

Federal Trade Commission

TENTATIVE DRAFT OF TRADE PRACTICE RULES FOR FROZEN FOOD INDUSTRY:

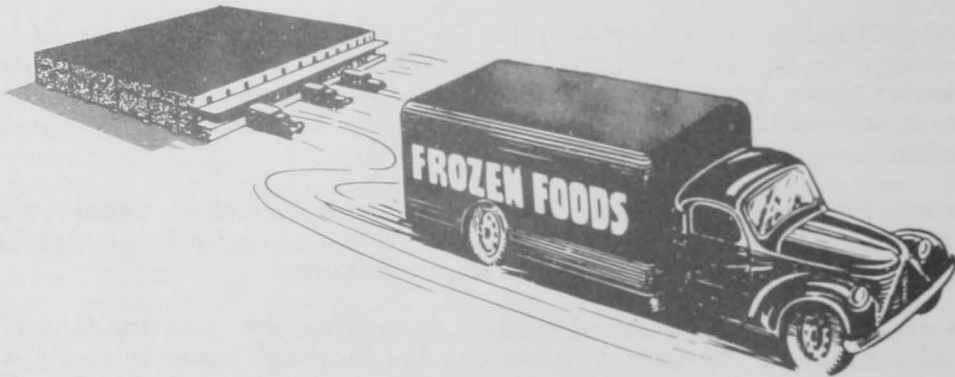
A "Tentative Draft of Trade Practice Rules for the Frozen Food Industry Proposed by Members of the Industry" was recently issued by the Federal Trade Commission. These rules will affect any person, firm, or organization engaged in the production and marketing of frozen fish and seafoods. However, the rules have not yet been considered or approved by the Commission.

rules will be approved by the Federal Trade Commission. The date of the hearing has not yet been fixed.

The rules contained in Part I of the draft repeat the statutory language in Section 2(a) and (c) to (f) of the Clayton Act, as amended by the Robinson-Patman Act and otherwise. The rules listed are:

Rule 1 - Prohibited Discrimination in Price.

Rule 2 - Prohibited Brokerage and Commissions, etc.



The rules generally refer to prohibition of discrimination in price; and discrimination in brokerage, commissions, and in advertising allowances. But some rules refer to trade practices which are of special importance to the frozen fish and seafood industry. For example, the rules will prohibit any false or misleading term of sale, misleading invoices, misleading selling method, misrepresentation in general, and misrepresenting products as conforming to standards.

Copies of the Tentative Draft may be obtained from the Federal Trade Commission, Washington 25, D. C.

Members of industry are also invited to submit briefs and statements to the Commission Examiner. A public hearing will be held before the trade practice

Rule 3 - Prohibited Discrimination in Advertising or Promotional Allowances.

Rule 4 - Prohibited Discrimination in Services or Facilities.

Rule 5 - Prohibited Inducing or Receiving Discrimination in Price.

Part II of the draft contains rules based on Sections 5 and 12 of the Federal Trade Commission Act. (Section 5 prohibits the use of all unfair methods of competition and of all unfair or deceptive acts or practices in commerce, and Section 12-a(1) prohibits the dissemination of "any false advertisement by United States mails, or in commerce by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly the purchase of food, drugs,

devices, or cosmetics.) The rules listed are:

- Rule 6 - Selling Below Cost.
- Rule 7 - False Use of the Term "Bargain" Prohibited.
- Rule 8 - Prohibited Use of Fictitious Price.
- Rule 9 - Prohibited Use of Any False or Misleading Term of Sale.
- Rule 10 - Prohibited Use of Any False or Misleading Invoice, etc.
- Rule 11 - Prohibited Misrepresentation of Available Product Supply.
- Rule 12 - Prohibited Use of Any Misleading or Deceptive Selling Method.
- Rule 13 - Prohibited Misrepresentation in General.
- Rule 14 - Prohibited Defamation of Competitor.
- Rule 15 - Prohibited Enticing of Competitor's Employee.
- Rule 16 - Prohibited Substitution of Competitor's Product.
- Rule 17 - Prohibited Interference with Competitor's Contract.
- Rule 18 - Prohibited Coercion of Purchase.
- Rule 19 - Prohibited Use of Lottery Scheme.
- Rule 20 - Prohibited Forms of Trade Restraints (Unlawful Price Fixing, etc.)
- Rule 21 - Prohibited Use of Loss Leaders.
- Rule 22 - "Push Money."
- Rule 23 - Misrepresenting products as Conforming to Standard.
- Rule 24 - Use of the Word "Free."
- Rule 25 - Procurement of Competitors' Confidential Information by Unfair Means and Wrongful Use Thereof.

