



FEDERAL ACTIONS



Federal Trade Commission

PRIMARY BROKER OF CANNED SALMON CHARGED WITH ILLEGAL BROKERAGE PAYMENTS:

A Seattle, Wash., primary broker of canned salmon and other seafoods was charged on June 16, 1958, by the Federal Trade Commission with granting illegal brokerage to some of its customers.

According to a Commission complaint (7151, Seafood Products), the brokerage

the packers; (2) granting price deductions, a part or all of which are not charged back to the packers; (3) taking reduced brokerage on sales involving price concessions.

The parties are granted 30 days in which to file answer to the complaint. A hearing was scheduled for July 28 in Seattle, Wash., before a Commission hearing examiner.

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PRIMARY SEAFOOD BROKER CHARGED WITH PAYMENT OF ILLEGAL BROKERAGE:

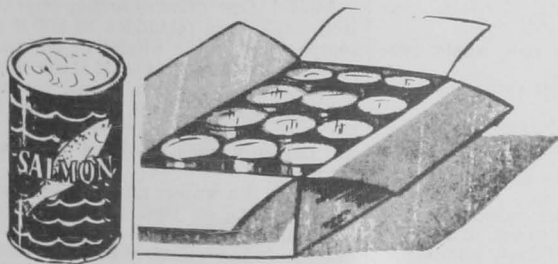
A Seattle, Wash., primary broker of canned salmon and other seafood was charged (Complaint 7154, Seafood) on June 23, 1958, by the Federal Trade Commission with making illegal brokerage payments to favored customers.

The firm and its president, the complaint alleges, have granted certain buyers rebates in lieu of brokerage or price concessions reflecting it, in violation of Sec. 2(c) of the amended Clayton Act,

According to the complaint, in some transactions the firm absorbs the unlawful rebates from its customary 5-percent brokerage fee, and in others it shares the payments with the field broker involved out of the 2½-percent commission each receives.

For example, the complaint says, the respondents sell at net prices lower than those accounted for to their packer principals; grant price deductions, wholly or partly not charged back to the packers; and take reduced brokerage on sales involving price concessions.

The parties were granted 30 days in which to file answer to the complaint. A hearing was scheduled for July 28 in Seattle, Wash., before a Commission hearing examiner.



firm generally sells canned salmon through hired field brokers and its customary 5-percent brokerage fee usually is split with the field broker handling a sale.

The firm, which is a partnership, is charged with granting certain buyers substantial allowances in lieu of brokerage in violation of Sec. 2(c) of the Robinson-Patman Amendment to the Clayton Act.

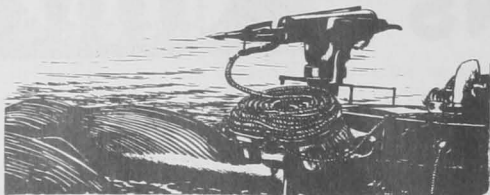
These illegal grants, the complaint alleges, are made by giving favored buyers price differentials or concessions and rebates and allowances, which are not charged back to the packer-principals but taken from the brokerage earnings of the firm and its field brokers.

The complaint cites these typical methods used by the firm in making the unlawful payments: (1) selling at net prices lower than those accounted for to

Department of the Interior

WHALING REGULATIONS:

The whaling regulations, applicable to nationals and whaling enterprises of the



United States, were amended and republished in the May 8 Federal Register.

TITLE 50—WILDLIFE

Chapter III—International Regulatory Agencies (Fishing and Whaling)

Subchapter B—International Whaling Commission

PART 351—WHALING

Basis and purpose. Section 13 of the Whaling Convention Act of 1949 (64 Stat. 421, 425; 16 U. S. C., 1952 ed., 916k), the legislation implementing the International Convention for the Regulation of Whaling signed at Washington December 2, 1946, by the United States of America and certain other Governments, provides that regulations of the International Whaling Commission shall be submitted for publication in the FEDERAL REGISTER by the Secretary of the Interior. Regulations of the Commission are defined to mean the whaling regulations in the schedule annexed to and constituting a part of the Convention in their original form or as modified, revised, or amended by the Commission. The provisions of the whaling regulations, as originally embodied in the schedule annexed to the Convention, have been amended several times by the International Whaling Commission, the last amendments having been made in October 1957. The whaling regulations, as last amended in October 1957, have been edited to conform the numbering, internal references, and similar items to regulations of the Administrative Committee of the Federal Register but no changes have been made in the substantive provisions. The provisions of these regulations are applicable to nationals and whaling enterprises of the United States.

Amendments to the whaling regulations are adopted by the International Whaling Commission pursuant to Article V of the Convention without regard to the notice and public procedure requirements of the Administrative Procedure Act (5 U. S. C. 1001). Accordingly, in fulfillment of the duty imposed upon the Secretary of the Interior by section 13 of the Whaling Convention Act of 1949, the whaling regulations published as Part 351, Title 50, Code of

Federal Regulations, as the same appeared in 22 F. R. 1721, March 16, 1957, are amended and republished to read as hereinafter set forth.

ROSS LEFFLER,

Assistant Secretary of the Interior.

MAY 2, 1958.

- Sec.
- 351.1 Inspection.
 - 351.2 Killing of gray or right whales prohibited.
 - 351.3 Killing of calves or suckling whales prohibited.
 - 351.4 Operation of factory ships limited.
 - 351.5 Closed area for factory ships in Antarctic.
 - 351.6 Limitations on the taking of humpback whales.
 - 351.7 Closed seasons for pelagic whaling for baleen and sperm whales.
 - 351.8 Catch quota for baleen whales.
 - 351.9 Minimum size limits.
 - 351.10 Closed seasons for land stations.
 - 351.11 Use of factory ships in waters other than south of 40° South Latitude.
 - 351.12 Limitations on processing of whales.
 - 351.13 Prompt processing required.
 - 351.14 Remuneration of employees.
 - 351.15 Submission of laws and regulations.
 - 351.16 Submission of statistical data.
 - 351.17 Factory ship operations within territorial waters.
 - 351.18 Definitions.

AUTHORITY: §§ 351.1 to 351.18 issued under Art. V, 62 Stat. 1718. Interpret or apply secs. 2-14, 64 Stat. 421-425; 16 U. S. C. 916-916l.

§ 351.1 *Inspection.* (a) There shall be maintained on each factory ship at least two inspectors of whaling for the purpose of maintaining twenty-four hour inspection. These inspectors shall be appointed and paid by the Government having jurisdiction over the factory ship.

(b) Adequate inspection shall be maintained at each land station. The inspectors serving at each land station shall be appointed and paid by the Government having jurisdiction over the land station.

§ 351.2 *Killing of gray or right whales prohibited.* It is forbidden to take or kill gray whales or right whales, except when the meat and products of such

Section 13 of the Whaling Convention Act of 1949, the legislation implementing the International Convention for the Regulation of Whaling signed at Washington December 2, 1946, by the United States and certain other governments, provides that regulations of the International Whaling Commission shall be submitted for publication in the Federal Register by the Secretary of Interior. The regulations as published are the same as those issued by the Commission except that certain editorial changes have been made to conform to the required presentation of regulations in the Federal Register. The regulations as published follow:

whales are to be used exclusively for local consumption by the aborigines.

§ 351.3 *Killing of calves or suckling whales prohibited.* It is forbidden to take or kill calves or suckling whales or female whales which are accompanied by calves or suckling whales.

§ 351.4 *Operation of factory ships limited.* (a) It is forbidden to kill or attempt to kill blue whales in the North Atlantic Ocean for a period of five years.¹ (b) It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill baleen whales in any of the following areas:

(1) In the waters north of 66° North Latitude except that from 150° East Longitude eastwards as far as 140° West Longitude the taking or killing of baleen whales by a factory ship or whale catcher shall be permitted between 66° North Latitude and 72° North Latitude;

(2) In the Atlantic Ocean and its dependent waters north of 40° South Latitude;

(3) In the Pacific Ocean and its dependent waters east of 150° West Longitude between 40° South Latitude and 35° North Latitude;

(4) In the Pacific Ocean and its dependent waters west of 150° West Longitude between 40° South Latitude and 20° North Latitude;

(5) In the Indian Ocean and its dependent waters north of 40° South Latitude.

§ 351.5 *Closed area for factory ships in Antarctic.* It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill baleen whales in the waters south of 40° South Latitude from 70° West Longitude westward as far as 160° West Longitude. (This article, as the result

¹ This paragraph was objected to within the prescribed period ending November 7, 1954, by the Government of Iceland, and subsequently by that of Denmark. Neither objection was withdrawn and the paragraph came into force on February 24, 1955, but is not binding on Iceland and Denmark. It ceases to operate as from February 24, 1960.

of the seventh meeting at Moscow, was rendered inoperative for a period of three years from November 8, 1955, and as a result of the ninth meeting in London was rendered inoperative for a further period from November 8, 1958, after which it will automatically become operative again on November 8, 1959.)

§ 351.6 *Limitations on the taking of humpback whales.* (a) It is forbidden to kill or attempt to kill humpback whales in the North Atlantic Ocean for a period of five years. (This five-year period comes to an end on November 8, 1959.)

(b) It is forbidden to kill or attempt to kill humpback whales in the waters south of 40° South Latitude between 0° Longitude and 70° West Longitude for a period of five years. (This five-year period comes to an end on November 8, 1959.)

(c) It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill humpback whales in any waters south of 40° South Latitude except on the 1st, 2d, 3d, and 4th of February in any year.

§ 351.7 *Closed seasons for pelagic whaling for baleen and sperm whales.* (a) It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill baleen whales (excluding minke whales) in any waters south of 40° South Latitude, except during the period from January 7 to April 7, following, both days inclusive; and no such whale catcher shall be used for the purpose of killing or attempting to kill blue whales before February 1 in any year.

(b) It is forbidden to use a whale catcher attached to a factory ship for the purpose of killing or attempting to kill sperm or minke whales, except as permitted by the Contracting Governments in accordance with paragraphs (c), (d) and (e) of this section.

(c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, one continuous open season not to exceed eight months out of any period of twelve months during which the taking or killing of sperm whales by whale catchers may be permitted: *Provided*, That a separate open season may be declared for each factory ship and the whale catchers attached thereto.

(d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by the whale catchers may be permitted: *Provided*, That:

(1) A separate open season may be declared for each factory ship and the whale catchers attached thereto;

(2) The open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to paragraph (a) of this section.

(e) Each Contracting Government shall declare for all whale catchers under its jurisdiction not operating in conjunction with a factory ship or land

station one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by such whale catchers may be permitted.

§ 351.8 *Catch quota for baleen whales.* (a) The number of baleen whales taken during the open season caught in any waters south of 40° South Latitude by whale catchers attached to factory ships under the jurisdiction of the Contracting Governments shall not exceed fifteen thousand blue-whale units in any one season: *Provided*, That in the season 1957-58 the number shall not exceed fourteen thousand five hundred blue-whale units.

(b) For the purposes of paragraph (a) of this section, blue-whale units shall be calculated on the basis that one blue whale equals:

- (1) Two fin whales or
- (2) Two and a half humpback whales or
- (3) Six sei whales.

(c) Notification shall be given in accordance with the provision of Article VII of the Convention, within two days after the end of each calendar week, of data on the number of blue-whale units taken in any waters south of 40° South Latitude by all whale catchers attached to factory ships under the jurisdiction of each Contracting Government: *Provided*, That when the number of blue-whale units is deemed by the Bureau of International Whaling Statistics to have reached 13,500 (but 13,000 in the season 1957-58) notification shall be given as aforesaid at the end of each day of data on the number of blue-whale units taken.

(d) If it appears that the maximum catch of whales permitted by paragraph (a) of this section may be reached before April 7 of any year, the Bureau of International Whaling Statistics shall determine, on the basis of the data provided, the date on which the maximum catch of whales shall be deemed to have been reached and shall notify the master of each factory ship and each Contracting Government of that date not less than four days in advance thereof. The killing or attempting to kill baleen whales by whale catchers attached to factory ships shall be illegal in any waters south of 40° South Latitude after midnight of the date so determined.

(e) Notification shall be given in accordance with the provisions of Article VII of the Convention of each factory ship intending to engage in whaling operations in any waters south of 40° South Latitude.

§ 351.9 *Minimum size limits.* (a) It is forbidden to take or kill any blue, sei or humpback whales below the following lengths:

- Blue whales 70 feet (21.3 metres),
- Sei whales 40 feet (12.2 metres),
- Humpback whales 35 feet (10.7 metres),

except that blue whales of not less than 65 feet (19.8 metres) and sei whales of not less than 35 feet (10.7 metres) in length may be taken for delivery to land stations: *Provided*, That the meat of such whales is to be used for local consumption as human or animal food.

(b) It is forbidden to take or kill any fin whales below 57 feet (17.4 metres) in length for delivery to factory ships or

land stations in the Southern Hemisphere, and it is forbidden to take or kill fin whales below 55 feet (16.8 metres) for delivery to factory ships or land stations in the Northern Hemisphere; except that fin whales of not less than 55 feet (16.8 metres) may be taken for delivery to land stations in the Southern Hemisphere and fin whales of not less than 50 feet (15.2 metres) may be taken for delivery to land stations in the Northern Hemisphere provided in each case that the meat of such whales is to be used for local consumption as human or animal food.

(c) It is forbidden to take or kill any sperm whales below 38 feet (11.6 metres) in length, except that sperm whales of not less than 35 feet (10.7 metres) in length may be taken for delivery to land stations.

(d) Whales must be measured when at rest on deck or platform, as accurately as possible by means of a steel tape measure fitted at the zero end with a spiked handle which can be stuck into the deck planking abreast of one end of the whale. The tape measure shall be stretched in a straight line parallel with the whale's body and read abreast the other end of the whale. The ends of the whale, for measurement purposes, shall be the point of the upper jaw and the notch between the tail flukes. Measurements, after being accurately read on the tape measure, shall be logged to the nearest foot, that is to say, any whale between 75 feet 6 inches and 76 feet 6 inches shall be logged as 76 feet, and any whale between 76 feet 6 inches and 77 feet 6 inches shall be logged as 77 feet. The measurement of any whale which falls on an exact half foot shall be logged at the next half foot, e. g. 76 feet 6 inches precisely shall be logged as 77 feet.

§ 351.10 *Closed seasons for land stations.* (a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with paragraphs (b), (c), and (d) of this section.

(b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen (excluding minke) whales by the whale catchers shall be permitted. Such open season shall be for a period of not more than six consecutive months in any period of twelve months and shall apply to all land stations under the jurisdiction of the Contracting Government: *Provided*, That a separate open season may be declared for any land station used for the taking or treating of baleen (excluding minke) whales which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen (excluding minke) whales under the jurisdiction of the same Contracting Government.

(c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed eight continuous months in any one period of twelve months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, such period of

eight months to include the whole of the period of six months declared for baleen whales (excluding minke whales) as provided for in paragraph (b) of this section: *Provided*, That a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000 miles from the nearest land station used for the taking or treating of sperm whales under the jurisdiction of the same Contracting Government.²

(d) (1) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations one open season not to exceed six continuous months in any period of twelve months during which the taking or killing of minke whales by the whale catchers shall be permitted (such period not being necessarily concurrent with the period declared for other baleen whales, as provided for in paragraph (b) of this section): *Provided*, That a separate open season may be declared for any land station used for the taking or treating of minke whales which is more than 1,000 miles from the nearest land station used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government.

(2) Except that a separate open season may be declared for any land station used for the taking or treating of minke whales which is located in an area having oceanographic conditions clearly distinguishable from those of the area in which are located the other land stations used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government; but the declaration of a separate open season by virtue of the provisions of this paragraph shall not cause thereby the period of time covering the open seasons declared by the same Contracting Government to exceed nine continuous months of any twelve months.

(e) The prohibitions contained in this section shall apply to all land stations as defined in Article II of the Whaling Convention of 1946 and to all factory ships which are subject to the regulations governing the operation of land stations under the provisions of § 351.17.

§ 351.11 *Use of factory ships in waters other than south of 40° South Latitude.* It is forbidden to use a factory ship which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, in any other area for the same purpose within a period of one year from the termination of that season: *Provided*, That this paragraph shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

§ 351.12 *Limitations of processing of whales.* (a) It is forbidden to use a factory ship or a land station for the purpose of treating any whales (whether or

² This paragraph came into force as from February 21, 1952, in respect to all Contracting Governments, except the Commonwealth of Australia, who lodged an objection to it within the prescribed period, and this objection was not withdrawn. The provisions of this paragraph are not therefore binding on the Commonwealth of Australia.

not killed by whale catchers under the jurisdiction of a Contracting Government) the killing of which by whale catchers under the jurisdiction of a Contracting Government is prohibited by the provisions of §§ 351.2, 351.4, 351.5, 351.6, 351.7, 351.8 or 351.10.

(b) All other whales (except minke whales) taken shall be delivered to the factory ship or land station and all parts of such whales shall be processed by boiling or otherwise, except the internal organs, whale bone and flippers of all whales, the meat of sperm whales and of parts of whales intended for human food or feeding animals.

(c) Complete treatment of the carcasses of "Dauhval" and of whales used as fenders will not be required in cases where the meat or bone of such whales is in bad condition.

§ 351.13 *Prompt processing required.* (a) The taking of whales for delivery to a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcass (except of a whale used as a fender, which shall be processed as soon as is reasonably practicable) shall remain in the sea for a longer period than thirty-three hours from the time of killing to the time when it is hauled up for treatment.

(b) Whales taken by all whale catchers, whether for factory ships or land stations, shall be clearly marked so as to identify the catcher and to indicate the order of catching.

(c) All whale catchers operating in conjunction with a factory ship shall report by radio to the factory ship:

(1) The time when each whale is taken,

(2) Its species, and

(3) Its marking effected pursuant to paragraph (b) of this section.

(d) The information reported by radio pursuant to paragraph (c) of this section shall be entered immediately in a permanent record which shall be available at all times for examination by the whaling inspectors; and in addition there shall be entered in such permanent record the following information as soon as it becomes available:

(1) Time of hauling up for treatment,

(2) Length, measured pursuant to paragraph (d) of § 351.9,

(3) Sex,

(4) If female, whether milk-filled or lactating,

(5) Length and sex of foetus, if present, and

(6) A full explanation of each infraction.

(e) A record similar to that described in paragraph (d) of this section shall be maintained by land stations, and all of the information mentioned in the said paragraph shall be entered therein as soon as available.

§ 351.14 *Remuneration of employees.* Gunners and crews of factory ships, land stations, and whale catchers, shall be engaged on such terms that their remuneration shall depend to a considerable extent upon such factors as the species, size and yield of whales taken and not merely upon the number of the whales taken. No bonus or other remuneration shall be paid to the gunners or crews of whale catchers in respect to the taking of milk-filled or lactating whales.

§ 351.15 *Submission of laws and regulations.* Copies of all official laws and regulations relating to whales and whaling and changes in such laws and regulations shall be transmitted to the Commission.

§ 351.16 *Submission of statistical data.* Notification shall be given in accordance with the provisions of Article VII of the Convention with regard to all factory ships and land stations of statistical information (1) concerning the number of whales of each species taken, the number thereof lost, and the number treated at each factory ship or land station, and (2) as to the aggregate amounts of oil of each grade and quantities of meal, fertilizer (guano), and other products derived from them, together with (3) particulars with respect to each whale treated in the factory ship or land station as to the date and approximate latitude and longitude of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex, if ascertainable, of the foetus. The data referred to in (1) and (3) above shall be verified at the time of the tally and there shall also be notification to the Commission of any information which may be collected or obtained concerning the calving grounds and migration routes of whales. In communicating this information there shall be specified:

(a) The name and gross tonnage of each factory ship;

(b) The number and aggregate gross tonnage of the whale catchers;

(c) A list of the land stations which were in operation during the period concerned.

§ 351.17 *Factory ship operations within territorial waters.*³ (a) A factory ship which operates solely within territorial waters in one of the areas specified in paragraph (c) of this section, by permission of the Government having jurisdiction over those waters, and which flies the flag of that Government shall, while so operating, be subject to the regulations governing the operation of land stations and not to the regulations governing the operation of factory ships.

(b) Such factory ship shall not, within a period of one year from the termination of the season in which she so operated, be used for the purpose of treating baleen whales in any of the other areas specified in paragraph (c) of this section or south of 40° South Latitude.

³ This section was inserted by the Commission at its first meeting in 1949, and came into force on January 11, 1950, as regards all Contracting Governments except France, who therefore remain bound by the provisions of the original § 351.17, which reads as follows:

§ 351.17 Notwithstanding the definition of land station contained in Article II of the Convention, a factory ship operating under the jurisdiction of a Contracting Government, and the movements of which are confined solely to the territorial waters of that Government, shall be subject to the regulations governing the operation of land stations within the following areas:

(a) On the coast of Madagascar and its dependencies, and on the west coasts of French Africa;

(b) On the west coast of Australia in the area known as Shark Bay and northward to Northwest Cape and including Exmouth Gulf and King George's Sound, including the port of Albany; and on the east coast of Australia, in Twofold Bay and Jervis Bay.

(c) The areas referred to in paragraphs (a) and (b) of this section are:

(1) On the coast of Madagascar and its dependencies;

(2) On the west coasts of French Africa;

(3) On the coasts of Australia, namely on the whole east coast and on the west coast in the area known as Shark Bay and northward to North-west Cape and including Exmouth Gulf and King George's Sound, including the Port of Albany.

§ 351.18 *Definitions.* (a) The following expressions have the meanings respectively assigned to them, that is to say:

"Baleen whale" means any whale which has baleen or whale bone in the mouth, i. e., any whale other than a toothed whale.

"Blue whale" (*Balaenoptera* or *Sibbaldus musculus*) means any whale known by the name of blue whale, *Sibbald's* rorqual, or sulphur bottom.

"Dauhval" means any unclaimed dead whale found floating.

"Fin whale" (*Balaenoptera physalus*) means any whale known by the name of common finback, common rorqual, finback, finner, fin whale, herring whale, razorback, or true fin whale.

"Gray whale" (*Rhachianectes glaucus*) means any whale known by the name of gray whale, California gray, devil fish, hard head, mussel digger, gray back or rip sack.

"Humpback whale" (*Megaptera nodosa* or *novaeangliae*) means any whale known by the name of bunch, humpback, humpback whale, hump-backed whale, hump whale or hunch-backed whale.

"Minke whale" (*Balaenoptera acutorostrata*, *B. Davidsoni*, *B. huttoni*) means any whale known by the name of lesser rorqual, little piked whale, minke whale, pike-headed whale or sharp-headed finner.

"Right whale" (*Balaena mysticetus*; *Eubalaena glacialis*, *E. australis*, etc.;

Neobalaena marginata) means any whale known by the name of Atlantic right whale, Arctic right whale, Biscayan right whale, bowhead, great polar whale, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, pigmy right whale, Southern pigmy right whale, or Southern right whale.

"Sei whale" (*Balaenoptera borealis*) means any whale known by the name of sei whale, Ruldophi's rorqual, pollack whale or coalfish whale and shall be taken to include Bryde's whale (*B. brydet*).

"Sperm whale" (*Physeter catodon*) means any whale known by the name of sperm whale, spermacet whale, cachalot or pot whale.

