§ 36.19 *Small Pacific oysters, small raw Pacific oysters, small shucked Pacific oysters; identity.* Small Pacific oysters, small raw Pacific oysters, small shucked Pacific oysters, are of the species *Ostrea gigas* and conform to the definition and standard of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains more than 96 oysters and not more than 144 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 36.20 *Extra small Pacific oysters, extra small raw Pacific oysters, extra*

small shucked Pacific oysters. Extra small Pacific oysters, extra small raw Pacific oysters, extra small shucked Pacific oysters are of the species *Ostrea gigas* and conform to the definition and standard of identity prescribed for oysters by § 36.10 and are of such size that 1 gallon contains more than 144 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

Any interested person whose appearance was filed at the hearing may, within 30 days from the date of the publication of this tentative order in the FEDERAL

REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, Health, Education, and Welfare Building, 330 Independence Avenue SW., Washington, D. C., written exceptions thereto. Exceptions shall point out with particularity the alleged errors in this tentative order and shall contain specific references to the pages of the transcript of the testimony or to the exhibits on which such exceptions are based. Such exceptions may be accompanied by a memorandum or brief in support thereof. Exceptions and accompanying memoranda or briefs shall be submitted in quintuplicate.



Department of the Interior

FISH AND WILDLIFE SERVICE

SUOMELA NAMED ASSISTANT DIRECTOR: The appointment of Arnie J. Suomela, Portland, Oregon, as Assistant Director of the Fish and Wildlife Service was announced on November 27 by Secretary of the Interior McKay.

Suomela, who has been Oregon State Director of Fisheries since 1945, made a special survey of the Alaska fisheries for the Department of the Interior in the summer of 1953.

Born in Ilwaco, Washington, in July 1902, he was graduated from the University of Washington with a B. S. in fishery biology, and received his master's degree from George Washington University in 1931. For a number of years he was employed by the Bureau of Fisheries in Washington, D. C., and Seattle, Wash. He later became managing biologist of the Washington Department of Fisheries at Seattle, and in 1945 joined the Oregon Fish Commission.

Suomela is considered one of the nation's authorities on the salmon fisheries and has done extensive research in Alaska and the Pacific Northwest.

During the construction of Grand Coulee, he was in charge of field work in the Columbia River, particularly the "salmon salvage program" which resulted in successfully transplanting salmon which formerly migrated above the dam. He directed the location and establishment of runs in streams below the dam.

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OFFICE OF TERRITORIES

AMERICAN SAMOAN CANNERY LEASE ACCEPTED: A five-year lease for the fish cannery in American Samoa, submitted by a San Pedro, California, fish cannery, has been accepted by the government of American Samoa, Secretary of the Interior McKay announced on October 30. The company was the only bidder in response to a public invitation to bid issued on July 7, 1953. The first year of the lease will be a trial period to determine whether the operation will be feasible and profitable.

As a minimum rental for each of the five years, the company offered \$5,000 or \$2.50 per short ton of fish processed, frozen, canned, or stored for eventual shipment or sale, whichever sum is greater.

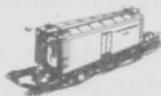
The company intends to train Samoans in fishing skills and to develop a fishery to supply the cannery with fish caught by Samoans and to provide all jobs in the cannery to Samoans to the extent of their abilities. In addition to providing for the operation of the cannery, the lease is designed to improve the civilian economy of the islands by developing fishing skills of the Samoans and raising their income through wages. A local supply of raw, frozen, and processed fish will also be made available.



Interstate Commerce Commission

RAILWAY EXPRESS-RAILROADS CONTRACT APPROVED: The contract between the Railway Express Agency and the owning railroads for the continuation of express service after February 28, 1954, was approved by the Interstate Commerce Commission early in November. A decision to this effect was made in its docket No. 31317 (Express Contract, 1954) on November 4, 1953. The Commission stated: "Upon application of the Railway Express Agency, Inc., and certain rail carriers for approval of a proposed pooling of traffic service, and earnings involved in the conduct of the express business, such pooling approved and authorized." An order to this effect was duly entered.

The new contract is to extend from March 1, 1954, to December 31, 1973, subject to the right of any carrier to withdraw from the arrangement on the first day of any month after December 31, 1958.



CLAM CHOWDER - A POPULAR WINTER DISH



Something satisfying in the way of a savory dish particularly during these cold wintery days is clam chowder. When served piping hot it makes an excellent luncheon or dinner dish.

Take your choice, either the Manhattan Chowder with its tomatoes or the traditional New England style with its seasoned milk--either is delicious and will serve equally as well as soup or as a main dish.

Here is the favorite New England chowder recipe of the U. S. Fish and Wildlife Service's home economists.

NEW ENGLAND CLAM CHOWDER

1 QUART SHUCKED CLAMS
6 TABLESPOONS DICED SALT PORK OR BACON
1/2 CUP CHOPPED ONION
2 TABLESPOONS FLOUR

2 CUPS CLAM LIQUOR AND WATER
2 CUPS DICED POTATOES
2 CUPS MILK

1/2 TEASPOON SALT
DASH PEPPER
CHOPPED PARSLEY

Drain and chop clams, saving liquor. Fry salt pork until crisp and brown. Add onion, and cook until tender. Blend in flour. Add liquor, potatoes, and clams. Cook until potatoes are tender. Add milk, seasonings, and heat. Serve immediately with chopped parsley sprinkled over the top. Serves 6.