Part III of the draft contains this rule:

- Rule 26 - Prohibited Use of Unfair Exclusive Deals.

Part IV contains this rule:

- Rule 27 - Prohibited Aiding or Abetting Use of Unfair Trade Practices.

In addition the draft contains these Group II rules:

- Rule 1 - Contractual Obligations.
- Rule 2 - Proper Refrigeration.
- Rule 3 - Maintenance of Accurate Records.

The draft also would set up an industry committee (Committee on Trade Practices) to cooperate with the Federal Trade Commission and "to perform such acts as may be legal and proper in the furtherance of fair competitive practices and in promoting the effectiveness of the rules."



Department of the Interior

FISH AND WILDLIFE SERVICE

ALASKA COMMERCIAL FISHING REGULATIONS FOR 1955:

Changes in the regulations for the protection of the commercial fisheries of Alaska for 1955 appeared in the January 20, 1955, Federal Register, and will become effective February 19.

The revised regulations do not change present regulations governing operation of set nets. This is because an amendment to the Alaska Fishery Law, now pending in Congress, is intended to clarify the status of set nets.

A Federal Court decision in Alaska last summer held that set nets are fixed gear. The Fish and Wildlife Service historically has classified them as movable gear. One effect of the Court decision was to subject set nets to a statutory requirement which specifies that units of fixed gear must not be less than 1,000 feet apart, laterally. As movable gear, set nets in the past have been operated from 300-600 feet apart.

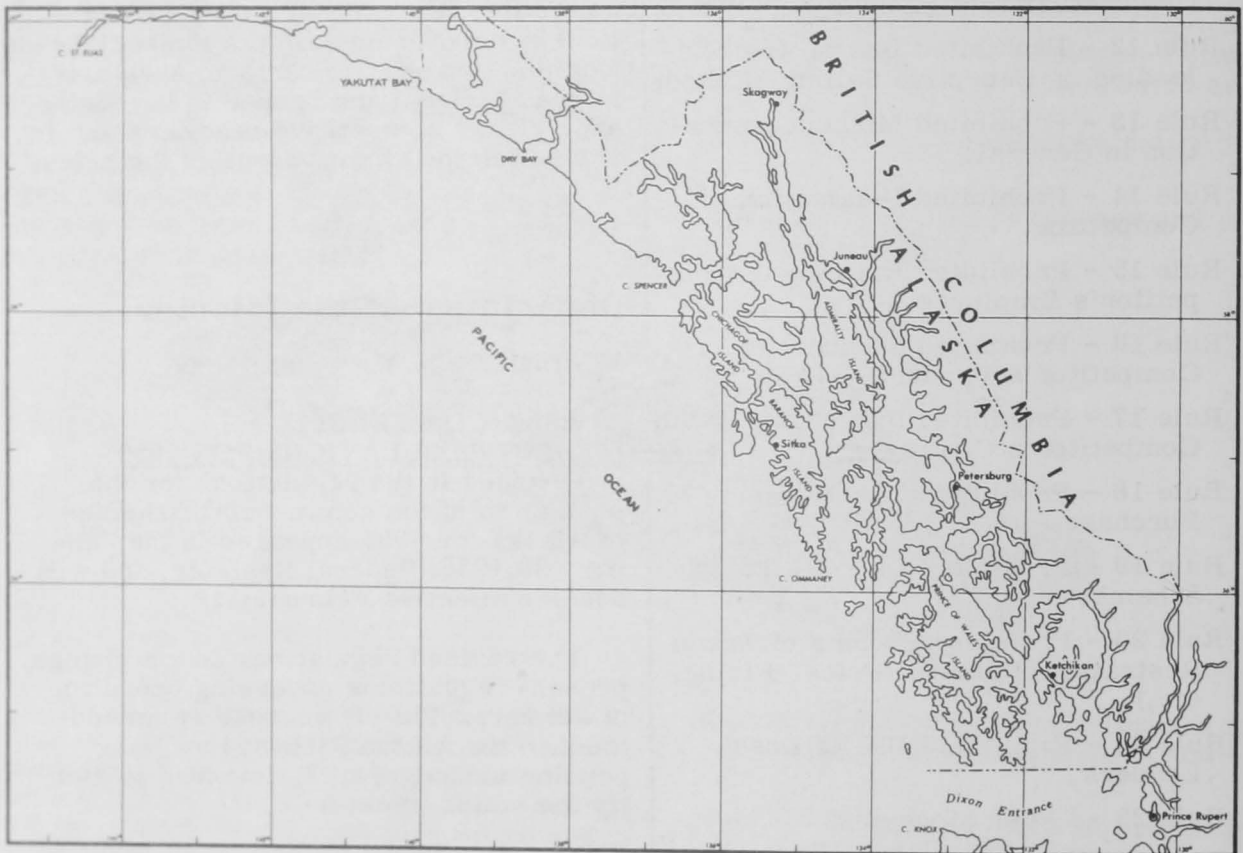
When the Fish and Wildlife Service reported that an 1,800-foot minimum