"Toothed whale" means any whale which has teeth in the jaws.

(b) "Whales taken" means whales that have been killed and either flagged or made fast to catchers.

* * * * *

FISH AND WILDLIFE SERVICE

CHANGES IN FISHERY LOAN FUND REGULATIONS PROPOSED:

Changes in the regulations governing the granting of loans made from the Fishery Loan Fund were proposed by the U. S. Department of the Interior in a Notice of Proposed Rule Making published in the Federal Register of June 26, 1958. A 30-day period for comment, suggestions, or objections was provided.

The Fishery Loan Fund was established to make loans for financing and re-financing of operations, maintenance, repairs, replacement, and equipment of fishing vessels and fishing gear and for research into basic problems of the fisheries.

Under the proposed changes, fishery marketing cooperatives could qualify as applicants for loans. However, any money loaned could be used only in that part of the cooperative's activities which relate to vessel operations. The law does not provide funds for use in activities generally considered as "marketing."

Numerous changes based upon the experience of a year and a half are also suggested. Most of these are for clarification. Some would put into regulatory form practices and policies which have evolved in day-to-day operations under the loan program.

The Fishery Loan Fund was established by the Fish and Wildlife Act of 1956. It is a \$10,000,000 revolving fund. Up to June 6, of this year, 230 applications have been approved for approximately \$6,000,000.

The proposed changes in the regulations for the Fishery Loan Fund as published in the Federal Register of June 26, 1958, follow:

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 160]

LOAN PROCEDURES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 4 of the Fish and Wildlife Act of 1956 (70 Stat. 1119, 1121), it is proposed to adopt the regulations set forth below as a revision of Part 160—Loan Procedures. The purpose of this revision is to clarify the meaning of several sections of the regulations, to include fishery marketing cooperatives as qualified loan applicants, to delete the provision allowing a person using a fishing vessel or fishing gear under his control on a lease or share basis to be a qualified applicant for financial assistance, and to specify additional purposes for which applications for financial assistance cannot be considered.

The regulations proposed to be revised related to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U. S. C. 1003); however, it is the policy of the Department of the Interior, that, wherever practicable, the rule making provisions of the act be observed voluntarily. Accordingly, prior to the final adoption of the regulations set forth be-

low in tentative form, consideration will be given to any comments, suggestions, or objections relating thereto which are submitted in writing to the Director, Bureau of Commercial Fisheries, Washington 25, D. C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

Dated: June 20, 1958.

ROGER ERNST,
Assistant Secretary of the Interior.

Sec.

160.1	Definition of terms.
160.2	Purposes of loan fund.
160.3	Interpretation of loan authorization.
160.4	Qualified loan applicants.
160.5	Basic limitations.
160.6	Applications.
160.7	Processing of loan applications.
160.8	Approval of loans.
160.9	Interest.
160.10	Maturity.
160.11	Security.
160.12	Books, records, and reports.
160.13	Penalties on default.

AUTHORITY: §§ 160.1 to 160.13 issued under sec. 4, 70 Stat. 1121.

§ 160.1 *Definitions of terms.* For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary.* The Secretary of the Interior or his authorized representative.

(b) *Administrator.* Administrator of the Small Business Administration or his authorized representative.

(c) *Person.* Individual, association, partnership or corporation, any one or all as the context requires.

(d) *State.* Any State, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

§ 160.2 *Purposes of loan fund.* The broad objective of the fisheries loan fund created by the Fish and Wildlife Act of 1956 is to provide financial assistance which will aid the commercial fishing industry to bring about a general upgrading of the condition of both fishing vessels and fishing gear thereby contributing to more efficient, and profitable fishing operations.

(a) Under section 4 of the act, the Secretary is authorized, among other things:

(1) To make loans for financing and refinancing of operations, maintenance, replacement, repair and equipment of fishing gear and vessels, and for research into the basic problems of fisheries.

(2) Subject to the specific limitations in the section, to consent to the modification, with respect to the rate of interest, time of payment of any installment of principal, or security, of any loan contract to which he is a party.

(b) All financial assistance granted by the Secretary must be for one or more of the purposes set forth in paragraph (a) of this section.

§ 160.3 *Interpretation of loan authorization.* The terms used in the act to describe the purposes for which loans may be granted are construed to be limited to the meanings ascribed in this section.

(a) *Operation of fishing gear and vessels.* The words "operation of fishing gear and vessels" mean and include all phases of activity directly associated

with the catching of fish and shellfish for commercial purposes.

(b) *Maintenance of fishing gear and vessels.* The words "maintenance of fishing gear and vessels" mean the normal and routine upkeep of all parts of fishing gear and fishing vessels, including machinery and equipment.

(c) *Replacement of fishing gear and vessels.* The words "replacement of fishing gear and vessels" contemplate the purchase of fishing gear or equipment, parts, machinery, or other items incident to outfitting for fishing to replace lost, damaged, worn, obsolete, inefficient, or discarded items of a similar nature, or the purchase or construction of a fishing vessel to operate the same type of fishing gear as a comparable vessel which has been lost, destroyed or abandoned or has become obsolete or inefficient. Any vessel lost, destroyed or abandoned more than two years prior to the date of receipt of the application shall not be considered eligible for replacement.

(d) *Repair of fishing gear and vessels.* The words "repair of fishing gear and vessels" mean the restoration of any worn or damaged part of fishing gear or fishing vessels to an efficient operating condition.

(e) *Equipment of fishing gear and vessels.* The words "equipment of fishing gear and vessels" mean the parts, machinery, or other items incident to outfitting for fishing which are purchased for use in fishing operations.

(f) *Research into the basic problems of fisheries.* The words "research into the basic problems of fisheries" mean investigation or experimentation designed to lead to fundamental improvements in the capture or landing of fish conducted as an integral part of vessel or gear operations.

§ 160.4 *Qualified loan applicants.* (a) Any person residing or conducting business in any State shall be deemed to be a qualified applicant for financial assistance if such person;

(1) Owns a commercial fishing vessel of United States registry (if registration is required) used directly in the conduct of fishing operations, irrespective of the type, size, power, or other characteristics of such vessel;

(2) Owns any type of commercial fishing gear used directly in the catching of fish or shellfish;

(3) Owns any property, equipment, or facilities useful in conducting research into the basic problems of fisheries or possesses scientific, technological or other skills useful in conducting such research.

(4) Is a fishery marketing cooperative engaged in marketing all catches of fish or shellfish by its members pursuant to contractual or other enforceable arrangements which empower the cooperative to exercise full control over the conditions of sale of all such catches and disburse the proceeds from all such sales.

(b) Applications for financial assistance cannot be considered if the loan is to be used for:

(1) Any phase of a shore operation.
(2) Refinancing existing preferred mortgages or secured loans on fishing gear and vessels, except in those instances where the Secretary deems such

refinancing to be desirable in carrying out the purpose of the Act.

(3) Paying creditors for debts previously incurred, except for marshalling and liquidating the indebtedness of the applicant to existing lien holders in those instances where the Secretary deems such action to be desirable in carrying out the purpose of the Act.

(4) (i) Effecting any change in ownership of a fishing vessel (except for replacement of a vessel or purchase of the interest of a deceased partner), (ii) replenishing working capital used for such purpose or (iii) liquidating a mortgage given for such purpose less than two years prior to the date of receipt of the application.

(5) Replacement of fishing gear or vessels where the applicant or applicants owned less than a 20 percent interest in said fishing gear or vessel to be replaced or owned less than 20 percent interest in a corporation owning said fishing gear or vessel: *Provided*, That applications for a replacement loan by an eligible applicant cannot be considered unless and until the remaining owners or shareholders shall agree in writing that they will not apply for a replacement loan on the same fishing gear or vessel.

(6) Repair of fishing gear or vessels where such fishing gear or vessels are not offered as collateral for the loan by the applicant.

(7) Financing new business ventures involving fishing operations.

§ 160.5 *Basic limitations.* Applications for financial assistance may be considered only where there is evidence that the credit applied for is not otherwise available on reasonable terms (a) from applicant's bank of account, (b) from the disposal at a fair price of assets not required by the applicant in the conduct of his business or not reasonably necessary to its potential growth, (c) through use of the personal credit and/or resources of the owner, partners, management, affiliates, or principal stockholders of the applicant, or (d) from other known sources of credit. The financial assistance applied for shall be deemed to be otherwise available on reasonable terms unless it is satisfactorily demonstrated that proof of refusal of the desired credit has been obtained from the applicant's bank of account. *Provided*, That if the amount of the loan applied for is in excess of the legal lending limit of the applicant's bank or is in excess of the amount that the bank normally lends to any one borrower, then proof of refusal should be obtained from a correspondent bank or from any other lending institution whose lending capacity is adequate to cover the loan applied for. Proof of refusal of the credit applied for must contain the date, amount, and terms requested. Bank refusals to advance credit will not be considered the full test of unavailability of credit where there is knowledge or reason to believe that credit is otherwise available on reasonable terms from sources other than such banks, the credit applied for cannot be granted notwithstanding the receipt of written refusals from such banks.

§ 160.6 *Application.* Any person desiring financial assistance from the fisheries loan fund shall make application

the Fish and Wildlife Service, Department of the Interior, Washington 25, D. C., on a loan application form furnished by that Service except that, in the discretion of the Secretary, an application made other than by use of the prescribed form may be considered if the application contains information deemed to be sufficient. Such application shall indicate the purposes for which the loan is to be used, the period of the loan, and the security to be offered.

§ 167.7 *Processing of loan applications.* If it is determined, on the basis of a preliminary review, that the application is complete and appears to be in conformity with established rules and procedures, a field examination shall be made. Following completion of the field investigation the application will be forwarded with an appropriate report to the Fish and Wildlife Service, Department of the Interior, Washington 25, D. C.

§ 160.8 *Approval of loans.* Loan agreements shall be executed on a form approved by the Secretary. The Secretary will evidence his approval of the loan by issuing a loan authorization covering the terms and conditions for making the loan. Such loan authorization shall be referred to the Administrator who will direct the closing of the loan with the applicant in the field and

render services involving the collection of repayments and such other loan servicing functions as may be required. Any modification of the terms of a loan agreement following its execution must be agreed to in writing by the borrower and the Secretary.

§ 160.9 *Interest.* The rate of interest on all loans which may be granted is fixed at five per cent per annum.

§ 160.10 *Maturity.* The period of maturity of any loan which may be granted shall be determined and fixed according to the circumstances but in no event shall the date of maturity so fixed exceed a period of ten years.

§ 160.11 *Security.* Loans shall be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured.

§ 160.12 *Books, records, and reports.* The Secretary shall have the right to inspect such books and records of the applicant as the Secretary may deem necessary. Disbursements on a loan made under this part shall be made only upon

the agreement of the loan applicant to maintain proper books of account and to submit such periodic reports as may be required by the Secretary during the period of the loan. During such period, the books and records of the loan applicant shall be made available at all reasonable times for inspection by the Secretary.

§ 160.13 *Penalties on default.* Unless otherwise provided in the loan agreement, failure on the part of a borrower to conform to the terms of the loan agreement will be deemed grounds upon which the Secretary may cause any one or all of the following steps to be taken:

(a) Discontinue any further advances of funds contemplated by the loan agreement.

(b) Take possession of any or all collateral given as security and the property purchased with borrowed funds.

(c) Prosecute legal action against the borrower.

(d) Declare the entire amount advanced immediately due and payable.

(e) Prevent further disbursement of and withdraw any funds advanced to the borrower and remaining under his control.

* * * * *

**FISHERY PRODUCTS
INSPECTION AND CERTIFICATION
REGULATIONS, AND STANDARDS
FOR FISH STICKS, BREADED SHRIMP,
AND FROZEN FISH BLOCKS REISSUED:**

The Department of the Interior has assumed, under the authority of the Fish and Wildlife Act of 1956, the responsibility for furnishing inspection, certification, and grading services to the fishing industry and issuing United States voluntary standards for fishery products. Promulgation of regulations for fishery products inspection and certification and United States

standards for grades of (1) frozen fried fish sticks, (2) frozen raw breaded shrimp, and (3) frozen fish blocks were published in the Federal Register of July 3, 1958. As of July 1, 1958, the Department of the Interior has begun to exercise primary responsibility for these functions. Primary responsibility for these functions has been exercised by the U. S. Department of Agriculture since 1956, and that agency discontinued the exercise of that responsibility on June 30, 1958. The regulations and standards as they appeared in the Federal Register follow:

TITLE 50—WILDLIFE

**Chapter I—Fish and Wildlife Service,
Department of the Interior**

Subchapter K—Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products

PART 170—INSPECTION AND CERTIFICATION

PART 171—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED FISH STICKS

PART 172—UNITED STATES STANDARDS FOR GRADES OF FROZEN RAW BREADED SHRIMP

PART 173—UNITED STATES STANDARDS FOR GRADES OF FROZEN FISH BLOCKS

Basis and purpose. Functions relating to the inspection and certification of processed fishery products, processed products thereof, and certain other processed food products for quality and con-

dition, have been performed since 1956 by the Department of Agriculture under authority contained in Title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U. S. C. 1621-1627), and in accordance with regulations constituting Part 52, Title 7, Code of Federal Regulations.

In furtherance of the inspection and certification program for processed fishery products and upon recommendations by the Fish and Wildlife Service, the Department of Agriculture has heretofore promulgated standards for fishery products as follows:

Subpart—United States Standards for Grades of Frozen Fried Fish Sticks, issued July 18, 1956; published July 21, 1956 (21 F. R. 5475; 7 CFR, 52.3141-52.3151); effective August 21, 1956.

Subpart—United States Standards for Grades of Frozen Raw Breaded Shrimp,

issued December 30, 1957; published January 7, 1958 (23 F. R. 99; 7 CFR 52.3601-52.3607); effective March 1, 1958.

Subpart—United States Standards for Grades of Frozen Fish Blocks, issued February 3, 1958; published February 6, 1958 (23 F. R. 786; 7 CFR 52.3681-52.3692); effective April 1, 1958.

As found and determined by the Director of the Bureau of the Budget on March 22, 1958 (23 F. R. 2304), all functions of the Department of Agriculture which pertain to fish, shellfish and any products thereof, performed under the authority of Title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U. S. C. 1621-1627), including but not limited to the development and promulgation of grade standards for fishery products, the inspection and certification of such products, and the improvement of transportation facilities

and rates for fish and shellfish and any products thereof, were transferred to the Department of the Interior by section 6 (a) of the act of August 8, 1956, popularly known as the Fish and Wildlife Act of 1956 (16 U. S. C. Sec. 742e).

By notice of proposed rule making published on May 30, 1958 (23 F. R. 3780), notice was given of the intention of the Commissioner of Fish and Wildlife to recommend to the Secretary of the Interior the adoption of regulations, set forth therein in tentative form, to be codified as Title 50, Code of Federal Regulations, Part 170—Inspection and Certification and constituting an adaptation, without substantive change, of regulations currently codified as Title 7, Code of Federal Regulations, Part 52, to fit the needs of a fishery products standards program to be administered by the Department of the Interior in substitution for the Department of Agriculture. The public was informed that consideration would be given to any data, views, or arguments relating to the regulations which were received by the Commissioner, U. S. Fish and Wildlife Service, Washington 25, D. C., not later than June 16, 1958.

No data have been received from the public in response to the notice of proposed rule making. It has been determined, however, that the regulations set forth below to govern inspection and certification (Part 170) and prescribing grade standards for the fishery products identified in Parts 171, 172, and 173 are necessary and desirable to facilitate the administration of a fishery product inspection and certification service by the Department of the Interior.

The adoption of these regulations with an effective date of July 1, 1958, is necessary to implement the transfer from the Department of Agriculture to the Department of the Interior of functions relating to the promulgation of grade standards and the inspection and certification of fishery products. By virtue of an administrative agreement concluded between the two agencies, the Department of Agriculture will discontinue the exercise of primary responsibility for the inspection and certification of fishery products at the close of business on June 30, 1958, and the Department of the Interior will begin to exercise primary responsibility for these functions on July 1, 1958. All persons who currently are parties to contracts with the Department of Agriculture for the furnishing of inspection and certification services for fishery products have been notified in writing of the intention to substitute the Department of the Interior for the Department of Agriculture as the administering agency effective July 1, 1958, and have been given ample opportunity to prepare for the effective date of the regulations being adopted herein. No substantive changes have been made in these regulations and only those revisions are being accomplished which are necessary to codify them under Title 50, Code of Federal Regulations. In the circumstances, it has been determined that the 30-day advance publication requirement imposed by section 4 (c) of the Administrative Procedure Act of June 11, 1946, 60 Stat. 238; 5 U. S. C. 1003 (c), may be waived under the exemptions provided in that

section. Accordingly, the regulations set forth below are adopted pursuant to the authority contained in Title II, section 205, of the Agricultural Marketing Act of 1946, as amended (7 U. S. C. 1624), and shall become effective on July 1, 1958.

Dated: June 30, 1958.

FRED A. SEATON,
Secretary of the Interior.

PART 170—INSPECTION AND CERTIFICATION

- Sec. 170.1 Administration of regulations.
- DEFINITIONS
- 170.6 Terms defined.
- 170.7 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.
- INSPECTION SERVICE
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- 170.20 Disposition of inspected sample.
- 170.21 Basis of inspection and grade or compliance determination.
- 170.22 Order of inspection service.
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AUTHORITY: §§ 170.1 to 170.103 Issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

§ 170.1 *Administration of regulations.* The Secretary of the Interior 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 Bureau of Commercial Fisheries of the Department in his discretion.¹

DEFINITIONS

§ 170.6 *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 following 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.).

¹ 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 F. R. 2304) pursuant to section 6 (a) of the act of August 8, 1956, popularly known as the Fish and Wildlife Act of 1956 (16 U. S. C. sec. 742e).

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 United States Department of the Interior.

Deviant. "Deviant" means a sample unit affected by one or more deviations from 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 Bureau of Commercial Fisheries.

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:

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

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

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

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

(c) 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

(d) Performance by an inspector of any related services such as assigning an inspector in a processing plant 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 prepared, processed, and packed, or observe plant sanitation as a prerequisite to the inspection of the processed product, either on a continuous or periodic basis, or checkload the inspected processed product in connection with the marketing of the processed product.

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:

(a) 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:

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

(2) 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

(3) 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.

(b) 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.

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.

§ 170.7 *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:

Official certificate. "Official certificate" means any form of certification, either written or printed, including those defined in § 170.6, used under this part to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

Official device. "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Director for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

Official identification. "Official identification" means any United States (U. S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Director and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

Official mark. "Official mark" means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, including those prescribed in § 170.86 approved by the Secretary and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this part.

Official memorandum. "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

INSPECTION SERVICE

§ 170.12 *Where inspection service is offered.* Inspection service may be furnished wherever any inspector or licensed sampler is available and the facilities and conditions are satisfactory for the conduct of such service.

§ 170.13 *Who may obtain inspection service.* An application for inspection service may be made by any interested party, including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

§ 170.14 *How to make application.* An application for inspection service may be made to the office of inspection or to any inspector, at or nearest the place where the service is desired. An up-to-date list of the Inspection Field Offices of the Department may be obtained upon request to the Director. Satis-

factory proof that the applicant is an interested party shall be furnished.

§ 170.15 *Information required in connection with application.* Application for inspection service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by telegraph. If an application for inspection service is made orally, such application shall be confirmed promptly in writing. In connection with each application for inspection service, there shall be furnished such information as may be necessary to perform an inspection on the processed product for which application for inspection is made, including but not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or car number, codes or other identification marks, the number of containers, the type and size of the containers, the interest of the applicant in the product, whether the lot has been inspected previously to the application by any Federal agency and the purpose for which inspection is desired.

§ 170.16 *Filing of application.* An application for inspection service shall be regarded as filed only when made in accordance with the regulations in this part.

§ 170.17 *Record of filing time.* A record showing the date and hour when each application for inspection or for an appeal inspection is received shall be maintained.

§ 170.18 *When application may be rejected.* An application for inspection service may be rejected by the Secretary (a) for non-compliance by the applicant with the regulations in this part, (b) for non-payment for previous inspection services rendered, (c) when the product is not properly identifiable by code or other marks, or (d) when it appears that to perform the inspection service would not be to the best interests of the Government. Such applicant shall be promptly notified of the reason for such rejection.

§ 170.19 *When application may be withdrawn.* An application for inspection service may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 170.76 for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph or other expenses which have been incurred by the inspection service in connection with such application.

§ 170.20 *Disposition of inspected sample.* Any sample of a processed product that has been used for inspection may be returned to the applicant, at his request and expense; otherwise it shall be destroyed, or disposed of to a charitable institution.

§ 170.21 *Basis of inspection and grade or compliance determination.* (a) Inspection service shall be performed on the basis of the appropriate United States standards for grades of processed products, Federal, Military, Veterans Administration or other government

agency specifications, written contract specification, or any written specification or instruction which is approved by the Secretary.

(b) Unless otherwise approved by the Director compliance with such grade standards, specifications, or instructions shall be determined by evaluating the product, or sample, in accordance with the requirements of such standards, specifications, or instructions: *Provided*, That when inspection for quality is based on any United States grade standard which contains a scoring system the grade to be assigned to a lot is the grade indicated by the average of the total scores of the sample units: *Provided further*, That:

(1) Such sample complies with the applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act;

(2) Such sample complies with the product description;

(3) Such sample meets the indicated grade with respect to factors of quality which are not rated by score points; and

(4) With respect to those factors of quality which are rated by score points, each of the following requirements is met:

(i) None of the sample units falls more than one grade below the indicated grade because of any quality factor to which a limiting rule applies;

(ii) None of the sample units falls more than 4 score points below the minimum total score for the indicated grade; and

(iii) The number of sample units classed as deviants does not exceed the applicable acceptance number indicated in the sampling plans contained in § 170.61. A "deviant," as used in this paragraph, means a sample unit that falls into the next grade below the indicated grade but does not score more than 4 points below the minimum total score for the indicated grade.

(5) If any of the provisions contained in subparagraphs (3) and (4) of this paragraph are not met the grade is determined by considering such provisions in connection with successively lower grades until the grade of the lot, if assignable, is established.

§ 170.22 *Order of inspection service.* Inspection service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal inspection.

§ 170.23 *Postponing inspection service.* If the inspector determines that it is not possible to accurately ascertain the quality or condition of a processed product immediately after processing because the product has not reached equilibrium in color, sirup density, or drained weight, or for any other substantial reason, he may postpone inspection service for such period as may be necessary.

§ 170.24 *Financial interest of inspector.* No inspector shall inspect any processed product in which he is directly or indirectly financially interested.

§ 170.25 *Forms of certificates.* Inspection certificates, certificates of sampling or loading, and other memoranda concerning inspection service shall be prepared on forms approved by the Secretary.

§ 170.26 *Issuance of certificates.* (a) An inspection certificate may be issued only by an inspector: *Provided*, That, another employee of the inspection service may sign any such certificate covering any processed product inspected by an inspector when given power of attorney by such inspector and authorized by the Secretary, to affix the inspector's signature to an inspection certificate which has been prepared in accordance with the facts set forth in the notes made by the inspector, in connection with the inspection.

