



FEDERAL ACTIONS



Atomic Energy Commission

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL IN PACIFIC PROPOSED:

The Atomic Energy Commission gave notice that it proposes to issue a license to Coastwise Marine Disposal Company of Los Angeles, Calif., authorizing disposal of radioactive waste material in the Pacific Ocean. The license would expire on February 28, 1961.

Notice of the proposed issuance was filed with Federal Register on February 25, 1959. The license was scheduled to be issued unless a request for a hearing was filed with the Commission by March 12, 1959.

Under the proposed license, Coastwise Marine would collect low-level waste material in containers meeting Interstate Commerce Commission specifications, from other Commission licensees, using a facility at Long Beach, Calif., as a collection, packaging, and storage point. The waste material received from customers will be packaged to assure safe handling and to withstand loading and unloading operations during transportation. The waste packages for sea disposal will have sufficient density to insure sinking to a depth of 1,000 fathoms (6,000 feet).

The proposed license would limit possession of byproduct material (radioisotopes) by Coastwise Marine to 100 curies at any one time. The license would also provide that during the 2-year period of the license the company could not collect for disposal more than 200 pounds of source material (uranium and thorium) and 100 grams of special nuclear material (Uranium-233, Uranium-235, and plutonium).

The disposal site proposed by the applicant is within a 5-mile radius of the intersection of the parallel of latitude $32^{\circ}00'$ north and meridian of longitude $121^{\circ}30'$

west. The area is beyond the continental shelf and lies approximately 130 miles southwest of Point Arguella, Calif. The ocean depth at the proposed dumping site is about 2,000 fathoms.

The containers specified in the proposed license and the disposal location meet the recommendations of the National Committee on Radiation Protection for radioactive waste disposal in the oceans.



Department of Commerce

COAST AND GEODETIC SURVEY

EXPERIMENTAL SMALL-BOAT CHARTS DEVELOPED FOR EVALUATION:

A large segment of the nation's small-boat owners on January 16, 1959, got their first look at the experimental charts that have been especially designed for use in the cramped quarters of the more than 7 million small craft operated in the United States. The announcement of their publication was made by the Director of the Coast and Geodetic Survey, U. S. Department of Commerce.

The experimental charts, representing the greatest change in nautical charts, since the introduction of color in 1862, have been developed under four different formats, all of which cover the 100 miles of the Potomac River between Washington, D. C., and its mouth at Point Lookout, Md. The opinions of the boating public are sought concerning the experimental formats. The suggestions of boating clubs throughout the country will influence the choice of formats that will be used for charts covering other important waterways.

Although the research and development program was only started in July 1958, the Survey has rushed to completion the following four series for evaluation purposes.

Series A: One sheet, 8-fold, printed both sides, at a scale of 1:80,000, with the Washington area at 1:20,000 scale, paper size 15 by 58 inches.

Series B: Three sheets, 4-fold, at a scale of 1:80,000, with 1:40,000 scale enlargement of Washington area, 14-1/2 by 32-inch paper, supplemented by photographs of prominent land features and harbors.

Series C: Tensheets, loose-leaf or fixed binding, scale of 1:80,000 coverage, on legal size 8-1/2 by 14-inch paper.

Series D: Eight loose-leaf sheets, scale of 1:80,000, on 10-3/4 by 16-1/4-inch paper, including a 1:40,000 scale inset of Washington, D. C.

Department of Commerce (Cont.)

The charts of series B, C, and D are designed for binders, and series A is an accordion fold type.

Each series covers the same area and contains the same primary information. Large-scale insets of active boating areas supplement the main chart which is printed in four colors. The land area is buff colored and a blue tint indicates a water depth of six feet or less. Danger and restricted areas, velocity and direction of current, mileage marks, and fish traps are shown in red.

Supplemental descriptive information needed by the small-boat owners, and heretofore found only in the Coast Pilot volumes, has been added to the charts in tabular form. These include depths, tides, facilities, such as berths, surfaced launching ramp, hull and engine repairs, marine railway, electricity, toilets and showers, meals, and motor and rowboat rentals. The table also tells the mariner where he can get bait, tackle, gasoline, Diesel oil, water and ice, groceries, hardware, and bottled gas. The information listed on the facility table is also indicated by code number at the exact location on the chart.

The experimental charts also show the signals for storm warnings, rules of the road, call letters and time of weather forecasts by marine radiotelephone stations, and an explanation of the chart symbols and abbreviations.