interval between set nets is not considered essential to conservation requirements, and that imposition of the drastic limitation would impose hardships on small fishermen, the Department ordered action on new set-net regulations suspended pending action by Congress. If this new legislation, which the Department will support, is enacted prior to the 1955 fishing season, no immediate change in the set-net regulation will be necessary.

The two-year pink salmon rehabilitation program involving severe curtail-

ment needless destruction of female and small male crabs. Therefore, a closed season on king crabs from January 1 to May 31 was imposed in the Cook Inlet area, and closures during soft-shell stages will be imposed in the Kodiak area as determined by direct observation.

Biological data obtained in 1953 indicated that there was a relatively strong incoming year-class in the herring populations in southeastern Alaska. This permits the catch quota for 1955 to be increased to 100,000 barrels.



ment of the catch in southeastern Alaska and complete closure in Prince William Sound, which was launched in 1954, will continue in 1955. The Service reports that the resulting escapements were much better in 1954 than in 1952, the parent year of the two-year-cycle pinks. If survival is normal, an increase in the size of the runs should occur in 1956.

In the Kodiak and Cook Inlet areas where the king-crab fishery is relatively new, protection during the molting and soft-shell periods is necessary to pre-

Other changes are as follows:

In Bristol Bay the size of the fishing districts has been adjusted, reducing the Egegik district by about four miles, and increasing the Kvichak-Naknek district by the same distance.

Personal-use fishing restrictions have been relaxed in the Nushagak district to permit fishing at Snag Point, and to allow fishing throughout the district each Wednesday, when commercial fishing is prohibited.

In the Alaska Peninsula area the closing date has been changed from July 31 to August 5 in the southwestern and southcentral districts where improved pink salmon runs are anticipated. A limited set-net fishery will be allowed in the southeastern district during the red salmon season, prior to July 5. To compensate in part for these relaxations, the weekly closed period has been lengthened from 60 to 72 hours prior to July 5.

In the Kodiak area, red salmon runs have not been good for some time and the June openings in these districts have been eliminated. The area will open uniformly on July 11 for pink salmon, continuing until August 13, with a one-week closure from July 23-August 1. As in 1954, the closure of a week may be rescinded if the runs are strong.

In the Cook Inlet area the usual odd-year closing dates of August 4 and August 8 are specified.