(b) A certificate of loading shall be issued and signed by the inspector or licensed sampler authorized to check the loading of a specific lot of processed products: *Provided*, That, another employee of the inspection service may sign such certificate of loading covering any processed product checkloaded by an inspector or licensed sampler when given power of attorney by such inspector or licensed sampler: and authorized by the Secretary to affix the inspector's or licensed sampler's signature to a certificate of loading which has been prepared in accordance with the facts set forth in the notes made by the inspector or licensed sampler in connection with the checkloading of a specific lot of processed products.

§ 170.27 *Issuance of corrected certificates.* A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, code marks, grade statements, lot or car numbers, container sizes, net or drained weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

§ 170.28 *Issuance of an inspection report in lieu of an inspection certificate.* A letter report in lieu of an inspection certificate may be issued by an inspector when such action appears to be more suitable than an inspection certificate: *Provided*, That, the issuance of such report is approved by the Secretary.

§ 170.29 *Disposition of inspection certificates.* The original of any inspection certificate, issued under the regulations in this part, and not to exceed four copies thereof, if requested prior to issuance, shall be delivered or mailed promptly to the applicant, or person designated by the applicant. All other copies shall be filed in such manner as the Secretary may designate. Additional copies of any such certificates may be supplied to any interested party as provided in § 170.78.

§ 170.30 *Report of inspection results prior to issuance of formal report.* Upon request of any interested party, the results of an inspection may be telegraphed or telephoned to him, or to any other

person designated by him, at his expense.

APPEAL INSPECTION

§ 170.36 *When appeal inspection may be requested.* An application for an appeal inspection may be made by any interested party who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot of processed products can be positively identified by the inspection service as the lot from which officially drawn samples were previously inspected. Such application shall be made within thirty (30) days following the day on which the previous inspection was performed, except upon approval by the Secretary the time within which an application for appeal inspection may be made may be extended.

§ 170.37 *Where to file for an appeal inspection and information required.*

(a) Application for an appeal inspection may be filed with:

(1) The inspector who issued the inspection certificate on which the appeal covering the processed product is requested; or

(2) The inspector in charge of the office of inspection at or nearest the place where the processed product is located.

(b) The application for appeal inspection shall state the location of the lot of processed products and the reasons for the appeal; and date and serial number of the certificate covering inspection of the processed product on which the appeal is requested, and such application may be accompanied by a copy of the previous inspection certificate and any other information that may facilitate inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

§ 170.38 *When an application for an appeal inspection may be withdrawn.* An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 170.76, for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

§ 170.39 *When appeal inspection may be refused.* An application for an appeal inspection may be refused if:

(a) The reasons for the appeal inspection are frivolous or not substantial;

(b) The quality or condition of the processed product has undergone a material change since the inspection covering the processed product on which the appeal inspection is requested;

(c) The lot in question is not, or cannot be made accessible for the selection of officially drawn samples;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the lot from which officially drawn samples were previously inspected; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

§ 170.40 *Who shall perform appeal inspection.* An appeal inspection shall be performed by an inspector or inspectors (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Secretary and, whenever practical, such appeal inspection shall be conducted jointly by two such inspectors: *Provided*, That the inspector who made the inspection on which the appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.

§ 170.41 *Appeal inspection certificate.* After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the processed product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the processed product described therein. The inspector or inspectors issuing an appeal inspection certificate shall forward notice of such issuance to such persons as he considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates, issuance of certificates, and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who received copies of the superseded certificate.

LICENSING OF SAMPLERS AND INSPECTORS

§ 170.47 *Who may become licensed sampler.* Any person deemed to have the necessary qualifications may be licensed as a licensed sampler to draw samples for the purpose of inspection under the regulations in this part. Such a license shall bear the printed signature of the Secretary, and shall be countersigned by an authorized employee of the Department. Licensed samplers shall have no authority to inspect processed products under the regulations in this part except as to identification and condition of the containers in a lot. A licensed sampler shall perform his duties pursuant to the regulations in this part as directed by the Director.

§ 170.48 *Application to become a licensed sampler.* Application to become a licensed sampler shall be made to the Secretary on forms furnished for that purpose. Each such application shall be signed by the applicant in his own handwriting, and the information contained therein shall be certified by him to be true, complete, and correct to the best of his knowledge and belief, and the application shall contain or be accompanied by:

(a) A statement showing his present and previous occupations, together with names of all employers for whom he has worked, with periods of service, during the ten years previous to the date of his application;

(b) A statement that, in his capacity as a licensed sampler, he will not draw samples from any lot of processed products with respect to which he or his employer is an interested party;

(c) A statement that he agrees to comply with all terms and conditions of the regulations in this part relating to duties of licensed samplers; and

(d) Such other information as may be requested.

§ 170.49 *Inspectors.* Inspections will ordinarily be performed by employees under the Secretary who are employed as Federal Government employees for that purpose. However, any person employed under any joint Federal-State inspection service arrangement may be licensed, if otherwise qualified, by the Secretary to make inspections in accordance with this part on such processed products as may be specified in his license. Such license shall be issued only in a case where the Secretary is satisfied that the particular person is qualified to perform adequately the inspection service for which such person is to be licensed. Each such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. An inspector shall perform his duties pursuant to the regulations in this part as directed by the Director.

§ 170.50 *Suspension or revocation of license of licensed sampler or licensed inspector.* Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed sampler, or licensed inspector, issued pursuant to the regulations in this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid seven days period and consideration of such argument and evidence, the Secretary shall take such action as he deems appropriate with respect to such suspension or revocation.

§ 170.51 *Surrender of license.* Upon termination of his services as a licensed sampler or licensed inspector, or suspension or revocation of his license, such licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in a case of an expired license.

SAMPLING

§ 170.57 *How samples are drawn by inspectors or licensed samplers.* An inspector or a licensed sampler shall select samples, upon request, from designated lots of processed products which are so placed as to permit thorough and proper sampling in accordance with the regulations in this part. Such person shall, unless otherwise directed by the Secre-

tary, select sample units of such products at random, and from various locations in each lot in such manner and number, not inconsistent with the regulations in this part, as to secure a representative sample of the lot. Samples drawn for inspection shall be furnished by the applicant at no cost to the Department.

§ 170.58 *Accessibility for sampling.* Each applicant shall cause the processed products for which inspection is requested to be made accessible for proper sampling. Failure to make any lot accessible for proper sampling shall be sufficient cause for postponing inspection service until such time as such lot is made accessible for proper sampling.

§ 170.59 *How officially drawn samples are to be identified.* Officially drawn samples shall be marked by the inspector or licensed sampler so such samples can be properly identified for inspection.

§ 170.60 *How samples are to be shipped.* Unless otherwise directed by the Secretary, samples which are to be shipped to any office of inspection shall be forwarded to the office of inspection serving the area in which the processed products from which the samples were drawn is located. Such samples shall be shipped in a manner to avoid, if possible, any material change in the quality or condition of the sample of the processed product. All transportation charges in connection with such shipments of samples shall be at the expense of the applicant and wherever practicable, such charges shall be prepaid by him.

§ 170.61 *Sampling plans and procedures for determining lot compliance.* (a) Except as otherwise provided for in this section in connection with in-plant inspection and unless otherwise approved by the secretary, samples shall be selected from each lot in the exact number of sample units indicated for the lot size in the applicable single sampling plan or, at the discretion of the inspection service, any comparable multiple sampling plan: *Provided,* That at the discretion of the inspection service the number of sample units selected may be increased to the exact number of sample units indicated for any one of the larger sample sizes provided for in the appropriate plans.

(b) Under the single sampling plans with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample does not exceed the acceptance number prescribed for the sample size the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample exceeds the acceptance number prescribed for the sample size the lot fails the requirement.

(c) Under the multiple sampling plans inspection commences with the smallest sample size indicated under the appropriate plan and with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered does not exceed the acceptance number prescribed for that sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered equals or exceeds the rejection number prescribed for that sample size, the lot fails the requirement; or

(3) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered falls between the acceptance and rejection numbers of the plan, additional sample units are added to the sample so that the sample thus cumulated equals the next larger cumulative sample size in the plan. It may then be determined that the lot meets or fails the specific requirement by considering the cumulative sample and applying the procedures outlined in subparagraphs (1) and (2) of this paragraph or by considering successively larger samples cumulated in the same manner until the lot meets or fails the specific requirement.

(d) If in the conduct of any type of in-plant inspection the sample is examined before the lot size is known and the number of sample units exceeds the prescribed sample size for such lot but does not equal any of the prescribed larger sample sizes the lot may be deemed to meet or fail a specific requirement in accordance with the following procedure:

(1) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample does not exceed the acceptance number of the next smaller sample size the lot meets the requirements;

(2) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample equals the acceptance number prescribed for the next larger sample size additional sample units shall be selected to increase the sample to the next larger prescribed sample size;

(3) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample exceeds the acceptance number prescribed for the next larger sample size the lot fails the requirement.

(e) In the event that the lot compliance determination provisions of a standard or specification are based on the number of specified deviations instead of deviants the procedures set forth in this section may be applied by substituting the word "deviation" for the word "deviant" wherever it appears.

(f) Sampling plans referred to in this section are those contained in Tables I, II, III, IV, V, and VI which follow or any other plans which are applicable. For processed products not included in these tables, the minimum sample size shall be the exact number of sample units prescribed in the table, container group, and lot size that, as determined by the inspector, most closely resembles the product, type, container size and amount of product to be sampled.

§ 170.62 *Issuance of certificate of sampling.* Each inspector and each licensed sampler shall prepare and sign a certificate of sampling to cover the samples drawn by the respective person, except that an inspector who inspects the samples which he has drawn need not prepare a certificate of sampling. One copy of each certificate of sampling prepared shall be retained by the inspector or licensed sampler (as the case

SINGLE SAMPLING PLANS AND ACCEPTANCE LEVELS

TABLE I—CANNED OR SIMILARLY PROCESSED FISHERY PRODUCTS, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)								
GROUP 1 Any type of container of less volume than that of a No. 300 size can (300 x 407).	3,600 or less...	3,601-14,400	14,401-48,000	48,001-96,000	96,001-156,000	156,001-228,000	228,001-300,000	300,001-420,000	Over 420,000.
GROUP 2 Any type of container of a volume equal to or exceeding that of a No. 300 size can, but not exceeding that of a No. 3 cylinder size can (404 x 700).	2,400 or less...	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000.
GROUP 3 Any type of container of a volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can (663 x 812).	1,200 or less...	1,201-7,200	7,201-15,000	15,001-24,000	24,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000.
GROUP 4 Any type of container of a volume exceeding that of a No. 12 size can, but not exceeding that of a 5-gallon container.	200 or less...	201-800	801-1,600	1,601-2,400	2,401-3,600	3,601-8,000	8,001-16,000	16,001-28,000	Over 28,000
GROUP 5 Any type of container of a volume exceeding that of a 5-gallon container.	25 or less....	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
Single sampling plans ¹									
Sample size (number of sample units). ²	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

¹ For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

² The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 2 pounds of product. When determined by the inspector that a 2-pound sample unit is inadequate, a larger sample unit may be substituted.

TABLE II—FROZEN OR SIMILARLY PROCESSED FISHERY PRODUCTS, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)								
GROUP 1 Any type of container of 1 pound or less net weight.	2,400 or less...	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000.
GROUP 2 Any type of container over 1 pound but not over 4 pounds net weight.	1,800 or less...	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000.
GROUP 3 Any type of container over 4 pounds but not over 10 pounds net weight.	900 or less...	901-3,600	3,601-10,800	10,801-18,000	18,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000.
GROUP 4 Any type of container over 10 pounds but not over 100 pounds net weight.	200 or less...	201-800	801-1,600	1,601-2,400	2,401-3,600	3,601-8,000	8,001-16,000	16,001-28,000	Over 28,000.
GROUP 5 Any type of container over 100 pounds net weight.	25 or less....	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
Single sampling plans ¹									
Sample size (number of sample units). ²	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	

¹ For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

² The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 3 pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.

may be) and the original and all other copies thereof shall be disposed of in accordance with the instructions of the Secretary.

§ 170.63 Identification of lots sampled.
Each lot from which officially drawn samples are selected shall be marked in such manner as may be prescribed by the Secretary, if such lots do not otherwise possess suitable identification.

FEEs AND CHARGES

§ 170.69 Payment of fees and charges.
Fees and charges for any inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulations in this part, and, if so required by the person in charge of the office of inspection serving the area where the services are

to be performed, an advance of funds prior to rendering inspection service in an amount suitable to the Secretary, or a surety bond suitable to the Secretary, may be required as a guarantee of payment for the services rendered. All fees and charges for any inspection service performed pursuant to the regulations in this part shall be paid by check, draft, or money order payable to the Treasurer of

SINGLE SAMPLING PLANS AND ACCEPTANCE LEVELS—Continued

TABLE III—CANNED, FROZEN, OR OTHERWISE PROCESSED FISHERY AND RELATED PRODUCTS, AND PRODUCTS THEREOF OF A COMMINUTED, FLUID, OR HOMOGENEOUS STATE

Container size group ¹	Lot size (number of containers)									
	GROUP 1 Any type of container of 12 ounces or less.	5,400 or less..	5,401-21,600	21,601-62,400	62,401-112,000	112,001-174,000	174,001-240,000	240,001-360,000	360,001-480,000	Over 480,000
GROUP 2 Any type of container over 12 ounces but not over 60 ounces.	3,600 or less..	3,601-14,400	14,401-48,000	48,001-96,000	96,001-156,000	156,001-228,000	228,001-300,000	300,001-420,000	Over 420,000	
GROUP 3 Any type of container over 60 ounces but not over 160 ounces.	1,800 or less..	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000	
GROUP 4 Any type of container over 160 ounces but not over 10 gallons or 100 pounds whichever is applicable.	200 or less...	201-800	801-1,600	1,601-3,200	3,201-8,000	8,001-16,000	16,001-24,000	24,001-32,000	Over 32,000	
GROUP 5 Any type of container over 10 gallons or 100 pounds whichever is applicable.	25 or less....	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200	

Single sampling plans ¹

Sample size (number of sample units). ²	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

¹ Ounces pertain to either fluid ounces of volume or avoirdupois ounces of net weight whichever is applicable for the product involved.
² For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

³ The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. A smaller sample unit may be substituted in group 3 at the Inspector's discretion. Groups 4, 5, and 6—approximately 16 ounces of product. When determined by the inspector that a 16-ounce sample unit is inadequate, a larger sample unit may be substituted.

TABLE IV—DEHYDRATED FISHERY AND RELATED PRODUCTS

Container size group	Lot size (number of containers)									
	GROUP 1 Any type of container of 1 pound or less net weight.	1,800 or less..	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000
GROUP 2 Any type of container over 1 pound but not over 6 pounds net weight.	900 or less...	901-3,600	3,601-10,800	10,801-18,000	18,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000	
GROUP 3 Any type of container over 6 pounds but not over 20 pounds net weight.	200 or less...	201-800	801-1,600	1,601-3,200	3,201-8,000	8,001-16,000	16,001-24,000	24,001-32,000	Over 32,000	
GROUP 4 Any type of container over 20 pounds but not over 100 pounds net weight.	48 or less....	49-400	401-1,200	1,201-2,000	2,001-2,800	2,801-6,000	6,001-9,600	9,601-15,000	Over 15,000	
GROUP 5 Any type of container over 100 pounds net weight.	16 or less....	17-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200	

Single sampling plans ¹

Sample size (number of sample units). ²	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

¹ For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

² The sample units for the various container size groups are as follows: Group 1—1 container and its entire contents. Groups 2, 3, 4, and 5—1 container and its entire contents or a smaller sample unit when determined by the inspector to be adequate.

TABLE V—SINGLE SAMPLING PLANS FOR USE IN INCREASING SAMPLE SIZE BEYOND 72 SAMPLE UNITS

Sample size, n.....	84	96	108	120	132	144	156	168	180	192	204	216	230	244	258	272	286	300	314	328	342	356	370	384	400
Acceptance numbers, c.....	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33

the United States and remitted to the office of inspection serving the area in which the services are performed, within ten (10) days from the date of billing, unless otherwise specified in a contract between the applicant and the Secretary, in which latter event the contract provisions shall apply.

§ 170.70 *Schedule of fees.* (a) Unless otherwise provided in a written agree-

ment between the applicant and the Secretary, the fees to be charged and collected for any inspection service performed under the regulations in this part at the request of the United States, or any agency or instrumentality thereof, shall be at the rate of \$4.50 per hour.

(b) Unless otherwise provided in the regulations in this part, the fees to be charged and collected for any inspection

service performed under the regulations in this part shall be based on the applicable rates specified in this section.
 (1) *Canned or similarly processed fishery products, and products thereof.*

OFFICIALLY DRAWN SAMPLES

For each lot packed in containers of a volume not exceeding that of a No. 12 size can (603 x 812):

MULTIPLE SAMPLING PLANS¹
TABLE VI—MULTIPLE SAMPLING PLANS COMPARABLE TO THE INDICATED SINGLE SAMPLING PLANS

Indicated single sampling plan: Single sample size, <i>n</i>	6		13		21		29		38		48		60		72			
	1		2		3		4		5		6		7		8			
Acceptance numbers, <i>c</i>	1		2		3		4		5		6		7		8			
Cumulative sample sizes, <i>n_c</i> , and acceptance numbers, <i>c</i> , and rejection numbers, <i>r</i> , for multiple sampling.	<i>n_c</i>	<i>c</i>	<i>r</i>	<i>n_c</i>	<i>c</i>	<i>r</i>	<i>n_c</i>	<i>c</i>	<i>r</i>	<i>n_c</i>	<i>c</i>	<i>r</i>	<i>n_c</i>	<i>c</i>	<i>r</i>	<i>n_c</i>	<i>c</i>	<i>r</i>
	4	0	2	8	0	3	10	0	3	12	0	4	14	0	4	16	0	5
	6	0	2	10	0	3	14	1	4	16	0	5	20	1	6	24	1	6
	8	1	2	12	1	3	18	1	4	20	1	6	26	1	6	32	2	7
				14	2	3	22	2	5	24	2	6	30	2	6	38	3	8
							26	4	5	28	3	7	36	4	7	44	4	8
										32	3	6	40	3	8	48	4	8
										36	5	6	44	6	7	56	7	8
													56	7	8	68	8	9
																68	8	9
																82	9	10

¹ These multiple sampling plans may be used in lieu of the single sampling plans listed at the heading of each column.

Minimum fee for 600 cases or less... \$9.00
For each additional 100 cases, or fraction thereof, in excess of 600 cases but not in excess of 10,000 cases... 1.00
For each additional 100 cases, or fraction thereof, in excess of 10,000 cases... 2.80

UNOFFICIALLY DRAWN SAMPLES

For containers of a volume not exceeding that of a No. 3 size can (404 x 414):
Minimum fee for 4 containers or less... \$4.50
For each additional container in excess of 4 containers... 1.00
For containers of a volume exceeding that of a No. 3 size can (404 x 414), but not exceeding that of a No. 12 size can (603 x 812):
Minimum fee for 2 containers or less... \$4.50
For each additional container in excess of 2 containers... 2.00

(2) Other processed food products. The fee to be charged and collected for the inspection of any processed product not included in subparagraph (1) of this paragraph shall be at the rate of \$4.50 per hour for the time consumed by the inspector in making the inspection, including the time consumed in sampling by the inspector or licensed sampler: *Provided*, That, fees for sampling time will not be assessed by the office of inspection when such fees have been assessed and collected directly from the applicant by a licensed sampler.

§ 170.71 Fees to be charged and collected for sampling when performed by a licensed sampler. Such sampling fees are specifically prescribed by the Secretary in connection with the licensing of the particular sampler (which fees are to be prescribed in the light of the sampling work to be performed by such sampler and other pertinent factors) may be assessed and collected by such licensed sampler directly from the applicant: *Provided*, That if such licensed sampler is an employee of a State, the appropriate authority of that State may make the collection, or they may be assessed and collected by the office of inspection serving the area where the services are performed.

¹ However, the fee for any additional lots of 200 cases or less which are offered for inspection by the same applicant at the same time and which are available for inspection at the same time and place shall be \$6.75.

The fees specified in this section are exclusive of charges for such micro, chemical and certain other special analyses, other than salt and acidity by direct titration, insoluble solids (by refractometer) or total solids (by refractometer), which may be requested by the applicant or required by the inspector to determine the quality or condition of the processed product.

§ 170.72 Inspection fees when charges for sampling have been collected by a licensed sampler. For each lot of processed products from which samples have been drawn by a licensed sampler and with respect to which the sampling fee has been collected by the licensed sampler, the fee to be charged for the inspection shall be 75 percent of the fee provided in this part applicable to the respective processed product: *Provided*, That, if the fee charged for the inspection service is based on the hourly rate of charge, the fee shall be at the rate of \$4.50 per hour prescribed in this part.

§ 170.73 Inspection fees when charges for sampling have not been collected by a licensed sampler. For each lot of processed products from which samples have been drawn by a licensed sampler, and with respect to which the sampling fee has not been collected by the licensed sampler, the fee to be charged for the inspection shall be 75 percent of the fee as prescribed in this part, plus a reasonable charge to cover the cost of sampling as may be determined by the Secretary: *Provided*, That, if the fee charged is based on the hourly rate, the fee shall be, at the rate of \$4.50 per hour prescribed in this part, plus a reasonable charge to cover the cost of sampling, as determined by the Secretary.

§ 170.74 Fee for appeal inspection. The fee to be charged for an appeal inspection shall be at the rates prescribed in this part for other inspection services: *Provided*, That, if the result of any appeal inspection made for any applicant, other than the United States or any agency or instrumentality thereof, discloses that a material error was made in the inspection on which the appeal is made, no inspection fee shall be assessed.

§ 170.75 Charges for micro, chemical, and certain other special analyses. (a) The following charges shall be made for micro, chemical, and certain other special analyses which may be requested by the applicant or required by the inspector to determine the quality or condition of the processed product:²

Type of analysis	For first analysis	For each additional analysis
Mold count.....	\$1.50	\$1.50
Worm larvae and insect fragment count.....	3.00	3.00
Fly egg and maggot count.....	3.00	1.50

² When any of these analyses are made at the request of an applicant and are not in connection with an inspection to determine the quality or condition of the product, the listed fees shall be increased by 30 percent.