After the initial showing at New York, the charts were exhibited at the Boat Show in Chicago on February 6, and in San Francisco on February 27. Copies of the experimental editions were distributed to Coast Guard Auxiliary Units, Power Squadrons, Outboard Clubs of America, yachting associations, boating magazines, and numerous individuals who have cooperated with the Survey by their helpful suggestions. Evaluation questionnaires were available to each organization and at the displays.



Federal Trade Commission

CONSENT ORDERS PROHIBIT SEAFOOD PACKERS AND BROKERS FROM MAKING UNLAWFUL BROKERAGE PAYMENTS:

Consent orders (Seafood 7200, 7202, 7204, 7208, and 7249) approved by the Federal Trade Commission on February 27, 1959, require three Seattle, Wash., and one Bellingham, Wash., seafood packers, their subsidiaries, and their associated primary brokers plus an independent Seattle primary broker to stop favoring customers with unlawful brokerage payments.

In taking this action, the Commission affirmed separate initial decisions by one of its hearing examiners based on orders agreed to by the respondents and the Commission's Bureau of Litigation.

These packers and brokers had been charged in complaints with granting fa-

ored buyers discounts or allowances in lieu of brokerage, in violation of Sec. 2 (c) of the Robinson-Patman Amendment to the Clayton Act.

Specifically, the complaints charged that: One of the Seattle packers and his two affiliated cannerys gave certain chains discounts or allowances in lieu of brokerage or lower prices reflecting brokerage. Also, their primary broker passed on brokerage to certain buyers while acting as primary broker for outside packers by selling at net prices lower than those accounted for to its packer-principals, giving allowances or rebates, wholly or partly not charged back to the packers, and taking reduced brokerage on sales.

The Bellingham packer gave direct-buying customers price reductions approximating the brokerage fees which would have been paid had brokers been utilized.

A second Seattle packer, who also acts as broker, granted certain buyers for their own account the customary field brokerage (usually $2\frac{1}{2}$ percent, sometimes $3\frac{1}{2}$ percent); sold at net prices lower than those accounted for to its packer-principals, absorbing all or part of the price difference from its commission; and granted price deductions which were not charged back to the packers but taken from its brokerage.

The independent Seattle primary broker sold at net prices lower than those accounted for to his packer-principals; granted rebates or allowances, wholly or partly not charged back to the packers; and made payments as or in lieu of brokerage to at least one agent of certain buyers, which came from his brokerage earnings and were not charged back.

The third Seattle packer and his exclusive primary broker granted price reductions where either a primary or field broker, or both, were not used or, if used, took a reduced fee. Also, they sold at net prices lower than those accounted for to the packer-principal.

The orders forbid these practices in the future. The agreements are for settlement purposes only and do not con-

Federal Trade Commission (Cont.)

stitute admissions by the respondents that they have violated the law.

* * * * *

DECISION REQUIRES SEATTLE SALMON CANNER TO STOP PAYING ILLEGAL BROKERAGE:

An initial decision (7201 Canned Seafood) issued January 12, 1959, by a Federal Trade Commission hearing examiner would require a Seattle, Wash., salmon canner to stop favoring customers with illegal brokerage payments. This is not a final decision of the Commission and may be appealed, stayed, or docketed for review.

The concern, the Commission's examiner said, not only sells its own pack of seafood, but acts as primary broker for other packers, generally through field brokers. Its customary brokerage fee is 5 percent which usually is split with the field broker.

In both capacities, the examiner found, the company has granted certain buyers substantial discounts or allowances in lieu of brokerage or price concessions reflecting brokerage. These practices violate Sec. 2(c) of the Robinson-Patman Amendment to the Clayton Act, which forbids sellers to pay brokerage to buyers purchasing for their own account for resale, he ruled.

Ordering the unlawful payments stopped, the examiner stated these typical means were used to make them: (1) allowing favored buyers, or their agents, price reductions offset wholly or partly by cutting the field broker's commission, and (2) granting price concessions reflecting brokerage where brokers were not utilized.

Named in the order was the concern's vice-president and, through stock holdings, the substantial owner.

The examiner's initial decision was based on the evidence presented by the Commission's counsel. The respondents neither filed an answer to the complaint of last July 22 nor appeared at the hearing.