The Cook Inlet red salmon pack in 1950 reached a total of 207,000 cases, which is far above normal, but the escapements were poor and apparently this large pack was made partly at the expense of the brood stock. The 1955 run, which will be derived from the 1950 escapement, will be correspondingly smaller. Therefore, if the Alaska Fishery Law is amended prior to the opening season, some curtailment of the number of fishing days may be necessary.

Changes have been made in the Chignik, Prince William Sound, and Copper River areas, and also in the Yakutat area and the various gill-net fisheries of southeastern Alaska.



Maritime Administration

LOAN GUARANTEE TO SHRIMP VESSELS:

The U. S. Maritime Administration has declared its readiness to extend loan guarantees (Mortgage insurance contracts) to modern shrimp vessels being constructed or reconstructed. The guarantee would run from 5 to 6 years as the case may warrant. The annual

costs would be not less than $\frac{1}{4}$ percent and not more than $\frac{1}{2}$ percent during construction or reconstruction, and not less



Offshore shrimp trawlers at Pascagoula, Mississippi.

than $\frac{1}{2}$ and nor more than 1 percent after construction or reconstruction, respectively. It is understood that the Maritime Administration in each case will examine the economic feasibility of the loan and investigate the business or fishing experience as well as the character of the applicant in question.

The advantage of the loan guarantee of the Maritime Administration is the influence on the financing of newly constructed or reconstructed shrimp vessels. At present loans on shrimp vessels regularly have to be repaid within three years or in 36-monthly installments. In the future it will be possible to obtain loans for five to six years or on the basis of 60 to 72 installments. Where installments in the past ran as high as \$1,250 monthly for a \$45,000 loan, under the Maritime Administration loan guarantee of 5 to 6 years installments will be \$650 to \$750 monthly for the same amount of a loan.

Application forms may be obtained from the U. S. Maritime Administration, Washington 25, D. C.



United States Court of Appeals

FISH CANNERY

OVERTIME EXEMPTION LIMITED:

The United States Court of Appeals for the First Circuit has recently ruled, in an injunction suit by the Secretary of Labor against a Maine fish canner, that the overtime exemption for fish cannery employees is limited to only those employees engaged in operations physically essential in the canning of fish.

The decision denied the applicability of the fish canning exemption in Section 13(b) (4) of the wage-hour law to certain employees, including office workers, bus drivers, "dead season" maintenance employees, and watchmen-firemen, whose activities were closely related and directly essential to the canning of fish but which could not be said to be part of the actual canning operations.

In its opinion, the Court of Appeals emphasized that the Section 13(b) (4) exemption for "any employee employed in the canning of any kind of fish" is phrased in terms of the activities of the employee, whereas many of the other minimum wage and overtime exemptions of the Fair Labor Standards Act are phrased in terms of the employer's activities. The Section 7(c) fruit and vegetable canning exemption, for example, is phrased in terms of employees of an "employer engaged in" first processing

or canning. The Court concluded that Congress intended a differentiation between the two types of exemptions by these language variations.

The ruling of the First Circuit resulted from cross-appeals by both the Secretary of Labor and the defendant from a decision of the U. S. District Court of Maine in Mitchell v. Stinson.

While the Court also relied to some extent on the legislative history of the 1949 Amendments to the Act, which transformed the fish canning exemption from both minimum wage and overtime into an exemption from overtime alone, the decision would nevertheless seem to be in conflict with an earlier decision of the Third Circuit in McComb v. Consolidated Fisheries Company. The apparent conflict may result in a further review of the issue by the Supreme Court.



BACK FIN CUTTING MACHINE

A machine for cutting fish back fins, stated to do the work of three women, is reported to have been produced in Aberdeen, Scotland. The machine is like a steel box, 18 inches long, 13 inches high, and 12 inches wide. It rests on a stand which brings it up to bench height. The top of the box has a groove, and inside a $\frac{1}{4}$ hp. motor drives a circular knife. During operation, the fish is slid along the groove and the knife removes the back fin. The knife is kept sprayed by a flow of fresh water, which does not affect the motor contained in a water-tight case. The machine is reported to be perfectly safe owing to the position of the knife, and there is little chance of injury to the operator.

--Fish Trades Gazette, Sept. 19, 1953