Alcohol insoluble solids.....	5.00	3.00
Alcohol (distillation and specific gravity).....	9.00	5.00
Ascorbic acid (vitamin C).....	9.00	2.00
Total ash (carbonated or sulfated).....	5.00	3.00
Ash, acid insoluble.....	6.00	3.00
Ash, water soluble or water insoluble.....	6.00	3.00
Ash, NaCl free (approximate method—total ash less NaCl).....	9.00	3.00
Ash, NaCl free (P ₂ O ₅ x 2).....	15.00	6.00
Catalase test.....	3.00	1.50
Crude fiber.....	12.00	6.00
Ether extract (crude fat).....	9.00	5.00
Fat (acid hydrolysis).....	9.00	6.00
Fiber (green and wax bean).....	6.00	3.00
Iodine number.....	9.00	4.50
Moisture (air oven method).....	3.00	3.00
Moisture (vacuum oven method).....	3.00	3.00
Nitrogen or crude protein.....	9.00	4.50
Non-volatile ether extract.....	15.00	6.00
Potash (K ₂ O).....	15.00	6.00
Phosphorus pentoxide (P ₂ O ₅) and aluminum trioxide (Al ₂ O ₃).....	18.00	12.00
Recoverable oil.....	3.00	2.00
Peroxidase test (frozen vegetables).....	4.50	3.00
Reducing sugars.....	12.00	6.00
Reducing sugars plus sucrose.....	18.00	12.00
Sucrose (direct polarization).....	6.00	3.00
Sucrose (chemical methods).....	18.00	12.00
Starch or carbohydrates (direct hydrolysis).....	18.00	9.00
Sulphur dioxide (direct titration).....	5.00	3.00
Sulphur dioxide (distillation method).....	9.00	5.00
Sodium.....	13.50	4.50
Total solids (drying method).....	3.00	3.00
Vanillin.....	12.00	9.00
Volatile and non-volatile ether extract.....	10.00	6.00
Water extract.....	5.00	5.00

(b) The following charges shall be made for analyses which are requested by an applicant and are not in connection with an inspection to determine the quality or condition of the product:⁴

Type of analysis	For first analysis	For each additional analysis
Brix readings (refractometric or spindle).....	\$3.00	\$1.00
Brix readings (double dilution).....	3.00	2.00
Total acidity (direct titration).....	3.00	1.00
Free fatty acids.....	4.50	1.50
Salt (NaCl)—direct titration.....	4.50	1.50
Soluble solids (refractometric method).....	3.00	1.00
Total solids (refractometric method).....	3.00	1.00

§ 170.76 When charges are to be based on hourly rate not otherwise provided for in this part. When inspection is for condition only or when inspection services or related services are rendered and formal certificates are not issued or when the services rendered are such that charges based upon the foregoing sections would be inadequate or inequitable, charges may be based on the time consumed by the inspector in performance of such inspection service at the rate of \$4.50 per hour.

⁴ When these analyses are made in connection with an inspection to determine the quality or condition of the product no fee shall be charged for the analyses.

§ 170.77 *Fees for score sheets.* If the applicant for inspection service requests score sheets showing in detail the inspection of each container or sample inspected and listed thereon, such score sheets may be furnished by the inspector in charge of the office of inspection serving the area where the inspection was performed; and such applicant shall be charged at the rate of \$2.25 for each twelve sample units, or fraction thereof, inspected and listed on such score sheets.

§ 170.78 *Fees for additional copies of inspection certificates.* Additional copies of any inspection certificate other than those provided for in § 170.29, may be supplied to any interested party upon payment of a fee of \$2.25 for each set of five (5) or fewer copies.

§ 170.79 *Travel and other expenses.* Charges may be made to cover the cost of travel and other expenses incurred in connection with the performance of any inspection service, including appeal inspections: *Provided*, That, if charges for sampling or inspection are based on an hourly rate, an additional hourly charge may be made for travel time including time spent waiting for transportation as well as time spent traveling, but not to exceed eight hours of travel time for any one person for any one day: *And provided further*, That, if travel is by common carrier, no hourly charge may be made for travel time outside the employee's official work hours.

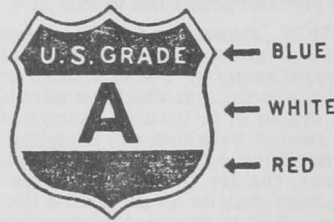
§ 170.80 *Charges for inspection service on a contract basis.* (a) Irrespective of fees and charges prescribed in foregoing sections, the Secretary may enter into contracts with applicants to perform continuous inspection services or other inspection services pursuant to the regulations in this part and other requirements as prescribed by the Secretary in such contract, and the charges for such inspection service provided in such contracts shall be on such basis as will reimburse the Bureau of Commercial Fisheries of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Secretary.

(b) Irrespective of fees and charges prescribed in the foregoing sections, the Secretary may enter into a written memorandum of understanding or contract, whichever may be appropriate, with any administrative agency charged with the administration of a marketing agreement or a marketing order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as revised (16 U. S. C. 661 et seq.) for the making of inspections pursuant to said agreement or order on such basis as will reimburse the Bureau of Commercial Fisheries of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Secretary. Likewise, the Secretary may enter into a written memorandum of understanding or contract, whichever may be appropriate, with an administrative agency charged with the administration of a similar program operated pursuant to the laws of any State.

(c) No Member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in this section or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a Member of, or Delegate to Congress, or a Resident Commissioner in his capacity as a fisherman.

MISCELLANEOUS

§ 170.86 *Approved identification—(a) Grade marks.* The approved grade mark or identification may be used on containers, labels or otherwise indicated for any processed product that (1) has been packed under continuous inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such grade, quality or classification. The grade marks approved for use shall be similar in form and design to the examples in Figures 1 through 4 of this section.



Shield using red, white, and blue background or other colors appropriate for label.

FIGURE 1.



Shield with plain background.

FIGURE 2.

U. S. GRADE A

FIGURE 3.

U. S.
GRADE



FIGURE 4.

(b) *Inspection marks.* The approved inspection marks may be used on con-

tainers, labels or otherwise indicated for any processed product that (1) has been packed under continuous inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such quality or grade classification as may be approved by the Secretary. The inspection marks approved for use shall be similar in form and design to the examples in Figures 5, 6, and 7 of this section.



Statement enclosed within a shield.

FIGURE 5.

(c) *Combined grade and inspection marks.* The grade marks set forth in paragraph (a) of this section and the inspection marks set forth in paragraph (b) of this section may be combined into a consolidated grade and inspection mark for use on processed products that have been packed under continuous inspection as provided in this part.

(d) *Products not eligible for approved identification.* Processed products which have not been packed under continuous inspection as provided in this part shall not be identified by approved grade or inspection marks, but such products may be inspected on a lot inspection basis as provided in this part and identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sample mark similar in form and design to the example in Figure 8 of this section.



FIGURE 8.

§ 170.87 *Fraud or misrepresentation.* Any or all benefits of the act may be denied any person committing willful misrepresentation or any deceptive or fraudulent practice in connection with:

- (a) The making or filing of an application for any inspection service;
- (b) The submission of samples for inspection;

PACKED UNDER
CONTINUOUS
INSPECTION
OF THE
U. S. DEPT. OF
THE INTERIOR

Statements without the use of the shield.

FIGURE 6.

PACKED BY

UNDER CONTINUOUS
INSPECTION OF THE
U. S. DEPT. OF THE INTERIOR

FIGURE 7.

(c) The use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part;

(d) The use of the words "Packed under continuous inspection of the U. S. Department of the Interior," any legend signifying that the product has been officially inspected, any statement of grade or words of similar import in the labeling or advertising of any processed product;

(e) The use of a facsimile form which simulates in whole or in part any official U. S. certificate for the purpose of purporting to evidence the U. S. grade of any processed product; or

(f) Any wilful violation of the regulations in this part or supplementary rules or instructions issued by the Secretary.

§ 170.88 *Political activity.* All inspectors and licensed samplers are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, are prohibited. This applies to all appointees or licensees, including, but not limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 170.89 *Interfering with an inspector or licensed sampler.* Any further benefits of the act may be denied any applicant or other interested party who either personally or through an agent or representative interferes with or obstructs, by intimidation, threats, assault, or in any other manner, an inspector or licensed sampler in the performance of his duties.

§ 170.90 *Compliance with other laws.* None of the requirements in the regulations in this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to the operation of food processing establishments and to processed food products.

§ 170.91 *Identification.* Each inspector and licensed sampler shall have in his possession at all times and present upon request, while on duty, the means of identification furnished by the Department to such person.

REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS⁵

⁵ Compliance with the above requirements does not excuse failure to comply with all applicable sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.

§ 170.97 *Plant survey.* (a) Prior to the inauguration of continuous inspection service on a contract basis, the Secretary will make, or cause to be made, a survey and inspection of the plant where such service is to be performed to determine whether the plant and methods of operation are suitable and adequate for the performance of such services in accordance with:

(1) The regulations in this part, including, but not limited to, the requirements contained in §§ 170.97 through 170.103; and

(2) The terms and provisions of the contract pursuant to which the service is to be performed.

§ 170.98 *Premises.* The premises of the plant shall be free from conditions objectionable to food processing operations; and such conditions include, but are not limited to, the following:

- (a) Strong offensive odors;
- (b) Litter, waste, and refuse (e. g., garbage, viner refuse, and damaged containers) within the immediate vicinity of the plant buildings or structures;
- (c) Excessively dusty roads, yards, or parking lots; and
- (d) Poorly drained areas.

§ 170.99 *Buildings and structures.* The plant buildings and structures shall be properly constructed and maintained in a sanitary condition, including, but not being limited to, the following requirements:

(a) There shall be sufficient light (1) consistent with the use to which the particular portion of the building is devoted and (2) to permit efficient cleaning. Belts and tables on which picking, sorting, or trimming operations are carried on shall be provided with sufficient nonglaring light to insure adequacy of the respective operation.

(b) If practicable, there shall be sufficient ventilation in each room and compartment thereof to prevent excessive condensation of moisture and to insure sanitary and suitable processing and operating conditions. If such ventilation does not prevent excessive condensation, the Secretary may require that suitable facilities be provided to prevent the condensate from coming in contact with equipment used in processing operations and with any ingredient used in the manufacture or production of a processed product.

(c) There shall be an efficient waste disposal and plumbing system. All drains and gutters shall be properly installed with approved traps and vents, and shall be maintained in good repair and in proper working order.

(d) There shall be ample supply of both hot and cold water; and the water shall be of safe and sanitary quality with adequate facilities for its (1) distribution throughout the plant, and (2)

protection against contamination and pollution.

(e) Roofs shall be weather-tight. The walls, ceilings, partitions, posts, doors, and other parts of all buildings and structures shall be of such materials, construction, and finish as to permit their efficient and thorough cleaning. The floors shall be constructed of tile, cement, or other equally impervious material, shall have good surface drainage, and shall be free from openings or rough surfaces which would interfere with maintaining the floors in a clean condition.

(f) Each room and each compartment in which any processed products are handled, processed, or stored (1) shall be so designed and constructed as to insure processing and operating conditions of a clean and orderly character; (2) shall be free from objectionable odors and vapors; and (3) shall be maintained in a clean and sanitary condition.

(g) Every practical precaution shall be taken to exclude dogs, cats, and vermin (including, but not being limited to, rodents and insects) from the rooms in which processed products are being prepared or handled and from any rooms in which ingredients (including, but not being limited to, salt, sugar, spices, flour, syrup, and fishery products) are handled or stored. Screens, or other devices, adequate to prevent the passage of insects shall, where practical, be provided for all outside doors and openings. The use of poisonous cleansing agents, insecticides, bactericides, or rodent poisons shall not be permitted except under such precautions and restrictions as will prevent any possibility of their contamination of the processed product.

§ 170.100 *Facilities.* Each plant shall be equipped with adequate sanitary facilities and accommodations, including, but not being limited to, the following:

(a) There shall be a sufficient number of adequately lighted toilet rooms, ample in size, and conveniently located. Such rooms shall not open directly into rooms or compartments in which processed products are being manufactured or produced, or handled. Toilet rooms shall be adequately screened and equipped with self-closing doors and shall have independent outside ventilation.

(b) Lavatory accommodations (including, but not being limited to, running water, single service towels, and soap) shall be placed at such locations in or near toilet rooms and in the manufacturing or processing rooms or compartments as may be necessary to assure the cleanliness of each person handling ingredients used in the manufacture or production of processed products.

(c) Containers intended for use as containers for processed products shall not be used for any other purpose.

(d) No product or material which creates an objectionable condition shall be processed, handled, or stored in any room, compartment, or place where any processed product is manufactured, processed, or handled.

(e) Suitable facilities for cleaning (e. g., brooms, brushes, mops, clean cloths, hose, nozzles, soaps, detergent, sprayers, and steam pressure hose and guns) shall be provided at convenient locations throughout the plant.

§ 170.101 *Equipment.* All equipment used for receiving, washing, segregating, picking, processing, packaging, or storing any processed products or any ingredients used in the manufacture or production thereof, shall be of such design, material, and construction as will:

(a) Enable the examination, segregation, preparation, packaging and other processing operations applicable to processed products, in an efficient, clean, and sanitary manner, and

(b) Permit easy access to all parts to insure thorough cleaning and effective bactericidal treatment. Insofar as is practicable, all such equipment shall be made of corrosion-resistant material that will not adversely affect the processed product by chemical action or physical contact. Such equipment shall be kept in good repair and sanitary condition.

§ 170.102 *Operations and operating procedures.* (a) All operations in the receiving, transporting, holding, segregating, preparing, processing, packaging and storing of processed products and ingredients, used as aforesaid, shall be strictly in accord with clean and sanitary methods and shall be conducted as rapidly as practicable and at temperatures that will not tend to cause (1) any material increase in bacterial or other micro-organic content, or (2) any deterioration or contamination of such processed products or ingredients thereof. Mechanical adjustments or practices which may cause contamination of foods by oil, dust, paint, scale, fumes, grinding materials, decomposed food, filth, chemicals, or other foreign materials shall not be conducted during any manufacturing or processing operation.

(b) All processed products and ingredients thereof shall be subjected to continuous inspection throughout each manufacturing or processing operation. All processed products which are not manufactured or prepared in accordance with the requirements contained in §§ 170.97 through 170.103 or are not fit for human food shall be removed and segregated prior to any further processing operation.

(c) All ingredients used in the manufacture or processing of any processed product shall be clean and fit for human food.

(d) The methods and procedures employed in the receiving, segregating, handling, transporting, and processing of ingredients in the plant shall be adequate to result in a satisfactory processed product. Such methods and procedures include, but are not limited to, the following requirements:

(1) Containers, utensils, pans, and buckets used for the storage or transporting of partially processed food ingredients shall not be nested unless re-washed before each use;

(2) Containers which are used for holding partially processed food ingredients shall not be stacked in such manner as to permit contamination of the partially processed food ingredients;

(3) Packages or containers for processed products shall be clean when being filled with such products; and all reasonable precautions shall be taken to avoid soiling or contaminating the surface of any package or container liner which is,

or will be, in direct contact with such products. If, to assure a satisfactory finished product, changes in methods and procedures are required by the Secretary, such changes shall be effectuated as soon as practicable.

§ 170.103 *Personnel; health.* In addition to such other requirements as may be prescribed by the Secretary with respect to persons in any room or compartment where exposed ingredients are prepared, processed, or otherwise handled, the following shall be complied with:

(a) No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted;

(b) Infections or cuts shall be covered with rubber gloves or other suitable covering;

(c) Clean, suitable clothing shall be worn;

(d) Hands shall be washed immediately prior to starting work and each resumption of work after each absence from the work station;

(e) Spitting, and the use of tobacco are prohibited; and

(f) All necessary precautions shall be taken to prevent the contamination of processed products and ingredients thereof with any foreign substance (including, but not being limited to, perspiration, hair, cosmetics, and medications).

PART 171—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED FISH STICKS¹

PRODUCT DESCRIPTION AND GRADES

Sec.	Product description.
171.1	Product description.
171.2	Grades of frozen fried fish sticks.

WEIGHTS AND DIMENSIONS

171.6	Recommended weights and dimensions.
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FACTORS OF QUALITY

171.11	Ascertaining the grade.
171.12	Ascertaining the score for the factors which are rated.
171.13	Appearance.
171.14	Defects.
171.15	Character.

DEFINITIONS AND METHODS OF ANALYSIS

171.21	Definitions and methods of analysis.
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LOT INSPECTION AND CERTIFICATION

171.25	Tolerances for certification of officially drawn samples.
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SCORE SHEET

171.31	Score sheet for frozen fried fish sticks.
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AUTHORITY: §§ 171.1 to 171.31 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C 1624.

PRODUCT DESCRIPTION AND GRADES

§ 171.1 *Product description.* Frozen fried fish sticks are clean, wholesome, rectangular-shaped portions of breaded, pre-cooked, and frozen fish flesh. The portions of fish flesh, composed primarily of large pieces, are coated with a suitable batter and breading; are cooked by frying in suitable oil or fat; and are frozen in accordance with

good commercial practice and maintained at temperatures necessary for the preservation of the product. Frozen fried fish sticks contain not less than 60 percent, by weight, of fish flesh. All sticks comprising an individual package are prepared from the flesh of only one species of fish.

§ 171.2 *Grades of frozen fried fish sticks.* (a) "U. S. Grade A" is the quality of frozen fried fish sticks that possess a good flavor and odor, that possess a good appearance, that are practically free from defects, that possess a good character, and that for those factors which are rated in accordance with the scoring system outlined in this part the total score is not less than 85 points: *Provided,* That the frozen fried fish sticks may possess a reasonably good appearance and a reasonably good character if the total score is not less than 85 points.

(b) "U. S. Grade B" is the quality of frozen fried fish sticks that possess a reasonably good flavor and odor, that possess a reasonably good appearance, that are reasonably free from defects, that possess a reasonably good character, and that for those factors which are rated in accordance with the scoring system outlined in this part the total score is not less than 70 points: *Provided,* That the frozen fried fish sticks may fail to possess a reasonably good appearance and fail to possess a reasonably good character if the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen fried fish sticks that fail to meet the requirements of U. S. Grade B.

WEIGHTS AND DIMENSIONS

§ 171.6 *Recommended weights and dimensions.* The recommended weights and dimensions of frozen fried fish sticks are not incorporated in the grades of the finished product since weights and dimensions, as such, are not factors of quality for the purposes of these grades. It is recommended that the largest dimension of a fish stick be at least three times that of the next largest dimension and that the average weight of the individual sticks be not less than ¾ ounce and not greater than 1¼ ounces.

FACTORS OF QUALITY

§ 171.11 *Ascertaining the grade—(a) General.* In addition to considering other requirements outlined in the standards, the following quality factors are evaluated in ascertaining the grade of the product:

(1) *Factor not rated by score points.*
 (i) Flavor and odor.
 (2) *Factors rated by score points.* The relative importance of each factor which is rated is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	Points
Appearance -----	35
Defects -----	40
Character -----	25
Total score -----	100

(b) *Ascertaining of grade.* The grade of frozen fried fish sticks is ascertained by observing the product in the frozen state and after it has been heated in a suitable manner.

¹ Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

(c) *Good flavor and odor.* "Good flavor and odor" means that the product has the good flavor and odor of properly prepared breaded fish sticks. The flesh portion has the good flavor and odor of properly prepared fish of the particular species. The coating has the good flavor and odor obtained when all components have been properly prepared, used, and maintained. The product is free from rancidity, bitterness, and staleness, from bacterial spoilage flavors and odors, and from off-flavors and off-odors of any kind.

(d) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" means that the product may be somewhat lacking in good flavor and odor, but is free from rancidity and from objectionable bacterial spoilage flavors and odors, and from off-flavors and off-odors of any kind.

§ 171.12 *Ascertaining the score for the factors which are rated.* The essential variations within each factor which is rated are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is rated is inclusive. (For example, "21 to 25 points" means 21, 22, 23, 24, or 25 points.)

§ 171.13 *Appearance—(a) General.* The factor of appearance refers to the uniformity of size and shape of the frozen sticks, the color of the heated sticks, and the continuity of the coating of the product after heating.

(b) (A) *classification.* Frozen fried fish sticks that possess a good appearance may be given a score of 30 to 35 points. "Good appearance" means that the sticks are practically uniform in size and shape; that the product after heating possesses a practically uniform light brown to golden brown color or reddish-brown color characteristic of properly prepared frozen fried fish sticks; and that the sticks, after heating, possess a continuity of the coating not more than slightly affected by cracking or slipping.

(c) (B) *classification.* Frozen fried fish sticks that possess a reasonably good appearance may be given a score of 25 to 29 points. "Reasonably good appearance" means that the sticks are reasonably uniform in size and shape; that the product after heating possesses a reasonably uniform light brown to golden-brown color or reddish-brown color characteristic of properly prepared frozen fried fish sticks; and that the sticks, after heating, possess a continuity of the coating not materially affected by cracking or slipping.

(d) (SStd.) *classification.* Frozen fried fish sticks which fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 24 points, and shall not be graded above U. S. Grade B regardless of the total score of the product (this is a partial limiting rule).

§ 171.14 *Defects—(a) General.* The factor of defects refers to the degree of freedom from bones, broken sticks, damaged sticks, and from blemishes.

(1) *Bones.* "Bones" means any bones that can be separated from the product, and are of such character as to be potentially harmful.

(2) *Broken stick.* "Broken stick" means a fish stick which is separated in two or more parts or is strained apart to the extent that it cannot be readily handled as one stick.

(3) *Damaged stick.* "Damaged stick" means a fish stick which has been crushed or otherwise mutilated to the extent that its appearance is materially affected.

(4) *Blemished.* "Blemished" means the presence (in or on the fish flesh) of blood spots, bruises, skin, protein curd spots, and objectionable dark layer fat, and (on or in the coating) of burned material, dark carbon specks, and other harmless extraneous material.

(5) *Seriously blemished.* "Seriously blemished" means blemished to the extent that the appearance is seriously affected.

(b) (A) *classification.* Frozen fried fish sticks that are practically free from defects may be given a score of 34 to 40 points. "Practically free from defects" means that:

(1) None of the sticks are broken;

(2) The sticks may be blemished to only a minor degree; and

(3) Not more than a total of 20 percent, by count, of the sticks may be damaged or contain bones: *Provided*, That bones may be present in not more than 10 percent, by count, of all the sticks.

(c) (B) *classification.* Frozen fried fish sticks that are reasonably free from defects may be given a score of 28 to 33 points. Frozen fried fish sticks that fall into this classification may not be graded above U. S. Grade B regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that not more than a total of 30 percent, by count, of the sticks may be defective because of bones, or are damaged sticks, broken sticks, or seriously blemished sticks: *Provided*, That

(1) Not more than 10 percent, by count, may be broken sticks;

(2) Not more than 30 percent, by count, may be damaged sticks;

(3) Not more than 20 percent, by count, of the sticks may contain bones; and

(4) Not more than 10 percent, by count, of the sticks may be seriously blemished.

(d) (SStd.) *classification.* Frozen fried fish sticks that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 27 points, and may not be graded above substandard regardless of the total score for the product (this is a limiting rule).

§ 171.15 *Character—(a) General* The factor of character refers to the presence or absence of free oil in the package and its effect on the condition of the package; the ease of separating the frozen sticks without damaging the coating or breaking the sticks; the tendency of the sticks to remain whole and unbroken when they are heated, handled, and served in the normal manner; the degree of freedom of the breading from either an oiliness or crumbliness; the tenderness and moistness of the flesh; the consistency of the breading in the heated product; and the adherence of the coating of the heated product.

(b) (A) *classification.* Frozen fried fish sticks that possess a good character

may be given a score of 21 to 25 points. "Good character" means that oil from the product does not more than slightly damage the package; that there may be present not more than a very small amount of loose breading in the package; that the sticks may be separated easily; that the sticks are not more than very slightly damaged by the normal handling incident to heating and serving; that no excess oil remains on the cooking utensil; that the breading is not more than slightly oily; that the flesh after heating has a good texture which is firm, tender and moist, characteristic of properly fried fish sticks for the species used; and that after heating the coating has a good crisp, tender texture not more than slightly affected by blistering or wrinkling.