Department of the Interior

FISH AND WILDLIFE SERVICE

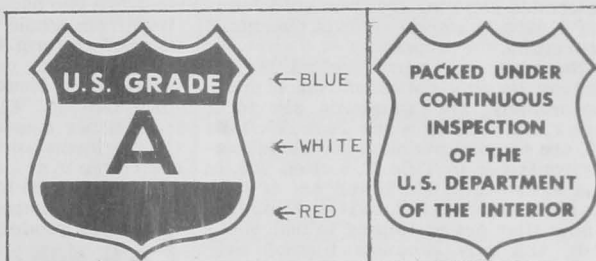
BUREAU OF COMMERCIAL FISHERIES

FROZEN HALIBUT STEAK GRADE STANDARDS ESTABLISHED:

Voluntary standards for the production of good quality frozen halibut steaks became effective March 15, 1959. Notice of the promulgation of these standards by the U. S. Department of the Interior appeared in the Federal Register February 25, 1959. These voluntary standards were developed by the Bureau of Commercial Fisheries, in cooperation with the fishing industry and the National Fisheries Institute.

Products which conform to these standards are readily identifiable to the consumer. Firms which have continuous inspection are entitled to mark their packages with the Federal shield. Those which subscribe only to sample inspection may certify that the product meets the requirements of the grade specified but cannot use the prefix "U. S." nor the shield.

The standards for frozen halibut steaks apply to clean, wholesome units of raw fish meat with normally associated skin and bone and are 2-oz. or more



Shield using red, white, and blue background.

Shield with plain background.

in weight. The grades include "U. S. Grade A" and "U. S. Grade B." Quality below these grades would be classified as substandard. Products to be graded must conform to the industry-accepted product description, styles, and grades.

The standards do not define proper labelling for this product. Frozen halibut steaks, when sold in interstate commerce, must conform to the labelling regulations of the Food and Drug Ad-

Dept. of the Interior (Cont.)

ministration, U. S. Department of Health, Education, and Welfare.

Notice of the proposed halibut standards appeared in the Federal Register December 3, 1958. Interested persons were given until January 1, 1959, to submit views or comments concerning the proposal.

Funds made available by Public Law 466 (83rd Congress), commonly referred to as the Saltonstall-Kennedy Act, have been used to expedite progress on the Bureau's program for the develop-

ment of voluntary Federal standards. The National Fisheries Institute, acting as contract research agency for the Bureau, has supplied the industry liaison essential to the standards program and has furnished consulting services at meetings and conferences on these standards. A committee of industry technologists, representatives of both producers and distributors, actively cooperated with the Bureau's scientific staff in the development of realistic and practical standards.

The standards as published in the Federal Register of February 25, 1959, follow:

Title 50—WILDLIFE

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

SUBCHAPTER K—PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF, AND CER- TAIN OTHER PROCESSED FOOD PRODUCTS

PART 175—UNITED STATES STAND- ARDS FOR GRADES OF FROZEN HALIBUT STEAKS¹

On December 3, 1958, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (23 F.R. 9335) whereby notice was given of the intention of the Director of the Bureau of Commercial Fisheries to recommend to the Secretary of the Interior, the adoption of United States Standards for Grades of Frozen Halibut Steaks, set forth therein in tentative form, to be codified as Title 50, Code of Federal Regulations, Part 175. Interested persons were given until January 1, 1959, to submit views or comments concerning the proposal.

No comments were received by the Bureau on this notice of rule making. Accordingly, the standards set forth below, constituting a new Part 175, Title 50, 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). Functions under that Act pertaining to fish, shellfish, and any products thereof were transferred to the Department of the Interior by section 6(a) of the Fish and Wildlife Act of August 8, 1956 (16 U.S.C. 742e). These regulations shall become effective March 15, 1959.

Dated: February 17, 1959.

FRED A. SEATON,
Secretary of the Interior.

PRODUCT DESCRIPTION, STYLE, AND GRADES

Sec.	
175.1	Product description.
175.2	Styles of frozen halibut steaks.
175.3	Grades of frozen halibut steaks.

DIMENSIONS

Sec.	
175.6	Recommended dimensions.

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.

FACTORS OF QUALITY AND GRADE

175.11 Ascertaining the grade.

DEFINITIONS AND METHODS OF ANALYSIS

175.21 Definitions and methods of analysis.

LOT CERTIFICATION TOLERANCES

175.25 Tolerances for certification of officially drawn samples.

SCORE SHEET

175.31 Score sheet for frozen halibut steaks.

AUTHORITY: §§ 175.1 to 175.31 issued under sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

PRODUCT DESCRIPTION, STYLES, AND GRADES

§ 175.1 Product description.