(c) (B) *classification.* Frozen fried fish sticks that possess a reasonably good character may be given a score of 17 to 20 points. "Reasonably good character" means that oil from the product does not materially damage the package; that there may be present not more than a reasonable amount of loose breading in the package; that the sticks may be separated with only moderate damage to the coating; that the sticks are not more than moderately damaged by the normal handling incident to heating and serving; that the breading is not more than moderately oily; that the flesh after heating has a reasonably good texture which is not more than moderately tough, stringy, crumbly, mushy or spongy; and that after heating the coating has a reasonably good texture which may be not more than moderately pasty, mushy, tough, or crumbly and is not materially affected by blistering or wrinkling.

(d) (SStd.) *classification.* Frozen fried fish sticks that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 16 points and shall not be graded above U. S. Grade B regardless of the total score for the product (this is a partial limiting rule).

DEFINITIONS AND METHODS OF ANALYSIS

§ 171.21 *Definitions and methods of analysis—(a) Percent of fish flesh.* "Percent of fish flesh" means the percent, by weight, of fish flesh in an individual package as determined by the following method:

(1) *Equipment needed.* (i) Water bath (2 to 3 liter beaker).

(ii) Balance, accurate to 0.05 gm.

(iii) Paper towels.

(iv) Spatula, small with curved tip.

(2) *Procedure.* (i) Remove from 0° F. storage and obtain the weight of each stick in the package while still in a hard frozen condition.

(ii) Place each stick individually in the water bath (maintained at 17° to 30° C.—63° to 86° F.) and allow to remain for 25 seconds. Remove from the bath; blot off lightly with double thickness paper toweling; scrape off coating with spatula; and weigh the fish flesh portion of the stick.

(iii) Calculate the percent of fish flesh in the package by the following formula:

$$\frac{\text{Total weight of fish flesh}}{\text{Total weight of frozen sticks}} \times 100 = \text{percent fish flesh.}$$

(c) *Heating in a suitable manner.* "Heating in a suitable manner" means

heating in accordance with the recommendations accompanying the product. However, if specific instructions are lacking, the product should be heated as follows:

(1) Place the product while still in the frozen state on a flat or shallow pan of sufficient size that at least 10 ounces of the product can be spread evenly on the pan with no portion of a stick closer than 1/4 inch to another or to the edge of the pan.

(2) Place the pan and frozen contents in a properly ventilated oven pre-heated to 400 degrees Fahrenheit and remove when the product is thoroughly heated.

LOT INSPECTION AND CERTIFICATION

§ 171.25 *Tolerances for certification of officially drawn samples.* The grade of a lot of the processed product covered by these standards is determined by the procedures set forth in the regulations governing inspection and certification of processed fishery products, processed products thereof, and certain other processed food products (§§ 170.1 to 170.103).

SCORE SHEET

§ 171.31 *Score sheet for frozen fried fish sticks.*

Label.....	.....
Size and kind of container.....	.....
Species of fish.....	.....
Container mark or identification.....	.....
Size of lot.....	.....
Number of samples.....	.....
Net weight (ounces).....	.....
Number of sticks per container.....	.....
Factors	
Appearance.....	35
Defects.....	40
Character.....	25
Total score.....	100
Grade.....	.....
Flavor.....	.....

¹Indicates partial limiting rule.
²Indicates limiting rule.

PART 172—UNITED STATES STANDARDS FOR GRADES OF FROZEN RAW BREADED SHRIMP¹

PRODUCT DESCRIPTION, TYPES, AND GRADES

- Sec. 172.1 Product description.
- 172.2 Types of frozen raw breaded shrimp.
- 172.3 Grades of frozen raw breaded shrimp.

FACTORS OF QUALITY

- 172.11 Ascertaining the grade.
- 172.12 Factors evaluated on product in frozen state.
- 172.13 Factors evaluated on product in thawed debreaded state.

DEFINITIONS AND METHODS OF ANALYSIS

- 172.21 Definitions and methods of analysis.

LOT INSPECTION AND CERTIFICATION

- 172.25 Ascertaining the grade of a lot.

SCORE SHEET

- 172.31 Score sheet for frozen raw breaded shrimp.

¹ Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

AUTHORITY: §§ 172.1 to 172.31 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

PRODUCT DESCRIPTION, TYPES, AND GRADES

§ 172.1 *Product description.* Frozen raw breaded shrimp are clean, wholesome, headed, peeled, and deveined shrimp, of the regular commercial species, coated with a wholesome, suitable batter and breading. They are prepared and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product. Frozen raw breaded shrimp contain not less than 50 percent by weight of shrimp material.

§ 172.2 *Types of frozen raw breaded shrimp—(a) Type I, Fantail—(1) Subtype A.* Split (butterfly) shrimp with the tail fin and the shell segment immediately adjacent to the tail fin.

(2) *Subtype B.* Split (butterfly) shrimp with the tail fin but free of all shell segments.

(b) *Type II, Round fantail—(1) Subtype A.* Round shrimp with the tail fin and the shell segment immediately adjacent to the tail fin.

(2) *Subtype B.* Round shrimp with the tail fin but free of all shell segments.

(c) *Type III, Split.* Split (butterfly) shrimp without attached tail fin or shell segments.

(d) *Type IV, Round.* Round shrimp without attached tail fin or shell segments.

§ 172.3 *Grades of frozen raw breaded shrimp.* (a) "U. S. Grade A" is the quality of frozen raw breaded shrimp that when cooked possess an acceptable flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 85 points.

(b) "U. S. Grade B" is the quality of frozen raw breaded shrimp that when cooked possess an acceptable flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections the total score is not less than 70 points.

(c) "Substandard" is the quality of frozen raw breaded shrimp that fail to meet the requirements of "U. S. Grade B."

FACTORS OF QUALITY

§ 172.11 *Ascertaining the grade—(a) General.* In addition to considering other requirements outlined in the standards, the following quality factors are evaluated in ascertaining the grade of the product:

(b) *Factor not rated by score points: acceptability of flavor and odor.* A product with an acceptable flavor and odor is one that is free from any abnormal flavor and odor. The acceptability of flavor and odor is determined on the product after it has been cooked in a suitable manner.

(c) *Factors rated by score points.* The quality of the product with respect to factors scored is expressed numerically on the scale of 100. Weighted deductions from the maximum possible score of 100 are assessed for essential variations of quality within each factor. The score of frozen raw breaded shrimp is determined by observing the product in the frozen and thawed states.

§ 172.12 *Factors evaluated on product in frozen breaded state.* Factors affecting qualities which are measured on the product in the frozen state are: loose breading or frost; ease of separation; uniformity of size; condition of coating; and damaged or fragmented breaded shrimp. For the purpose of rating the factors which are scored in the frozen state, the schedule of point deductions in Table I applies. This schedule of point deductions is based on the examination of one complete individual package (sample unit) regardless of the net weight of the contents of the package.

§ 172.13 *Factors evaluated on product in thawed debreaded state.* Factors affecting qualities which are measured on the product in the thawed debreaded state are: degree of deterioration; dehydration; sand veins; black spot; extra shell; and swimmerets. For the purpose of rating the factors which are scored in the thawed debreaded state, the schedule of point deductions in Table II applies. This schedule of point deductions is based on the examination of 20 whole shrimp selected at random from one or more packages.

DEFINITIONS AND METHODS OF ANALYSIS

§ 172.21 *Definitions and methods of analysis—(a) Halo.* "Halo" means an easily recognized fringe of excess batter and breading extending beyond the shrimp flesh and adhering around the perimeter or flat edges of a split (butterfly) breaded shrimp.

(b) *Balling up.* "Balling up" means the adherence of lumps in the breading material to the surface of the breaded coating, causing the coating to appear rough, uneven, and lumpy.

(c) *Holidays.* "Holidays" means voids in the breaded coating as evidenced by bare or naked spots.

(d) *Damaged frozen raw breaded shrimp.* "Damaged frozen raw breaded shrimp" means a frozen raw breaded shrimp which has been separated into two or more parts or that has been crushed or otherwise mutilated to the extent that its appearance is materially affected.

(e) *Fragmented shrimp.* "Fragmented shrimp" means a breaded unit containing less than one headed, peeled deveined shrimp.

(f) *Black spot.* "Black spot" means any blackened area which is markedly apparent on the flesh of the shrimp.

(g) *Sand vein.* "Sand vein" means any black or dark sand vein that has not been removed, except for that portion under the shell segment adjacent to the tail fin when present.

(h) *Louse breading and frost.* "Loose breading and frost" is determined by use of a balance and by following the steps given below:

- (1) Remove the overwrap.
- (2) Weigh carton and all contents.
- (3) Remove breaded shrimp, and weigh shrimp alone.
- (4) Weigh carton less shrimp but including waxed separators (if used), crumbs and frost.
- (5) Remove crumbs and frost from carton and separators.
- (6) Weigh cleaned carton and separators.

(7) Calculate loose breading and frost:

$$\frac{\text{Percent loose breading and frost} \times \text{weight carton less breaded shrimp material (4)} - \text{weight cleaned carton (6)}}{\text{weight of carton and all contents (4)} - \text{weight cleaned carton (6)}} \times 100$$

(1) *Percent of shrimp material.* "Percent of shrimp material" means the percent by weight of shrimp material in a sample as determined by the method described below or other methods giving equivalent result. Results are commonly expressed as percent of breading which is calculated by difference.

(1) *Equipment needed.* (i) Two-gallon container approximately nine inches in diameter;

(ii) Two vaned wooden paddle, each vane measuring approximately one and three fourths inches by three and three fourths inches;

(iii) Stirring device capable of rotating the wooden paddle at 120 rpm;

(iv) Balance accurate to 0.01 ounce (or 0.1 gram);

(v) U. S. standard sieve—ASTM—No. 20, twelve-inch diameter;

(vi) U. S. standard sieve—one-half inch sieve opening, twelve-inch diameter;

(vii) Forceps, blunt points;

(viii) Shallow baking pan.

(2) *Procedure.* (1) Weigh sample to be debreaded. Fill container three-fourths full of water at 70-80 degrees Fahrenheit. Suspend the paddle in the container leaving a clearance of at least five inches below the paddle vanes, and adjust speed to 120 rpm. Add shrimp and stir for ten minutes. Stack the sieves, the one-half inch mesh over the No. 20, and pour contents of container onto them. Set the sieves under a faucet, preferably with spray attached, and rinse shrimp with no rubbing of flesh, being careful to keep all rinsings over the sieves and not having the stream of water hit the shrimp on the sieve directly. Lay the shrimp out singly on the sieve as rinsed, remove top sieve and drain of a slope for two minutes, then remove shrimp to weighing pan. Rinse contents of the No. 20 sieve onto a flat pan and collect any particles other than breading (flesh, tail fin or extraneous material) and add to shrimp on balance pan and weigh.

(ii) Calculate percent shrimp material:

$$\text{Percent shrimp material} = \frac{\text{weight of debreaded sample}}{\text{weight of sample}} \times 100 + 5$$

¹A tentative correction factor of five percent is employed pending completion of definitive studies.

(iii) Calculate percent breading:

$$\text{Percent breading} = 100 - \text{percent shrimp material}$$

(4) *Cooked in a suitable manner.* "Cooked in a suitable manner" means cooked in accordance with the instructions accompanying the product. However, if specific instructions are lacking, the product for inspection is cooked as follows:

(1) Place the sample to be cooked while still frozen in a wire mesh deep fry basket sufficiently large to hold the shrimp in a single layer without touching each other:

TABLE I—SCHEDULE OF POINT DEDUCTIONS FOR RATING IN FROZEN BREADED STATE

Factor	Quality description	Deductions allowed
1. Loose breading or frost.....	Less than 2 percent by weight of product.....	0
	2 percent but less than 3 percent.....	3
	3 percent but less than 6 percent.....	6
	6 percent or more.....	10
2. Ease of separation.....	Separate easily immediately after opening package.....	0
	Separate easily after being removed from carton and exposed to room temperature for not more than 4 minutes.....	4
	Separate easily after being removed from carton and exposed to room temperature for not more than 6 minutes.....	6
	Does not separate easily after being removed from carton and exposed to room temperature for 6 minutes.....	10
3. Uniformity.....	Ratio of weight of 3 largest to 3 smallest breaded shrimp in sample unit:	
	Up to 1.70.....	0
	1.71-1.80.....	1
	1.81-1.90.....	2
	1.91-2.00.....	3
	2.01-2.10.....	4
	2.11-2.20.....	5
	2.21-2.30.....	6
	2.31-2.40.....	7
	2.41-2.50.....	8
2.51-2.60.....	9	
Over 2.60.....	10	
4. Condition of coating.....	Degree of halo or balling up or holidays (identify type of defect by circling proper word):	
	No obvious.....	0
	Slight.....	1
	Moderate.....	2
	Marked.....	4
	Excessive.....	8
5. Damaged or fragmented breaded shrimp.	None.....	0
	For each unit.....	3
	Tail fin broken or missing per unit (except in Types III and IV).....	1

(2) Lower the basket into suitable liquid oil or hydrogenated vegetable oil at 350-375 degrees Fahrenheit. Fry for three minutes, or until the shrimp attain a pleasing golden brown color; and

(3) Remove basket from oil and allow to drain for fifteen seconds. Place the cooked shrimp on a paper napkin or towel to absorb excess oil.

LOT INSPECTION AND CERTIFICATION

§ 172.25 *Ascertaining the grade of a lot.* The grade of a lot of Frozen Raw Breaded Shrimp covered by these standards is determined by the procedures set forth in the regulations governing inspection and certification of processed fishery products, processed products thereof, and certain other processed food products.

Black spot	-----
Extra shell	-----
Swimmerets	-----
Rating for scored factors	-----
Flavor and odor	-----
Final grade	-----

PART 173—UNITED STATES STANDARDS FOR GRADES OF FROZEN FISH BLOCKS ¹

PRODUCT DESCRIPTION AND GRADES	
Sec.	
173.1	Product description.
173.2	Grades of frozen fish blocks.
WEIGHTS AND DIMENSIONS	
173.6	Recommended weights and dimensions.
FACTORS OF QUALITY	
173.11	Ascertaining the grade.
173.12	Evaluation of the unscored factor of flavor and odor.
173.13	Ascertaining the rating for the factors which are scored.
173.14	Appearance.
173.15	Uniformity of size and shape.
173.16	Defects.
173.17	Character.

DEFINITIONS AND METHODS OF ANALYSIS

173.21	Definitions and methods of analysis.
LOT INSPECTION AND CERTIFICATION	
173.25	Tolerances for certification of officially drawn samples.

SCORE SHEET

173.31	Score sheet for frozen fish blocks.
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¹ AUTHORITY: §§ 173.1 to 173.31 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

¹ Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

SCORE SHEET

§ 172.31 *Score sheet for frozen raw breaded shrimp.*

Size and kind of container	-----
Container mark or identification	-----
Label	-----
Size of lot	-----
Number of samples	-----
Actual net weight (ounces)	-----
Number of shrimp per container	-----
Descriptive size name	-----
Product type	-----
Breeding percentage	-----
Loose breading percentage	-----
Ratio weights: 3-largest/3-smallest	-----
Ease of separation	-----
Condition of coating	-----
Damaged shrimp	-----
Degree of deterioration	-----
Dehydration	-----
Sand veins	-----

TABLE II—SCHEDULE FOR POINT DEDUCTIONS FOR EXAMINATION IN THAWED, DEBREADED STATE
[Subtotals brought forward]

Factor	Quality description	Deductions allowed
1. Degree of deterioration.....	None obvious.....	0
	Slight, but obvious, on average.....	3
	Moderate, on average.....	6
	Any marked—each shrimp.....	3
2. Dehydration.....	None obvious.....	0
	Slight but obvious, on average.....	3
	Moderate, on average.....	6
	Excessive—each shrimp.....	3
3. (a) Sand veins ¹	For each dark vein present deduct according to following schedule:	
	In first segment (adjacent to tail fin).....	0
	Equivalent in length to 2 segments.....	1
	Equivalent in length to 3 segments.....	2
	Equivalent in length to 4 or more segments.....	3
(b) Black spot.....	None obvious.....	0
	Slight but obvious, on average.....	3
	Moderate, on average.....	6
	Excessive—each shrimp.....	3
4. (a) Extra shell ²	(Beyond first segment adjacent to tail fin):	
	Less than one whole extra shell segment.....	1
	One extra segment or more.....	3
(b) Swimmerets.....	For last pair only adjacent to tail fins.....	1
	For more than last pair.....	3

¹ The deduction points assessed for sand veins and black spot occurring together on an individual shrimp shall not exceed the larger deduction for either factor.
² The deduction points assessed for extra shell and swimmerets occurring together on an individual shrimp shall not exceed the larger deduction for either factor.

PRODUCT DESCRIPTION AND GRADES

§ 173.1 *Product description.* Frozen fish blocks are rectangular-shaped masses of cohering frozen fish flesh of a single species consisting of adequately drained whole, wholesome, skinless fillets or pieces of whole, wholesome, skinless fillets cut into small portions but not ground or comminuted. They are frozen, but not glazed, and maintained at temperatures necessary for the preservation of the product.

§ 173.2 *Grades of frozen fish blocks.* (a) "U. S. Grade A" is the quality of frozen fish blocks that possess a good flavor and odor; and for those factors which are rated in accordance with the scoring system outlined in these standards have a total score of 85 to 100 points.

(b) "U. S. Grade B" is the quality of frozen fish blocks that possess at least a reasonably good flavor and odor; and for those factors which are rated in accordance with the scoring system outlined in these standards have a total score of 70 to 84 points: *Provided*, That no factor receives maximum point score deduction.

(c) "Substandard" is the quality of frozen fish blocks that fail to meet the requirements of U. S. Grade B.

WEIGHTS AND DIMENSIONS

§ 173.6 *Recommended weights and dimensions.* (a) The recommendations as to weights and dimensions of frozen fish blocks are not incorporated in the grades of the finished product since weights and dimensions, as such, are not factors of quality for the purpose of the grades. The degree of uniformity of size and shape among units of the finished product is rated since it is a definite factor affecting the quality of the end product prepared from the blocks.

(b) It is recommended that the thickness or depth (smallest dimension) of the frozen fish block be not greater than 10 centimeters (4.0 inches) and that the average weight be not less than 2.3 kilograms (5.0 pounds) and not greater than 22.7 kilograms (50.0 pounds).

FACTORS OF QUALITY

§ 173.11 *Ascertaining the grade—(a) General.* In addition to considering other requirements outlined in the standards, the following factors are evaluated in ascertaining the grade of the product:

(1) *Factors not rated by score points.* Flavor and odor.

(2) *Factors rated by score points.* The relative importance of each factor which is rated is expressed numerically on the scale of 100. The four factors and the maximum number of points that may be given each are as follows:

Factors:	Points
Appearance.....	25
Uniformity of size and shape.....	20
Defects.....	40
Character.....	15
Total score.....	100

(b) *Condition of product for evaluation.* The grade of frozen fish blocks is ascertained by observing the product in the frozen state and after representative portions have been heated in a suitable manner.

§ 173.12 *Evaluation of the unscored factor of flavor and odor—(a) Good flavor and odor.* "Good flavor and odor" (essential requirement for a Grade A product) means that the product has the good flavor and odor characteristic of the species of fish; and that the product is free from staleness, and from off-flavors and off-odors of any kind.

(b) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement of a Grade B product) means that the fish flesh may be somewhat lacking in the good flavor and odor characteristic of the species of fish; is reasonably free from rancidity; and is free from objectionable off-flavors and objectionable off-odors of any kind.

§ 173.13 *Ascertaining the score for those factors which are rated.* The essential variations within each factor which is rated are so described that the

value may be ascertained for each factor and expressed numerically. Point deductions are allotted for each degree or amount of variation within each factor. The value for each factor is the maximum points allotted for the factor less the sum of the deviation deduction-points within the factor.

§ 173.14 *Appearance—(a) General.* The factor of appearance refers to the color of the fish flesh, and to the degree of surface dehydration of the product.

(b) For the purpose of rating the factor of appearance the schedule of deviation deduction-points in Tables I and II apply.

§ 173.15 *Uniformity of size and shape—(a) General.* The factor of uniformity of size and shape refers to the degree of conformity to declared dimensions and to rectangular shape.

(1) *"Angles" of a block.* There are 12 angles considered to form a block. Right angles are formed by the intersection of the four sides with the top and bottom (one two largest surfaces); and four angles are formed by the intersection of the four sides with one another. In a perfect block the surfaces form into a right angle (90 degrees).

(b) For the purpose of rating the factor of uniformity of size and shape, the schedule of deviation deduction-points in Tables III and IV apply.

TABLE IV—SCORE DEDUCTIONS FOR "ANGLES" SUBFACTOR

Number of "unacceptable" angles	Deduction points
1	0
2	1
3	2
4	3
5	4
6	6
7	8
8	10

NOTE: There are 12 angles considered to form a block. Right angles (edge) are formed by the intersection of the four sides within the top and bottom; four angles (corner) are formed by the intersection of the four sides with one another.

An "acceptable" edge angle is one in which the two surfaces forming the angles are within 1.0 cm. (3/8 inch) of the apex of a carpenter's square placed along the surfaces (use 3 readings for each edge angle measurement, 2 or 3 must meet the requirement). An "unacceptable" edge angle is one showing greater deviation than the 1.0 cm. (3/8 inch).

An "acceptable" corner angle is one in which at least one edge surface is within 1.3 cm. (1/2 inch) of the apex of a carpenter's square placed on the edge surfaces (use 1 reading for each corner angle). An "unacceptable" corner angle is one showing greater deviation than the 1.3 cm. (1/2 inch).

§ 173.16 *Defects—(a) General.* The factor of defects refers to the degree of freedom from damage, blemishes, improper fill, and bones.

(1) *"Damaged."* Damaged means crushed or mutilated block, and imbedding of the packaging material into the block, to the extent that the usability of that portion of the block has been adversely affected; and cut or separation of the masses of fish flesh in the block.

(2) *"Blemish."* Blemish means a piece of skin, scales, blood spot, a bruise, a black belly lining, a fin, or harmless extraneous material. One "piece of skin" consists of one piece 3.3 square centimeters (1/2 square inch) in area; except that skin patches larger than 9.9 square centimeters shall be considered as two

TABLE I—SCORE DEDUCTIONS FOR COLOR SUBFACTOR

Condition of the surface of the block		Deduction Points
"Light" portion of fish flesh ¹	No discoloration	0
"Dark" portion of fish flesh ²	No discoloration	
"Light" portion of fish flesh	No discoloration	2
"Dark" portion of fish flesh	Slight yellowing	
"Light" portion of fish flesh	Slight yellowing	4
"Dark" portion of fish flesh	Moderate yellowing; no rusting	
"Light" portion of fish flesh	Moderate yellowing; slight rusting	7
"Dark" portion of fish flesh	Excessive yellowing; slight rusting	
"Light" portion of fish flesh	Excessive yellowing; moderate rusting	16
"Dark" portion of fish flesh	Excessive yellowing; moderate rusting	
"Light" portion of fish flesh	Excessive yellowing and rusting	25
"Dark" portion of fish flesh	Excessive yellowing and rusting	

¹ "Light" portion refers to fish fillet flesh comprising the main portion of the fillet.
² "Dark" portion refers to the dark-colored portion of the fillet appearing under the skin, the main part of which occurs along the lateral line.

³ Fish blocks which receive 25 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

NOTE: Color of the block should be normal to that of the species of fish used. Deviations from the normal color result from oxidation or other changes that have taken place in the fish prior to freezing and after freezing and storage. Ordinarily, the type of discoloration observed is due to oxidation and results in yellowing and "rusting" of the fish surfaces.

TABLE II—SCORE DEDUCTIONS FOR "DEHYDRATION" SUBFACTOR

Condition of surface of block		Deduction points
Surface area affected	Degree of dehydration	
Percent	Slight	0
	Slight	
Up to 50	Moderate	2
Greater than 50 and up to 100	Moderate	
Greater than 0 and up to 25	Marked	4
Greater than 25 and up to 50	Marked	
Greater than 0 and up to 25	Marked	7
Greater than 50	Marked	
Greater than 25 and up to 50	Excessive	16
Greater than 0 and up to 25	Excessive	
Greater than 50	Excessive	25
Greater than 25 and up to 50	Excessive	
Greater than 50	Excessive	

¹ Fish blocks which receive 25 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

NOTE: Dehydration is classified in four degrees:

- (a) *Slight*. Shallow and not color masking;
- (b) *Moderate*. Deep but just deep enough to mask color of fish flesh;
- (c) *Marked*. Deep and easily scraped off with finger nail, and masks color of flesh; and
- (d) *Excessive*. Deep dehydration not easily scraped off.

TABLE III—SCORE DEDUCTIONS FOR DIMENSIONS SUBFACTOR

Deviations (+ or -) from the declared dimensions			Deduction points
Length and width	Thickness	Thickness (individual reading) ¹	
Millimeters	Up to 2	Millimeters	0
	Up to 3	Up to 2	
Greater than 3 and up to 5	Greater than 2 and up to 3	4	1
Greater than 5 and up to 8	Greater than 2 and up to 3	4	
Greater than 8 and up to 12	Greater than 3 and up to 4	5	2
Greater than 5 and up to 8	Greater than 4 and up to 5	5	
Greater than 8 and up to 12	Greater than 4 and up to 5	6	3
Greater than 5 and up to 8	Greater than 5 and up to 8	6	
Greater than 8 and up to 12	Greater than 5 and up to 8	10	4
Greater than 5 and up to 8	Greater than 8 and up to 11	10	
Greater than 8 and up to 12	Greater than 8 and up to 11	13	5
Greater than 5 and up to 8	Greater than 11 and up to 14	13	
Greater than 8 and up to 12	Greater than 14	16	6
Greater than 5 and up to 8		16	
Greater than 8 and up to 12			7
Greater than 5 and up to 8			
Greater than 8 and up to 12			8
Greater than 5 and up to 8			
Greater than 8 and up to 12			9
Greater than 5 and up to 8			
Greater than 8 and up to 12			10
Greater than 5 and up to 8			
Greater than 8 and up to 12			11
Greater than 5 and up to 8			
Greater than 8 and up to 12			12
Greater than 5 and up to 8			
Greater than 8 and up to 12			13
Greater than 5 and up to 8			
Greater than 8 and up to 12			14
Greater than 5 and up to 8			
Greater than 8 and up to 12			15
Greater than 5 and up to 8			
Greater than 8 and up to 12			16
Greater than 5 and up to 8			
Greater than 8 and up to 12			17
Greater than 5 and up to 8			
Greater than 8 and up to 12			18
Greater than 5 and up to 8			
Greater than 8 and up to 12			19
Greater than 5 and up to 8			
Greater than 8 and up to 12			20
Greater than 5 and up to 8			

¹ These values refer to deviations of any one of the four readings taken for the thickness of the individual block from the declared thickness of the block.

² Fish blocks which receive 20 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

NOTE: Measurements are made in millimeters. Two readings are taken for the length; three for the width; and four for the thickness. Each group is averaged.

pieces of skin. "Blood spot" is one of such size and degree as to be considered objectionable. "Black belly lining" is any piece longer than 1.3 centimeters (½-inch). "Fin" is one fin or one identifiable part of a fin. "Scales" are aggregates of one or more scales of such degree as to be considered objectionable.

(3) "Improper fill." Improper fill means the frozen block does not form a completely solid mass as evidenced by presence of air spaces, ice, depressions, and ragged edges (pieces of fish protrude

or recede at the edges of the block).

(4) "Bones." Bones means any bones that can be separated from the product, can be identified, and are objectionable. One instance of bone means one bone or one group of bones occupying or contacting a circular area of 6.45 square centimeters (one square inch).

(b) For the purpose of rating the factor of defects, the schedule of deviation-deduction-points in Tables V, VI, VII, and VIII apply.

TABLE V—SCORE DEDUCTIONS FOR "DAMAGE" SUBFACTOR

Amount of damage to block	Deduction points
0 to 0.30 percent	0
For each 0.20 percent above 0.30 percent and up to 8.10 percent	1
8.11 percent and over	40

NOTE: Damage is measured by volume of the block affected. The area of damage is measured in cubic centimeters using a millimeter rule to determine the exact length, width, and thickness of the block affected.

Calculate damage in "percent" using the following formula:

$$\text{Total damage in "percent" (volume/weight)} = \frac{(\text{Total damage})}{(\text{Weight of block})} \times 100$$

TABLE VI—SCORE DEDUCTIONS FOR "BLEMISH" SUBFACTOR

Number of blemishes per 2.3 kg. (5 lbs.) of block	Deduction points
0 to 1.0	0
1.1 to 2.0	1
2.1 to 3.0	2
3.1 to 4.0	3
4.1 to 5.0	5
5.1 to 6.0	8
6.1 to 7.0	12
7.1 to 8.0	17
8.1 to 9.0	23
9.1 to 10.0	30
10.1 or more	40

TABLE VII—SCORE DEDUCTIONS FOR "IMPROPER FILL" SUBFACTOR

Amount of "improper fill" in block ¹	Deduction points
0 to 0.30 percent	0
For each 0.20 percent above 0.30 percent and up to 8.10 percent	1
8.11 percent and over	40

¹ Air spaces, ice spaces, depressions, and ragged edges.

NOTE: Improper fill is measured by the volume of the block affected. Air spaces and ice spaces are measured by filling these spaces with water or other material and measuring the volume. Spaces less than 3 ml. in volume or less than 2 mm. deep are not considered. Depressions and ragged edges are measured by exact volume of the block affected using a mm. rule to determine the length, width, and thickness of the block affected. Calculate the total "improper fill" in "percent" from the following formula:

$$\text{Total "improper fill" in "percent" (volume/weight)} = \frac{(\text{Total volume of "improper fill"})}{(\text{Weight of block})} \times 100$$

TABLE VIII—SCORE DEDUCTIONS FOR BONES SUBFACTOR

Instances of bone per 2.3 kg. (5.0 lb.) of fish	Deduction points
0	0
0.1 to 1.0	1
1.1 to 2.0	3
2.1 to 3.0	6
3.1 to 4.0	10
4.1 to 5.0	16
5.1 to 6.0	25
6.1 and more	40

§ 173.17 *Character*—(a) *General*. The factor of character refers to the tenderness and to the moistness of the properly heated fish flesh, and to the tendency of the pieces of fish or fillets in the block to remain as a unit when the block or portions of the block are heated.

(b) For the purpose of rating the factor of character, the schedule of deviation-deduction-points in Tables IX and X apply.

DEFINITIONS AND METHODS OF ANALYSIS

§ 173.21 *Definitions and methods of analysis*—(a) "Heating in a suitable manner." Heating in a suitable manner means heating the product as follows:

TABLE IX—SCORE DEDUCTIONS FOR TEXTURE SUBFACTOR

Texture condition of the cooked fish	Deduction points
Firm; slightly resilient but not tough or rubbery; moist but not mushy.....	0
Moderately firm; only slightly tough or rubbery; does not form a fibrous mass in the mouth; moist, but not mushy.....	2
Moderately tough or rubbery; has noticeable tendency to form a fibrous mass in the mouth; or is dry; or is mushy.....	5
Tough or rubbery; has marked tendency to form fibrous mass in the mouth; or is very dry; or is very mushy.....	7
Objectively tough, rubbery, dry or mushy.....	15

1 Fish blocks which receive 15 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE X—SCORE DEDUCTIONS FOR COHESION SUBFACTOR

Cohesion condition of the cooked fish	Deduction points
The pieces comprising the cooked sample cohere very tightly. They can be separated only by significant tearing of the flesh.....	0
The pieces comprising the cooked sample cohere fairly tightly and they can be separated only by moderate tearing of the flesh.....	1

The pieces comprising the cooked sample cohere slightly. They can be separated easily with slight or no tearing of the flesh.....
 The pieces comprising the cooked sample show no tendency to cohere. They can be separated very easily.....

(1) Cut three or more portions about four by three by one-half inches from a frozen block. Wrap individually or in single layer in aluminum foil. Place packaged portions on a wire rack suspended over boiling water in a covered container. Steam the packaged portions until the product is thoroughly heated, or
 (2) Cut and package the portions as described in subparagraph (1) of this paragraph. Place the packaged portions on a flat cookie sheet or shallow flat-bottom pan of sufficient size so that the packages can be spread evenly on the sheet or pan. Place pan and frozen contents in a properly ventilated oven heated to 400 degrees Fahrenheit and remove when the product is thoroughly heated.

LOT INSPECTION AND CERTIFICATION

§ 173.25 Tolerances for certification of officially drawn samples. The sample rate and grades of specific lots shall be

certified on the basis of the regulations governing inspection and certification of processed fishery products, processed products thereof, and certain other processed food products.

SCORE SHEET

§ 173.31 Score sheet for frozen fish blocks.

Label.....
 Size and kind of container.....
 Container mark or identification.....
 Size of lot.....
 Number of blocks per master carton.....
 Size of sample.....
 Species of fish declared.....
 Actual net weight.....(kg).....(lb)

Factor	Standards score points	Sample Score
Appearance.....	25	
Uniformity.....	20	
Defects.....	40	
Character.....	15	
Total.....	100	

Flavor and odor.....
 Final grade.....

Note: Also see *Commercial Fisheries Review*, July 1958, p. 72; June 1958, p. 81; May 1958, p. 72; April 1958, p. 76; March 1958, p. 58; February 1958, p. 82; January 1958, p. 103; October 1957, p. 7; and June 1957, p. 65.



Department of State

UNITED STATES REPEATS PROTEST OF RUSSIAN CLAIM THAT PETER THE GREAT BAY IS INTERNAL WATERS:

The designation on the part of the U. S. S. R. of Peter the Great Bay as internal waters was protested for the second time in a note dated March 6, 1958, delivered to the Soviet Ministry of Foreign Affairs by the United States Embassy in Moscow. The Soviets in a note dated January 7, 1958, in answer to United States' first protest made on August 12, 1957, reiterated their claim that waters of Peter the Great Bay are historical waters of the Soviet Union. The text of the second United States note follows:

"The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Union of Soviet Socialist Republics and, on instructions from its Government, has the honor to refer to the Ministry's Note No. 2/OSA of January 7, 1958."

"As was made clear in this Embassy's Note No. 147 of August 12, 1957, under international law the Government of the United States cannot regard the body of water enclosed by a line drawn between

the estuary of the River Tyumen-Ula and the Povorotny promontory as constituting, either geographically or historically, a part of the internal waters of the Union of Soviet Socialist Republics. The configuration of the coast in the area of Peter the Great Bay is not such that that body of water could in any way be regarded as being comprised of landlocked waters which could properly be considered internal waters of the Soviet Union. Encroachments on the high seas are of concern to the entire world and neither internal regulations of the Russian Government, which were not communicated to the Governments of other States, nor fishing agreements between the Union of Soviet Socialist Republics and Japan could be sufficient to establish the degree of acceptance on the part of the rest of the world that would be necessary to justify the Government of the Union of Soviet Socialist Republics in claiming that the body of water referred to above constitutes internal waters of the Soviet Union either as an historic bay or under any other principle of international law. Moreover, the Government of the United States notes that the Government of Japan does not agree with the interpretation of the Government of the Union of Soviet Socialist Republics of the fishing

agreements of 1928 and 1944, to which the Ministry of Foreign Affairs referred in its Note No. 2/OSA."

"The Government of the United States must therefore, continue to regard any measures to effectuate the degree of the Council of Ministers, regarding the bound-

ary of internal waters in the area of Peter the Great Bay, as violative of the fundamental principles of international law, and reserves its right to take such action as it deems necessary to protect each and all of its rights in that area." (Department of State Bulletin, March 24, 1958.)



Treasury Department

BUREAU OF CUSTOMS

CUSTOMS RESTRICTION ON OBTAINING DATA FROM VESSELS' MANIFESTS LIBERALIZED:

A recent change in Customs regulations liberalizes the amount of data which can be obtained from vessels' manifests and summary statistical reports of imports and exports for publication or other legitimate public use. The only restriction is that the names of the consignee may be withheld upon application. All other data of a general nature and of statistical value to the public is now made available on a current basis to accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications.

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54585]

PART 26—DISCLOSURE OF INFORMATION RESTRICTION ON MANIFEST INFORMATION

Certain commercial data relating to imports and exports is made available on a current basis to accredited representatives of the press under the terms and conditions set forth in §§ 26.5, 26.6, and 26.7 of the Customs Regulations. Section 26.7 provides in part that upon receipt of a written application of an importer, exporter, or master or owner of any vessel, the information identified in § 26.5 will be withheld if the application is supported by evidence that the publication of such data has been or will be detrimental to the applicant.

In the interest of providing the public, through accredited representatives of the press and associations designated in § 26.5, with a maximum of current data relating to imports and exports consistent with the necessary protection to private business relationships, it has now

been decided that the restrictions provided for in § 26.7 (a) upon dissemination of such current data should be limited to the withholding, upon application, of the names of consignees of imports. The disclosure of other data identified in § 26.5, which data is of a general nature but of considerable statistical value to the public, should not be restricted. Therefore, § 26.7 (a) of the Customs Regulations is amended to read as follows:

(a) Upon written application of a consignee or importer, the collector of customs shall refuse to permit any person, except as provided in § 26.4, to copy the name of such consignee from manifests.

(R. S. 161, 251, sec. 624, 46 Stat. 759, sec. 3, 60 Stat. 238, 5 U. S. C. 22, 1002, 19 U. S. C. 66, 1624)

Notice of the proposed issuance of the foregoing amendment was published in the FEDERAL REGISTER on October 5, 1957 (22 F. R. 7942). Due consideration was accorded to all data, views, and arguments received pertaining to the proposed amendment, none of which was found to warrant any change. How-

Formerly, upon written application of an importer, exporter, or master or owner of a vessel, information contained in the manifest could be withheld upon application if supported by evidence that publication of such data had been or would be detrimental to the applicant.

Customs officials felt that in the interest of providing the public through accredited representatives with a maximum of current data relating to imports and exports consistent with the necessary protection to private business relationships, the dissemination of such current data should be limited to the withholding, upon application, of the names of consignees of imports only.

Customs Regulations on restriction of manifest information as amended appeared in the May 13 Federal Register as follows:

ever, some minor changes in terminology have been made to conform to related provisions in § 26.5 (c).

This amendment terminates suspensions of disclosure heretofore granted by collectors of customs. However, to reduce administrative problems for collectors of customs and to make it unnecessary for reapplication by those importers who had previously obtained suspensions of disclosure of data or whose applications have not yet been acted on, any applications by importers which have been previously granted or have not been acted on shall remain in effect or be granted, respectively, only as to the disclosure of the consignee's name.

(R. S. 161; 5 U. S. C. 22. Interprets or applies R. S. 251, sec. 624, 46 Stat. 759, sec. 3, 60 Stat. 238; 5 U. S. C. 1002, 19 U. S. C. 66, 1624)

[SEAL]

RALPH KELLY,
Commissioner of Customs.

Approved: May 2, 1958.

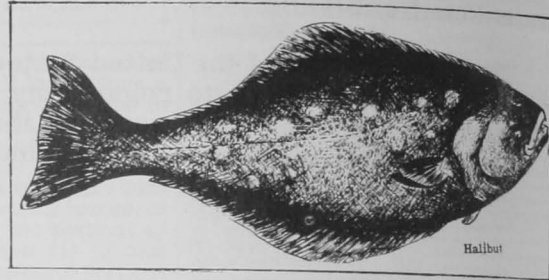
A. GILMORE FLUES,
Acting Secretary of the Treasury.

White House

PACIFIC HALIBUT FISHERY REGULATIONS FOR 1958 APPROVED BY THE UNITED STATES:

The Pacific halibut fishery regulations for 1958 as issued by the International Pacific Halibut Commission were approved by the President of the United States on March 28. The regulations as approved appeared in the

April 3 Federal Register and were as follows:



TITLE 50—WILDLIFE

Chapter III—International Regulatory Agencies (Fishing and Whaling)

[Departmental Reg. 108.359]

PART 301—PACIFIC HALIBUT FISHERIES

Regulations of the International Pacific Halibut Commission adopted pursuant to the Pacific Halibut Fishery Convention between the United States of America and Canada, signed March 2, 1953.

- Sec.
- 301.1 Regulatory areas.
 - 301.2 Length of halibut fishing seasons.
 - 301.3 Closed seasons.
 - 301.4 Catch limits in Areas 2 and 3A.
 - 301.5 Size limits.
 - 301.6 Licensing of vessels.
 - 301.7 Retention of halibut taken under permit.
 - 301.8 Conditions limiting validity of permits.
 - 301.9 Statistical return by vessels.
 - 301.10 Statistical return by dealers.
 - 301.11 Closed nursery grounds.
 - 301.12 Dory gear prohibited.
 - 301.13 Nets prohibited.
 - 301.14 Retention of tagged halibut.
 - 301.15 Responsibility of master.
 - 301.16 Supervision of unloading and weighing.
 - 301.17 Previous regulations superseded.

AUTHORITY: §§ 301.1 to 301.17 issued under Art. III, 50 Stat., Part II, 1353.

§ 301.1 *Regulatory areas.* (a) Convention waters which include the territorial waters and the high seas off the western coasts of Canada and the United States of America including the southern as well as the western coasts of Alaska shall be divided into the following areas, all directions given being magnetic unless otherwise stated.

(b) Area 1A (South of Heceta Head) shall include all convention waters southeast of a line running northeast and southwest through Heceta Head Light, as shown on Chart 5802, published in July, 1947, by the United States Coast and Geodetic Survey, which light is approximately latitude 44°08'18" N., longitude 124°07'36" W.

(c) Area 1B (Heceta Head to Willapa Bay) shall include all convention waters between Area 1A and a line running northeast and southwest through Willapa Bay Light on Cape Shoalwater, as shown on Chart 6185, published in July, 1939, by the United States Coast and Geodetic Survey, which light is approximately latitude 46°43'17" N., longitude 124°04'15" W.

(d) Area 2 (Willapa Bay to Cape Spencer) shall include all convention waters off the coasts of the United States of America and of Alaska and of Canada

between Area 1B and a line running through the most westerly point of Glacier Bay, Alaska, to Cape Spencer Light as shown on Chart 8304, published in June, 1940, by the United States Coast and Geodetic Survey, which light is approximately latitude 58°11'57" N., longitude 136°38'18" W., thence south one-quarter east and except in the year 1958 is exclusive of the nursery areas closed, except in the year 1958, to all halibut fishing in § 301.11.

(e) Area 3A (Cape Spencer to Shumagin Islands) shall include all the convention waters off the coast of Alaska that are between Area 2 and a straight line running southeast one-half east from the highest point on Kupreanof Point, which highest point is approximately latitude 55°34'08" N., longitude 159°36'00" W.; the highest point on Kupreanof Point shall be determined from Chart 8859 as published May, 1954 (2d Edition) by the United States Coast and Geodetic Survey, Washington, D. C.

(f) Area-3B (West of Shumagin Islands including Bering Sea) shall include all the convention waters off the coast of Alaska which are not included in Area 3A or in Area 2 or in the nursery area described in paragraph (b) of § 301.11.

§ 301.2 *Length of halibut fishing seasons.* (a) In Area 1A, the halibut fishing season shall commence at 6:00 a. m. of the 4th day of May and terminate at 6:00 a. m. of the 16th day of October, or at the time of termination of the halibut fishing season in Area 3A, whichever is later.

(b) In Area 1B, the halibut fishing seasons shall commence and terminate at the same times as the halibut fishing seasons in Area 2 shall commence and terminate.

(c) In Area 2, except as provided in paragraph (d) of this section, there shall be two halibut fishing seasons: the first season commencing at 6:00 a. m. on the 4th day of May and terminating at 6:00 a. m. on a date to be determined and announced under paragraph (b) of § 301.4; the second season commencing at 6:00 a. m. on the 31st day of August and terminating at 6:00 a. m. on the 7th day of September.

(d) During the second halibut fishing season in Area 2, provided in paragraph (c) of this section, the Cape Scott-Goose Islands area shall be closed to halibut fishing and no person shall fish for halibut in said closed area or shall have halibut in his possession while fishing for other species therein or shall have halibut of any origin in his possession therein excepting in the course of a con-

tinuous transit across said closed area. The boundaries of said area, stated in terms of the magnetic compass, are: from Bush Point on Don Peninsula, approximately latitude 52°15'38" N., longitude 128°18'54" W., to McInnis Island Light on McInnis Island, approximately latitude 52°15'48" N., longitude 128°43'22" W.; thence southwest by south one-quarter south approximately ninety-five miles to a point approximately latitude 51°24'00" N., longitude 130°48'00" W.; thence approximately eighty-one and one-half miles southeast by east one-quarter east to a point approximately latitude 50°17'10" N., longitude 129°36'00" W.; thence approximately fifty-four miles northeast by north one-quarter north to Cape Scott Light on Vancouver Island, approximately latitude 50°47'13" N.; longitude 128°25'50" W.; thence along the eastern shore of Vancouver Island to Dillon Point, approximately one mile southeast of Masterman Island Light, approximately latitude 50°44'50" N., longitude 127°24'22" W.; thence to Tomlinson Point at the easterly entrance of Blunden Harbor on the mainland, approximately latitude 50°54'10" N., longitude 127°15'24" W.; thence along the mainland shore to the point of origin at Bush Point. The points on Bush Point and McInnis Island shall be determined from Chart 328, as published July 1930 by the Canadian Hydrographic Service, Department of Marine, Ottawa; the points on Cape Scott, Dillon Point and Tomlinson Point shall be determined from Charts 3593, 3572 and 3574 respectively as published May 1955, June 1956 and March 1956 respectively, by the Canadian Hydrographic Service, Surveys and Mapping Branch, Department of Mines and Technical Surveys, Ottawa, provided that the duly authorized officers of Canada may at any time place a plainly visible mark or marks at any point or points as nearly as practicable on the boundary line defined herein, and such marks shall thereafter be considered as correctly defining said boundary.

(e) In Area 3A, the halibut fishing season shall commence at 6:00 a. m. of the 4th day of May and terminate at 6:00 a. m. on a date to be determined and announced under paragraph (b) of § 301.4.

(f) In Area 3B, the halibut fishing season shall commence at 6:00 a. m. of the 1st day of April and terminate at 6:00 a. m. of the 16th day of October, or at the time of termination of the halibut fishing season in Area 3A, whichever is later.

(g) All hours of opening and closing of areas in this section and other sections of this part shall be Pacific Standard Time.

§ 301.3 *Closed seasons.* (a) Under paragraph 1 of Article I of the Convention, all convention waters shall be closed to halibut fishing except as provided in § 301.2.

(b) All convention waters, if not already closed under other provisions of the regulations in this part, shall be closed to halibut fishing at 6:00 a. m. of the 1st day of December and shall remain closed until reopened as provided in § 301.2, and the retention and landing of any halibut caught during this closed period shall be prohibited.

(c) Nothing contained in this part shall prohibit the fishing for species of fish other than halibut or prohibit the International Pacific Halibut Commission, hereafter in the regulations in this part referred to as "the Commission", from conducting or authorizing fishing operations for investigation purposes as provided for in paragraph 3 of Article I of the Convention.

§ 301.4 *Catch limits in Areas 2 and 3A.* (a) The quantity of halibut to be taken during the first halibut fishing season in Area 2 and during the halibut fishing season in Area 3A in 1958 shall be limited to 26,500,000 pounds and 30,000,000 pounds respectively of salable halibut, the weights in each limit to be computed as with heads off and entrails removed.

(b) The Commission shall as early in the said year as is practicable determine and announce the date on which it deems each limit of catch defined in paragraph (a) of this section will be attained, and the limit of each such catch shall then be that which shall be taken prior to said date, and fishing for halibut in the area to which each limit applies shall at that date be prohibited until each area is reopened to halibut fishing as provided in § 301.2, and provided that if it shall at any time become evident to the Commission that the limit will not be reached by such date, it may substitute another date.

(c) Catch limits shall apply only to the first halibut fishing season in Area 2 and to the single halibut fishing season in Area 3A.

§ 301.5 *Size limits.* The catch of halibut to be taken from all areas shall be limited to halibut which with head on are 26 inches or more in length as measured from the tip of the lower jaw to the extreme end of the middle of the tail or to halibut which with the head off and entrails removed are 5 pounds or more in weight, and the possession of any halibut of less than the above length, or the above weight, according to whether the head is on or off, by any vessel or by any master or operator of any vessel or by any person, firm or corporation, is prohibited.

§ 301.6 *Licensing of vessels.* (a) All vessels of any tonnage which shall fish for halibut in any manner or hold halibut in possession in any area, or which shall transport halibut otherwise than as a common carrier documented by the Government of the United States or of Canada for the carriage of freight, must be licensed by the Commission, provided that vessels of less than five net tons or

vessels which do not use set lines need not be licensed unless they shall require a permit as provided in § 301.7.

(b) Each vessel licensed by the Commission shall carry on board at all times while at sea the halibut license thus secured whether it is validated for halibut fishing or endorsed with a permit as provided in § 301.8 and this license shall at all times be subject to inspection by authorized officers of the Governments of Canada or the United States or by representatives of the Commission.

(c) The halibut license shall be issued without fee by the customs officers of the Governments of Canada or the United States or by representatives of the Commission or by fishery officers of the Governments of Canada or the United States at places where there are neither customs officers nor representatives of the Commission. A new license may be issued by the officer accepting statistical return at any time to vessels which have furnished proof of loss of the license form previously issued, or when there shall be no further space for record thereon, providing the receipt of statistical return shall be shown on the new form for any halibut or other species taken during or after the voyage upon which loss occurred.

(d) The halibut license of any vessel shall be validated before departure from port for each halibut fishing operation for which statistical return is required. This validation of a license shall be by customs officers or by fishery officers of the Governments of Canada or the United States when available at places where there are no customs officers and shall not be made unless the area in which the vessel will fish is entered on the license form and unless the provisions of § 301.9 have been complied with for all landings and all fishing operations since issue of the license, provided that if the master or operator of any vessel shall fail to comply with the provisions of § 301.9, the halibut license of such vessel may be validated by customs officers or by fishery officers upon evidence either that there has been a judicial determination of the offense or that the laws prescribing penalties therefor have been complied with, or that the said master or operator is no longer responsible for, nor sharing in, the operations of said vessel.

(e) The halibut license of any vessel fishing for halibut in Area 1A as defined in § 301.1 must be validated at a port or place within Area 1A prior to each such fishing operation during the second halibut fishing season in Areas 1B and 2 as defined in paragraphs (b) and (c) of § 301.2 and when Areas 1B and 2 are closed to halibut fishing.

(f) The halibut license of any vessel fishing for halibut in Area 3B when Area 3A is closed to halibut fishing must be validated at a port or place within Area 3B prior to such fishing, except that a vessel already fishing in Area 3B with a halibut license that was validated for halibut fishing in Area 3B or in Areas 3A and 3B prior to the date of closure of Area 3A, may continue to fish in Area 3B until first entry at a port or place with a validating officer or until any halibut is unloaded.

(g) The halibut license of any vessel departing from Area 3B with any halibut on board when Area 3A is closed

to halibut fishing, must be validated at a port or place in Area 3B subsequent to fishing and prior to such departure.

(h) A halibut license shall not be validated for departure for halibut fishing in Areas 1A or 1B or 2 more than 48 hours prior to the commencement of any halibut fishing season in said areas; nor for departure for halibut fishing in Areas 3A or 3B from any port or place inside said areas more than 48 hours prior to the commencement of the halibut fishing season in said areas; nor for departure for halibut fishing in Areas 3A or 3B from any port or place outside said areas more than 5 days prior to the commencement of the halibut fishing season in said areas.

(i) A halibut license shall not be valid for halibut fishing in more than one of Areas 1A, 1B, 2 or 3A, as defined in § 301.1, during any one trip nor shall it be revalidated for halibut fishing in another of said areas while the vessel has any halibut on board.

(j) A halibut license shall not be valid for halibut fishing in any area closed to halibut fishing nor for the possession of halibut in any area closed to halibut fishing except while in actual transit to or within a port of sale and as provided in paragraph (m) of this section.

(k) Any vessel which is not required to be licensed for halibut fishing under paragraph (a) of this section shall not possess any halibut of any origin in any area closed to halibut fishing except while in actual transit to or within a port of sale.

(l) A halibut license shall not be valid for halibut fishing in any area while a permit endorsed thereon is in effect, nor shall it be validated while halibut taken under such permit is on board.

(m) A halibut license when validated for halibut fishing in Area 3A shall not be valid for the possession of any halibut in Area 2 if said vessel is in possession of baited gear more than 25 miles from Cape Spencer Light, Alaska; and a halibut license when validated for halibut fishing in Area 3B shall not be valid for the possession of any halibut in Area 3A, when Area 3A is closed to halibut fishing, if said vessel is in possession of baited gear more than 20 miles by navigable water route from the boundary between Areas 3A and 3B.

(n) No person on any vessel which is required to have a halibut license under paragraph (a) of this section shall fish for halibut or have halibut in his possession, unless said vessel has a valid license issued and in force in conformity with the provisions of this section.

§ 301.7 *Retention of halibut taken under permit.* (a) There may be retained for sale on any vessel which shall have a permit as provided in § 301.8 such halibut as is caught incidentally to fishing by that vessel in any area after it has been closed to halibut fishing under § 301.2 or § 301.4 with set lines (of the type commonly used in the Pacific Coast halibut fishery) for other species, not to exceed at any time one pound of halibut for each seven pounds of salable fish, actually utilized, of other species not including salmon or tuna, and such halibut may be sold as the catch of said vessel, the weight of all fish to be computed as with heads off and entrails removed: *Provided*, That it shall not be a violation of this regula-

tion for any such vessel to have in possession halibut in addition to the amount herein allowed to be sold if such additional halibut shall not exceed thirty percent of such amount and shall be forfeited and surrendered at the time of landing as provided in paragraph (e) of this section.

(b) There may be retained for sale on any vessel which shall have a permit as provided in § 301.8 such halibut as is caught incidentally to fishing for species of crab by that vessel in that part of Area 3B known as Bering Sea after 6:00 a. m. of the 1st day of April of the year 1958 with bottom trawl nets (of the type commonly used in the Bering Sea king crab fishery) whose cod ends or fish bags shall consist of webbing whose dry-stretched mesh shall measure not less than 12 inches between knots or hog rings, not to exceed at any time one pound of halibut for each five pounds drained weight of salable picked crab meat or the equivalent drained weight of crab meat in the shell or in vacuum-packed heat processed containers. The equivalent weight of meat in the shell shall be computed on the basis of 15 pounds of meat in the shell being equal to 6 pounds of drained picked crab meat and the equivalent weight of processed meat shall be computed on the basis of 6½ ounces of drained weight of processed crab being equal to 8 ounces of picked crab meat.

(c) Halibut retained under such permit shall not be filleted, flitched, steaked or butchered beyond the removal of the head and entrails while on the catching vessel.

(d) Halibut retained under such permit shall not be landed or otherwise removed or be received by any person, firm or corporation from the catching vessel until all halibut on board shall have been reported to a customs, fishery or other authorized enforcement officer of the Governments of Canada or the United States by the captain or operator of said vessel and also by the person, firm or corporation receiving the halibut, and no halibut or other fish or crabs shall be landed or removed or be received from the catching vessel, except with the permission of said officer and under such supervision as the said officer may deem advisable.

(e) Halibut retained under such permit shall not be purchased or held in possession by any person other than the master, operator or crew of the catching vessel in excess of the proportion allowed in paragraph (a) of this section until such excess, whatever its origin, shall have been forfeited and surrendered to the customs, fishery or other authorized officers of the Governments of Canada or the United States. In forfeiting such excess, the vessel shall be permitted to surrender any part of its catch of halibut, provided that the amount retained shall not exceed the proportion herein allowed.

(f) Permits for the retention and landing of halibut caught in Areas 1A, 1B, 2, 3A or 3B, exclusive of that part known as Bering Sea, in the year 1958 shall become invalid at 6:00 a. m. of the 16th day of November of said year or at such earlier date as the Commission shall determine.

(g) Permits shall become invalid for the retention of halibut caught in that

part of Area 3B known as Bering Sea after 6:00 a. m. of the 15th day of November in the year 1958 and shall become invalid for the landing of halibut caught under permit in that part of Area 3B known as Bering Sea after 6:00 a. m. of the 15th day of December of the year 1958 or at such earlier dates as the Commission shall determine.

§ 301.8 *Conditions limiting validity of permits.* (a) Any vessel which shall be used in fishing for other species than halibut in any area after it has been closed to halibut fishing under § 301.2 or § 301.4 must have a halibut license and a permit if it shall retain, land or sell any halibut caught incidentally to such fishing or possess any halibut of any origin during such fishing, as provided in § 301.7.

(b) The permit shall be shown by endorsement of the issuing officer on the face of the halibut license form held by said vessel and shall show the area or areas for which the permit is issued.

(c) The permit shall terminate at the time of the first landing thereafter of fish or crabs of any species and a new permit shall be secured before any subsequent fishing operation for which a permit is required.

(d) A permit shall not be issued to any vessel which shall have halibut on board taken while said vessel was licensed to fish in an open area unless such halibut shall be considered as taken under the issued permit and shall thereby be subject to forfeiture when landed if in excess of the proportion permitted in paragraph (a) or (b) of § 301.7.

(e) A permit shall not be issued to, or be valid if held by, any vessel which shall fish with other than set lines of the type commonly used in the Pacific Coast halibut fishery except in that part of Area 3B known as Bering Sea as provided in paragraph (b) of § 301.7.

(f) The permit of any vessel shall not be valid unless the permit is granted before departure from port for each fishing operation for which statistical returns are required. This granting of a permit shall be by customs officers or by fishery officers of the Governments of Canada or the United States when available at places where there are no customs officers and shall not be made unless the area or areas in which the vessel will fish is entered on the halibut license form and unless the provisions of § 301.9 have been complied with for all landings and all fishing operations since issue of the license or permit, provided that if the master or operator of any vessel shall fail to comply with the provisions of § 301.9, the permit of such vessel may be granted by customs or fishery officers upon evidence either that there has been a judicial determination of the offense or that the laws prescribing penalties therefor have been complied with, or that the said master or operator is no longer responsible for, nor sharing in, the operations of said vessel.

(g) A permit shall not be valid for the landing of halibut caught incidentally to fishing for crabs in that part of Area 3B known as Bering Sea unless the vessel shall show documentary evidence of date of departure from some port or place within said area, or from Akutan, Alaska, subsequent to such fishing. Such documentary evidence may consist of a certi-

fied written statement of a properly identified and responsible resident within that part of Area 3B known as Bering Sea or at Akutan.

(h) The permit of any vessel shall not be valid if said vessel shall have in its possession at any time halibut in excess of the amount allowed under paragraph (a) or (b) of § 301.7.

(i) No person shall retain, land or sell any halibut caught incidentally to fishing for other species in any area closed to halibut fishing under § 301.2 or § 301.4, or shall have halibut of any origin in his possession during such fishing, unless such person is a member of the crew of and is upon a vessel with a halibut license and with a valid permit issued and in force in conformity with the provisions of §§ 301.7 and 301.8.

§ 301.9 *Statistical return by vessels.*

(a) Statistical return as to the amount of halibut taken during fishing operations must be made by the master or operator of any vessel licensed under the regulations in this part and as to the amount of halibut and other species by the master or operator of any vessel operating under permit as provided for in §§ 301.7 and 301.8, within 96 hours of landing, sale or transfer of halibut or of first entry thereafter into a port where there is an officer authorized to receive such return.

(b) The statistical return must state the port of landing and the amount of each species taken within the area or areas defined in the regulations in this part, for which the vessel's license is validated for halibut fishing or within the area or areas for which the vessel's license is endorsed as a permit.

(c) The statistical return must include all halibut landed or transferred to other vessels and all halibut held in possession on board and must be full, true and correct in all respects herein required.

(d) The master or operator or any person engaged on shares in the operation of any vessel licensed or holding a permit under the regulations in this part may be required by the Commission or by any officer of the Governments of Canada or the United States authorized to receive such return to certify to its correctness to the best of his information and belief and to support the certificate by a sworn statement. Validation of a permit after such sworn return is made shall be provisional and shall not render the license or permit valid in case the return shall later be shown to be false or fraudulently made.

(e) The master or operator of any vessel holding a license or permit under the regulations in this part shall keep an accurate log of all fishing operations including therein date, locality, amount of gear used, and amount of halibut taken daily in each such locality. This log record shall be open to inspection by representatives of the Commission authorized for this purpose.

(f) The master, operator or any other person engaged on shares in the operation of any vessel licensed under the regulations in this part may be required by the Commission or by any officer of the Governments of Canada or the United States to certify to the correctness of such log record to the best of his

information and belief and to support the certificate by a sworn statement.

§ 301.10 Statistical return by dealers.

(a) All persons, firms or corporations that shall buy halibut or receive halibut for any purpose from fishing or transporting vessels or other carrier shall keep and on request furnish to customs officers or to any enforcing officer of the Governments of Canada or the United States or to representatives of the Commission, records of each purchase or receipt of halibut, showing date, locality, name of vessel, person, firm or corporation purchased or received from and the amount in pounds according to trade categories of the halibut and other species landed with the halibut.

(b) All persons, firms or corporations receiving fish from a vessel fishing under permit as provided in § 301.7 shall within 48 hours make to an authorized enforcement officer of the Governments of Canada or the United States a signed statistical return showing the date, locality, name of vessel received from and the amount of halibut and of other species landed with the halibut and certifying that permission to receive such fish was secured in accordance with paragraph (d) of § 301.7. Such persons, firms or corporations may be required by any officer of the Governments of Canada or the United States to support the accuracy of the above signed statistical return with a sworn statement.

(c) All records of all persons, firms or corporations concerning the landing, purchase, receipt and sale of halibut and other species landed therewith shall be open at all times to inspection by any enforcement officer of the Governments of Canada or the United States or by any authorized representative of the Commission. Such persons, firms or corporations may be required to certify to the correctness of such records and to support the certificate by a sworn statement.

(d) The possession by any person, firm or corporation of halibut which such person, firm or corporation knows to have been taken by a vessel without a valid halibut license or a vessel without a permit when such license or permit is required, is prohibited.

(e) No person, firm or corporation shall unload any halibut from any vessel that has fished for halibut in Area 3B after the closure of Area 3A unless the license of said vessel has been validated at a port or place in Area 3B as required in paragraphs (f) and (g) of § 301.6 or unless permission to unload such halibut has been secured from an enforcement officer of the Governments of Canada or the United States.

§ 301.11 Closed nursery grounds. (a) The following areas have been found to be populated by small, immature halibut and are designated as nursery grounds and except in the year 1958 are closed to halibut fishing, and, except in the year 1958, no person shall fish for halibut in either of such areas, or shall have halibut in his possession while fishing for other species therein, or shall have halibut of any origin in his possession therein except in the course of a continuous transit across such area, or during continuous transit through such area for landing at the Port of Masset, Q. C. I.

(b) First, that area in the waters off the coast of Alaska within the following boundary as stated in terms of the magnetic compass unless otherwise indicated: from the north extremity of Cape Uliitka, Noyes Island, approximately latitude 55°33'48" N., longitude 133°43'35" W., to the south extremity of Wood Island, approximately latitude 55°39'44" N., longitude 133°42'29" W.; thence to the east extremity of Timbered Islet, approximately latitude 55°41'47" N., longitude 133°47'42" W.; thence to the true west extremity of Timbered Islet, approximately latitude 55°41'46" N., longitude 133°48'01" W.; thence southwest three-quarters south sixteen and five-eighths miles to a point approximately latitude 55°34'46" N., longitude 134°14'40" W.; thence southeast by south twelve and one-half miles to a point approximately latitude 55°22'23" N., longitude 134°12'48" W.; thence northeast thirteen and seven-eighths miles to the southern extremity of Cape Addington, Noyes Island, latitude 55°26'11" N., longitude 133°49'12" W.; and to the point of origin on Cape Uliitka. The boundary lines herein indicated shall be determined from Chart 8157, as published by the United States Coast and Geodetic Survey at Washington, D. C., in June 1929, and Chart 8152, as published by the United States Coast and Geodetic Survey at Washington, D. C., in March 1933, and reissued March 1939, except for the point of Cape Addington which shall be determined from Chart 8158, as published by the United States Coast and Geodetic Survey in December 1923, provided that the duly authorized officers of the United States of America may at any time place a plainly visible mark or marks at any point or points as nearly as practicable on the boundary line defined herein, and such mark or marks shall thereafter be considered as correctly defining said boundary.

(c) Second, that area lying in the waters off the northern coast of Graham Island, British Columbia, within the following boundary, as stated in terms of the magnetic compass unless otherwise indicated: from the outer Entry Point Light, latitude 54°02'40" N., longitude 132°11'30" W.; thence northwest ten miles to a point approximately latitude 54°12'20" N., longitude 132°16'30" W.; thence true east approximately fourteen and one-half miles to a point which shall lie northwest of the highest point of Tow Hill, Graham Island, latitude 54°04'24" N., longitude 131°48'00" W.; thence southeast to the said highest point of Tow Hill. The points on the above mentioned island shall be determined from Chart 3754, published at the Admiralty, London, April 11, 1911, provided that the duly authorized officers of Canada may at any time place a plainly visible mark or marks at any point or points as nearly as practicable on the boundary line defined herein, and such marks shall thereafter be considered as correctly defining said boundary.

§ 301.12 Dory gear prohibited. The use of any hand gurdy or other appliance in hauling halibut gear by hand power in any dory or small boat operated from a vessel licensed under the provisions or the regulations in this part is prohibited in all convention waters.

§ 301.13 Nets prohibited. (a) It is prohibited to retain halibut taken in Areas 1A, 1B, 2, 3A, and in Area 3B, exclusive of that part known as Bering Sea, with a net of any kind or to have in possession any halibut in said areas while using any net or nets other than bait nets for the capture of other species of fish, nor shall any license or permit validated for said areas under the regulations in this part be valid during the use or possession on board of any net or nets other than bait nets: *Provided*, That the character and the use of said bait nets conform to the laws and regulations of the country where they may be utilized and that said bait nets are utilized for no other purpose than the capture of bait for said vessel.

(b) It is prohibited to retain halibut taken in that part of Area 3B known as Bering Sea with any net which does not have a cod end or fish bag of webbing whose dry-stretched mesh measures 12 inches or more between knots or hog rings, nor shall any license or permit held by any vessel fishing for crabs in that part of Area 3B known as Bering Sea be valid for the possession of halibut during the use or possession on board of any net which does not have a cod end or fish bag of webbing whose dry-stretched mesh measures 12 inches or more between knots or hog rings.

§ 301.14 Retention of tagged halibut. Nothing contained in the regulations in this part shall prohibit any vessel at any time from retaining and landing any halibut which bears a Commission tag at the time of capture: *Provided*, That such halibut with the tag still attached is reported at the time of landing to representatives of the Commission or to enforcement officers of the Governments of Canada or the United States and is made available to them for examination.

§ 301.15 Responsibility of master. Wherever in the regulations in this part any duty is laid upon any vessel, it shall be the personal responsibility of the master or operator of said vessel to see that said duty is performed and he shall personally be responsible for the performance of said duty. This provision shall not be construed to relieve any member of the crew of any responsibility with which he would otherwise be chargeable.

§ 301.16 Supervision of unloading and weighing. The unloading and weighing of the halibut of any vessel licensed under the regulations in this part and the unloading and weighing of halibut and other species of any vessel holding a permit under the regulations in this part shall be under such supervision as the customs or other authorized officer may deem advisable in order to assure the fulfillment of the provisions of the regulations in this part.

§ 301.17 Previous regulations superseded. The regulations in this part shall supersede all previous regulations adopted pursuant to the Convention between Canada and the United States of America for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, signed March 2, 1953, except as to offenses occurring prior to the approval of the regulations in this

part. The regulations in this part shall be effective as to each succeeding year, with the dates herein specified changed accordingly, until superseded by subsequently approved regulations. Any determination made by the Commission pursuant to the regulations in this part shall become effective immediately.

SETON H. THOMPSON,
Chairman.
WILLIAM M. SPRULES,
Vice-Chairman.
HAROLD S. HELLAND,
MATTIAS MADSEN,
J. W. MENDENHALL,
RICHARD NELSON.

Signed:

SETON H. THOMPSON,
Chairman.

Signed:

H. A. DUNLOP,
Secretary.

Approved: March 28, 1958.

DWIGHT D. EISENHOWER.

Note: Also see Commercial Fisheries Review, June (1958) p. 55; April 1958, p. 49.



Eighty-Fifth Congress (Second Session)

Public bills and resolutions which may directly or indirectly affect the fisheries and allied industries are reported upon. Introduction, referral to committees, pertinent legislative actions, hearings, and other chamber actions by the House and Senate, as well as signature into law or other final disposition are covered.



ALASKA STATEHOOD: H. R. 7999, a bill to enable the people of Alaska to form a constitution and State government and to be admitted to the Union on an equal footing with the original States. Passed by the Senate on June 30, 1958, and cleared for the President. Signed on July 7, 1958 (P. L. 85-508). The Act as it applies to fish and wildlife reads as follows: Sec. 6. (e) All real and personal property of the United States situated in the Territory of Alaska which is specifically used for the sole purpose of conservation and protection of the fisheries and wildlife of Alaska, under the provisions of the Alaska game law of July 1, 1943 (57 Stat. 301; 48 U. S. C., secs. 192-211), as amended, and under the provisions of the Alaska commercial fisheries laws of June 26, 1906 (34 Stat. 478; 48 U. S. C., secs. 230-239 and 241-242), and June 6, 1924 (43 Stat. 465; 48 U. S. C., secs. 221-228), as supplemented and amended, shall be transferred and conveyed to the State of Alaska by the appropriate Federal agency: Provided, That

the administration and management of the fish and wildlife resources of Alaska shall be retained by the Federal Government under existing laws until the first day of the first calendar year following the expiration of ninety legislative days after the Secretary of the Interior certifies to the Congress that the Alaska State Legislature has made adequate provision for the administration, management, and conservation of said resources in the broad national interest: Provided, That such transfer shall not include lands withdrawn or otherwise set apart as refuges or reservations for the protection of wildlife nor facilities utilized in connection therewith, or in connection with general research activities relating to fisheries or wildlife. Sums of money that are available for apportionment or which the Secretary of the Interior shall have apportioned, as of the date the State of Alaska shall be deemed to be admitted into the Union, for wildlife restoration in the Territory of Alaska, pursuant to section 8 (a) of the Act of September 2, 1937, as amended (16 U. S. C., sec. 669g-1), and for fish restoration and management in the Territory of Alaska, pursuant to section 12 of the Act of August 9, 1950 (16 U. S. C., sec. 777k), shall continue to be available for the period, and under the terms and conditions in effect at the time the apportionments are made. Commencing with the year during which Alaska is admitted into the Union, the Secretary of the Treasury, at the close of each fiscal year, shall pay to the State of Alaska 70 per centum of the net proceeds, as determined by the Secretary of the Interior, derived during such fiscal year from all sales of sealskins or sea-otter skins made in accordance with the provisions of the Act of February 26, 1944 (58 Stat. 100; 16 U. S. C., secs. 631a-631q), as supplemented and amended. In arriving at the net proceeds, there shall be deducted from the receipts from all sales all costs to the United States in carrying out the provisions of the Act of February 26, 1944, as supplemented and amended, including, but not limited to, the costs of handling and dressing the skins, the costs of making the sales, and all expenses incurred in the administration of the Pribilof Islands. Nothing in this Act shall be construed as affecting the rights of the United States under the provisions of the Act of February 26, 1944, as supplemented and amended, and the Act of June 28, 1937 (50 Stat. 325), as amended (16 U. S. C., sec. 772 et seq.). (See Commercial Fisheries Review, July 1958 p. 84, December 1957 p. 80, October 1957 pp. 42-43, September 1957 p. 76, July 1957 pp. 44-45, June 1957 p. 69, May 1957 p. 71, and February 1957 p. 62 for preceding actions on this bill.)

ALASKA TIDELAND LEASES: H. R. 8054, a bill to provide for the leasing of oil and gas deposits beneath inland navigable waters in the Territory of Alaska. Passed the Senate on June 20, 1958, and later returned to calendar for reconsideration of a new amendment. The amendment concerning the rate of royalty to be charged was accepted by the Senate and the bill was finally passed on June 23, 1958. Signed by the President on July 3, 1958 (P. L. 85-505). Section 5 protects the validity of existing or future rights to take natural resources including fish and game from the waters themselves and protects the navigational servitude. The section allows simultaneous use of such rights and servitudes and operations under oil and gas leases, but all operations

under such leases are subject to rules and regulations prescribed by the Secretary for the prevention of injury to fish and game. As finally enacted the words "inland navigable waters" were changed to "nontidal navigable waters." Nontidal is defined as all points upstream from a line connecting the headlands at the mouth or mouths of such streams. The rate of royalty shall be identical with those prescribed for leases covering similar lands in the States of the United States. The bill was reported (H. Rept. 774) in the House on July 9, 1957, and passed by the House on August 5, 1957.

S. Rept. No. 1720, Providing for the Leasing of Oil and Gas Deposits in Lands Beneath Nontidal Navigable Waters in the Territory of Alaska, and for Other Purposes (June 17, 1958, 85th Congress, 2nd Session, to accompany H. R. 8054), 14 pp., printed. The report by the Senate Committee on Interior and Insular Affairs gives the suggested changes in the House bill, background information, purposes of the major amendments to the bill, section-by-section analysis, some communications from the Department of the Interior, definitions, and changes in existing law.

ANTIDUMPING ACT OF 1921: H. R. 6006, a bill to amend the Antidumping Act of 1921, and for other purposes. Passed by the House, with amendments, on August 29, 1957, and by the Senate on May 26, 1958, with amendments. Conferrees to a Committee on Conference were appointed by the House on July 1, 1958, and by the Senate on July 7, 1958. (See Commercial Fisheries Review, July 1958 pp. 84-85, November 1957 p. 65, October 1957 p. 43, May 1957 p. 71, April 1957 p. 65, and March 1957 p. 79.)

EXCISE TAX RATE EXTENSION: H. R. 12695, a bill to provide a 1-year extension of the existing normal-tax rate and of excise-tax rates, and to provide for the repeal of the taxes on the transportation of property. This bill was passed by both the Senate and the House and signed by the President on June 30, 1958 (P. L. 85-475). The bill as enacted provides for elimination of the 3 percent tax on the transportation of property (including fishery products).

EXEMPT TRUCK USE: H. R. 12832, a bill to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system was passed by the House, as amended, on June 27, 1958. Following the passage of H. R. 12832 the House passed S. 3778, with an amendment, that substituted the language of H. R. 12832, except for the enacting clause. The House appointed conferees and the bill was sent to conference. The bill as passed retains the fisheries exemptions and reads as follows: "to include fish or shellfish and frozen products thereof containing seafood as a basic ingredient, whether breaded, cooked, or otherwise prepared (but not including fish and shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned, or kippered)." (See Commercial Fisheries Review, July 1958 pp. 85-86 for additional information.

H. Rept. No. 1922, Transportation Act of 1958 (June 18, 1958, 85th Congress, 2nd Session), 54 pp., printed. To accompany H. R. 12832 (together with supplemental views). The report from the House Committee on Interstate and Foreign Com-

merce gives the changes made in the original bill by the Committee, the agricultural commodities exemption, views of Committee members that disagree in one way or the other with the report, and, appendixes which list exempt and nonexempt commodities.

H. Rept. No. 2007, Consideration of H. R. 12832 (June 25, 1958, 85th Congress, 2nd Session), 1 p., printed, to accompany H. Res. 608. The report recommended the passage of H. Res. 608, which would limit debate on H. R. 12832.

FISH AND WILDLIFE SERVICE: Review of Fish and Wildlife Service (Hearings before the Committee on Merchant Marine and Fisheries, House of Representatives, Eighty-Fifth Congress, Second Session, January 10, 13, 14, and 15, 1958), 378 pp., printed. Presents the information given at the hearings held by the House Committee on Merchant Marine and Fisheries on the status of Fish and Wildlife Service reorganization and current activities. Includes statements presented to the Committee by Interior Departmental, Service, and Bureau officials. The activities of the Bureau of Commercial Fisheries are described in detail with accompanying illustrations and charts.

FOREIGN TRADE STATISTICS COLLECTION AND PUBLICATION: S. 4005 (Johnson of So. Carolina) introduced in the Senate on June 12, 1958, a bill to amend title 13 of the United States Code to provide for the collection and publication of foreign trade commerce and trade statistics and for other purposes; referred to the Committee on Post Office and Civil Service. The bill would give the Secretary of the Treasury authority to impose fines of \$100 per day but not exceeding \$1,000 for failure to meet the reporting regulations.

MARINE MAMMAL PROTECTION ON THE HIGH SEAS: S. 4115 (Murray), introduced in the Senate on July 9, 1958, a bill to revise the Alaska game law and provide for the protection of marine mammals on and off the coast of Alaska; to the Committee on Interior and Insular Affairs. The bill provides for the protection of walrus and polar bear on the high seas and makes certain other changes in the Alaskan game laws.

MIGRATORY BIRD HUNTING STAMP ACT AMENDMENT: S. 2617 (Magnuson), a bill to amend the Migratory Bird Stamp Act of March 16, 1934, as amended; referred to the Committee on Interstate and Foreign Commerce. Reported (S. Rept. No. 1426) in Senate on March 26, 1958 and passed by the Senate in June 1958. The bill provides for increases in the cost of the duck stamp from \$2 to \$3 and earmarks the increase for acquisition and leasing of wet lands. Areas to be purchased would include marsh and fresh-water areas along the coasts which would benefit fish and shellfish by protecting important spawning and nursery areas that may be lost through various types of development.

OUTDOOR RECREATION RESOURCES REVIEW COMMISSION: S. 846, a bill to create a National Outdoor Resources Review Commission to study the outdoor recreation resources of the public lands and other land and water areas of the United States, and for other purposes; referred to Committee on Interior and Insular Affairs. This bill provides for a Commission to study outdoor

recreation resources of land and water areas. An advisory council would be appointed consisting of representatives of various groups, including commercial fishery interests. This bill was reported in the Senate on June 19, 1957 (S. Rept. No. 471), passed by the Senate on June 26, 1957 and referred to the House Committee on Interior and Insular Affairs on June 27, 1957. The bill passed the House in June 1958 and final action by both the Senate and the House was completed on June 19, 1958. Signed by the President on July 9, 1958 (P. L. 85-470). "Secs. 7 and 8 of the law point out: Sec. 7. The Commission, in its inquiries, findings, and recommendations, shall recognize that present and future solutions to problems of outdoor recreation resources and opportunities are responsibilities at all levels of government, from local to Federal, and of individuals and private organizations as well. The Commission shall recognize that lands, waters, forest, rangelands, wetlands, wildlife and such other natural resources that serve economic purposes also serve to varying degrees and for varying uses outdoor recreation purposes, and that sound planning of resource utilization for the full future welfare of the Nation must include coordination and integration of all such multiple uses. Sec. 8. There are hereby authorized to be appropriated not more than \$2,500,000 to carry out the purposes of this Act, and such moneys as may be appropriated shall be available to the Commission until expended."

POWER PROJECTS FISHERIES RESOURCES DEVELOPMENT: H. R. 13057 (Blatnik) introduced in the House on June 19, 1958, a bill to promote the conservation of migratory fish and game by requiring certain approval by the Secretary of the Interior of licenses issued under the Federal Power Act; to the Committee on Interstate and Foreign Commerce. Also introduced on July 2, 1958, H. R. 13729 (Saylor), similar to H. R. 13057, and to S. 3185 (Newberger), reported favorably on June 13, 1958.

SHIP MORTGAGE INSURANCE PLEDGE-OF-FAITH CLAUSE: H. R. 12739 (Bonner), a bill to amend section 1105(b) of title XI (Federal Ship Mortgage Insurance) of the Merchant Marine Act of 1936, as amended, to implement the pledge-of-faith clause. The bill was passed by the House on June 26, 1958, without amendment. S. 3919, a similar Senate bill was passed by the Senate on July 1, 1958. Later on the same day, the Senate substituted H. R. 12739 (in lieu of S. 3919) and passed this bill without amendment. The bill provides for temporary loans to the Secretary of Commerce from the Secretary of the Treasury in case of a default on a ship mortgage. The bill was signed by the President on July 15, 1958 (P. L. No. 85-520).

S. Rept. No. 1759, Implementing the Pledge-of-Faith Clause in the Federal Ship Mortgage Statute (June 24, 1958, 85th Congress, 2nd Session, to accompany S. 3919), 8 pp., printed. The report by the Committee on Interstate and Foreign Commerce gives the purpose of the bill, background of the proposed legislation, statements by Government officials, and changes in existing law. (See Commercial Fisheries Review, July 1958, p. 87, for earlier actions on the bills.) Under the terms of the Fish and Wildlife Act of 1956, the authority of the Secretary of Commerce to guarantee

ship mortgages insofar as concerns fishing vessels could be delegated to the Secretary of the Interior. If this comes about, fishing vessels could be built under the same favorable terms as now exist for the United States Merchant Marine.

SMALL BOAT REGULATION: Committee on Rules on June 12 reported (H. Rept. No. 1877) to the House H. Res. 591, providing for the consideration of, and 2 hours of debate on, H. R. 11078, to promote boating safety on the navigable waters of the United States and provide coordination and cooperation with the States in the interest of uniformity of boat laws. H. R. 11078 was later returned to the Committee due to some technical errors and reported (H. Rept. No. 2039) favorably on June 26, 1958, with amendment, by the Committee on Merchant Marine and Fisheries. A second resolution (H. Res. 626) to bring the bill before the House with limited debate was reported favorably by the Committee on Rules on July 9, 1958 (H. Rept. No. 2125). (See Commercial Fisheries Review, June 1958 p. 83 for additional information.)

SMALL BUSINESS: H. Rept. No. 1889, Problems of Small-Business Financing (June 17, 1958, a report of the Select Committee on Small Business, House of Representatives, 85th Congress, 2nd Session, pursuant to H. Res. 56, a resolution creating a Select Committee to conduct a study and investigation of the problems of small business), 109 pp., printed. Presents reports, tables, and graphs from private industry and Government officials on the need for long-term debt and equity capital and failure of existing lending agencies to provide debt and equity capital for small businesses. Recommends that the Federal Government provide leadership in authorizing, promoting, and assisting in the establishment of new facilities to provide long-term loans and equity capital for small business. (See Commercial Fisheries Review, July 1958, pp. 87-88.)

SMALL BUSINESS ADMINISTRATION PERMANENT STATUS: H. R. 7963 (Spence), a bill to amend the Small Business Act of 1953, as amended. Reported by Senate Committee on Banking and Currency on June 16, 1958 (S. Rept. No. 1714). The bill, previously passed by the House on June 25, 1957, was passed by the Senate on July 1, 1958, with numerous amendments. The bill as passed by the Senate provides permanent status for the Small Business Administration, increases the revolving fund for business, disaster, and prime contract loans (total for business loans would be \$500 million) by \$120 million, increases the maximum of loans from \$250,000 to \$350,000. Also directs the Administration to assist small business in obtaining Government research and development contracts; obtain research and development information from other contracts entered into by the Government with other firms; authorizes small business to join together in research and development work without regard to antitrust laws, providing the Administration and the Attorney General agree that national interest would be served thereby. Rejected the House provision requiring the Small Business Administration to provide a new definition of small business. The Senate insisted on its amendments and appointed Conferees to a Committee on Conference. The House appointed Conferees on July 2, 1958 and the Committee on Conference reported (H. Rept. 2135) on July 9, 1958. The conference report provided

for a 5½-percent limit on interest and an individual loan limit of \$350,000.

S. Rept. No. 1714, Small Business Act (June 16, 1958, 85th Congress, 2nd Session, to accompany H. R. 7963), 40 pp., printed. The report by the Senate Committee on Banking and Currency gives the legislative history of the bill, a summary of Small Business Programs, the principal changes in existing law, and the amendments to H. R. 7963 as passed by the House. In effect H. R. 7963 completely rewrites the Small Business Act of 1953 in both the House and Senate versions of the bill.

SMALL BUSINESS INVESTMENT CORPORATION: S. 3651, a bill to establish a Small Business Investment Corporation to furnish needed equity capital to small business concerns in the United States; and for other purposes. Reported (H. Rept. No. 2060) by the House Committee on Banking and Currency on June 30, 1958, and referred to the Committee of the Whole House.

H. Res. 618, a resolution to suspend the rules and limit debate to two hours in consideration of S. 3651, was reported (H. Rept. No. 2115) favorably on July 2, 1958. (See Commercial Fisheries Review, July 1958 p. 87 for further information on S. 3651.)

H. Rept. No. 2060, Small Business Investment Act of 1958 (June 30, 1958, 85th Congress, 2nd Session, to accompany S. 3651), 35 pp., printed. Describes purpose of bill, provisions and purposes of funds for encouraging the establishment of privately-owned small-business investment companies to be supervised by a Small Business Investment Division of the Small Business Administration. The sum of \$250 million (same as recommended by Senate) would be appropriated for capital funds. The report also outlines the organization of small business investment companies, capital stock requirements, limits of loans by Administration to investment companies, loans to small-business concerns by small-business investment companies, and an outline of the differences between S. 3651 as passed by the Senate and the bill as reported in the House.

SMALL BUSINESS RESEARCH AND DEVELOPMENT ACT OF 1958: S. 4033 (Javits and others) introduced in the Senate on June 19, 1958, a bill to amend the Small Business Act of 1953 to assist small-business concerns to participate in and derive benefits from research and development; to the Committee on Banking and Currency. This bill, similar in title and purpose to S. 2993 (Fullbright), introduced in the Senate on January 13, 1958, provides loans of up to \$250,000 by the Small Business Administration to any research and development organization established by a group of small concerns which could presently qualify for individual loans under the provisions of the Small Business Act of 1953. The total amount available for loans shall not exceed \$20 million. Loans of this type to groups of small business concerns would enable these groups to undertake applied research on their own initiative, and to share results with members. This bill includes some of the provisions of H. R. 7963 which has passed the House and Senate.

STATE DEPARTMENT APPROPRIATIONS: Senate on June 11 passed H. R. 12428, fiscal 1959

appropriations for the Departments of State and Justice, and the Judiciary, after adopting all committee amendments en bloc. Senate insisted on its amendments, and asked for conference with House, and appointed conferees. The Committee on Conference reported to the House on June 24 and the bill was sent to both Houses for final action. The bill was signed into law by the President on June 30, 1958 (P. L. 85-474). The bill as signed includes \$1,644,900 for the operation of International Fisheries Commission for fiscal year 1959. (See Commercial Fisheries Review, July 1958 p. 88, and June 1958 pp. 83-84.)

S. Rept. No. 1683, Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Bill, 1959 (June 9, 1958, 85th Congress, 2nd Session, to accompany H. R. 12428), 13 pp., printed. The report by the Senate Committee on Appropriations as it concerns funds for International Fisheries Commissions made no changes in funds for these functions.

H. Rept. No. 1980, Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Bill, 1958 (June 24, 1958, 85th Congress, 2nd Session, to accompany H. R. 12438), 6 pp., printed. As further reported by the Committee on Conference no changes were made in the funds appropriated for International Fisheries Commissions.

TRADE AGREEMENTS ACT EXTENSION: H. R. 12591, to extend the authority of the President to enter into trade agreements under section 350 of the Tariff Act of 1930, as amended. Hearings were held by the Senate Ways and Means Committee beginning on June 18 and concluded on July 3, 1958. The bill was reported to the Senate by the Committee on July 15, 1958. (See Commercial Fisheries Review July 1958 pp. 88-89, June 1958 p. 84, May 1958 p. 79, April 1958 p. 34, and March 1958 p. 65.)

S. Rept. No. 1838, Trade Agreements Extension Act of 1958 (July 15, 1958, 85th Congress, 2nd Session, to accompany H. R. 12591), 47 pp., printed. The report by the Senate Committee on Ways and Means, together with individual and minority views, summarizes the amendments to the bill as passed by the House as follows: (1) The authority to reduce tariffs in trade agreements was extended for a period of 3 years, until June 30, 1961. The House bill would have extended such authority for a period of 5 years, until June 30, 1963. (2) Authority is granted to the President to reduce duties a total of 15 percent below present levels at the rate of 5 percent per year on the same basis as existed under the 1955 act. In other words the amount of decrease becoming initially effective at one time must not exceed 5 percent of the rate existing on July 1, 1958. Also, no part of any decrease in duty under this alternative shall become initially effective after the expiration of the 3-year period which begins on July 1, 1958. (3) The House-passed provisions relating to escape clause procedure under which Presidential disapproval of the Tariff Commission recommendation would be overridden by the adoption of a congressional concurrent resolution by a two-thirds vote of both Houses were deleted. In place of these provisions the Finance Committee inserted language providing that the Tariff Commission's recommendations would become

effective unless the President's disapproval of those recommendations was sustained by majority vote of each House of Congress. In case of a divided vote by the Tariff Commission as to injury, the affirmative findings would be considered the findings of the Commission. In any case where there existed a divided vote as to the remedy for the injury, the recommendation specified by the President in his report to Congress as providing the greatest measure of relief would be considered as the findings of the Commission. (4) The committee broadened the language of the House provisions relating to national security by providing that in the administration of those provisions the President must take into consideration the effect on the national security of a weakening of the general economy by excessive imports of competitive products. It also provided, in national security cases, that unless the President determines the article in question is not being imported into the United States in such quantities as to threaten the national security he shall take steps to adjust the imports of the article and its derivatives. (5) The Finance Committee added to the bill an amendment to establish a nine-member bipartisan commission to investigate and report on the international trade agreement policy of the United States and to recommend improvements in policies, measures, practices, and administration. An interim report is to be filed on or before June 30, 1959, and a final report, including recommendations, must be presented to the President and the Congress on or before June 30, 1960. The Commission is to be composed of 3 members appointed by the President, none of whom may be members of the executive branch; 3 from the Senate Committee on Finance, appointed by the Vice President; and 3 from the House Ways and Means Committee, appointed by the Speaker of the House. No more than two in each group are to be from the same political party. Also, gives a general statement concerning the legislation, a section-by-section explanation of the reported bill, the individuals'

views of Senator Douglas, a minority report, and changes in existing law.

Trade Agreements Act Extension (Hearings before the Committee on Finance, United States Senate, 85th Congress, 2nd Session, on H. R. 12591 an Act to Extend the Authority of the President to Enter into Trade Agreements under Section 350 of the Tariff Act of 1930, as amended, and for other purposes, Part 1, June 20, 21, 23, 24, 25, 26, 1958) 837 pp., printed. Presents an analysis and the text of H. R. 12591, reports by a number of Federal Agencies (including the Department of the Interior), statements by individuals and business representatives, and letters and telegrams expressing views on the bill. In addition, reports on action by the President on Tariff Commission recommendations on escape-clause cases, Administration trade policy, calendar of trade agreements, comparisons between imports and United States domestic production, statistics on United States foreign trade, etc.

TRANSPORTATION SYSTEM STUDY: S. Res. 303 (Smathers) introduced in the Senate on May 12, 1958, a resolution providing for study of transportation policies in the United States; referred to the Committee on Interstate and Foreign Commerce. This resolution was reported, with amendments, and referred to the Committee on Rules and Administration on May 28, 1958. Provides the sum of \$100,000 for the Committee on Interstate and Foreign Commerce, or a duly authorized subcommittee thereof, for a comprehensive study of transportation policy and related problems. Present Federal regulations and exemptions from these regulations would be included in the studies.

UNEMPLOYMENT RELIEF IN DEPRESSED AREAS: S. 3683, a bill to establish an effective program to alleviate the conditions of excessive unemployment in certain economically depressed areas. This bill which was passed by the Senate on May 28, 1958, was reported (H. Rept. No. 2099) in the House on July 1, 1958.



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