Frozen halibut steaks are clean, wholesome units of frozen raw fish flesh with normally associated skin and bone and are 2 ounces or more in weight. Each steak has two parallel surfaces and is derived from whole or subdivided halibut slices of uniform thickness which result from sawing or cutting perpendicularly to the axial length, or backbone, of a whole halibut. The steaks are prepared from either frozen or unfrozen halibut (*Hippoglossus* spp.) and are processed and frozen in accordance with good commercial practice and are maintained at temperatures necessary for the preservation of the product.

§ 175.2 Styles of frozen halibut steaks.

(a) *Style I, random weight pack.* The individual steaks are of random weight and neither the weight nor the range of weights are specified.

(b) *Style II, uniform weight or portion pack.* All steaks in the package or in the lot are of a specified weight or range of weights.

§ 175.3 Grades of frozen halibut steaks.

(a) "U.S. Grade A" is the quality of frozen halibut steaks which possess good 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 halibut steaks which possess at least reasonably good 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 halibut steaks which fail to meet the requirements of the "U.S. Grade B."

DIMENSIONS

§ 175.6 Recommended dimensions.

(a) The recommended dimensions of frozen halibut steaks are not incorporated in the grades of the finished product since dimensions, as such, are not factors of quality for the purpose of these grades. However, the degree of uniformity of thickness among units of the finished product is rated since it is a factor affecting the quality and utility of the product.

(b) It is recommended that the thickness (smallest dimension) of individually frozen halibut steaks be not less than ½ inch and not greater than 1¼ inches.

FACTORS OF QUALITY AND GRADE

§ 175.11 Ascertaining the grade.

The grade is ascertained by observing the product in the frozen, thawed, and cooked states and is evaluated by consideration of the following:

(1) *Factors rated by score points.* The quality of the product with respect to scored factors is expressed numerically. Cumulative point deductions are assessed for variations of quality for each factor in accordance with the schedule in Table I, in the frozen, thawed, and cooked states. The total deduction is subtracted from the maximum possible score of 100 to obtain the product score.

(2) *Factors not rated by score points.* The factors of flavor and odor are evaluated organoleptically in the cooked state for both the light and dark meat (surface fat) and are defined as follows:

(i) *Good flavor and odor.* "Good flavor and odor" (essential requirement for Grade A) means that the fish flesh has the good flavor and odor characteristics of halibut, and is free from rancidity and from off-flavors and off-odors.

(ii) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement for Grade B) means that the fish flesh may be somewhat lacking in the good flavor and odor characteristic of halibut, is reasonably free of rancidity, and is free from objectionable off-flavors and off-odors.

(iii) *Substandard flavor and odor.* "Substandard flavor and odor" (Substandard grade) means that the flavor and odor fail to meet the requirements of "reasonably good flavor and odor."

(3) *Determination of final product grade.* The final product grade is determined on the basis of both the product score as determined by the "factors rated by score points" and the grade requirements of flavor and odor as defined under "factors not rated by score points." The lower of the two determines the final grade.

DEFINITIONS AND METHODS OF ANALYSIS
§ 175.21 Definitions and methods of analysis.

(a) "Percentage glaze" on halibut steak means the percent by weight of frozen coating adhering to the steak surfaces and includes the frost within the package. It is determined by the method described below or by methods giving equivalent results.

- (1) *Equipment needed.* (i) Source of cold tap water with aerated faucet.
- (ii) Balance accurate to 0.1 gm.; or 0.01 ounce.
- (iii) Paper towels.
- (iv) Small knife.
- (2) *Procedure.* (i) Weigh package in overwrap and all its contents (A).
- (ii) Remove steaks and loose frost; weigh dry packaging (B).
- (iii) The difference in weight, A-B represents weight of steaks plus glaze (C).

(iv) Remove glaze from halibut steaks.
 (a) Adjust tap water to a flow rate of about 3 quarts/min. through an aerated faucet.

(b) Direct 50° to 60° F. tap water onto skin side of steak while gently feeling and rubbing cut surfaces with finger tips (if necessary, temperatures up to 80° F. may be used but require closer control).
 (c) When all glaze is removed from cut flesh surface, as evidenced by absence of slick feel to fingers, remove steak from water.

(d) Rapidly remove excess water with single paper towel before it has time to refreeze on the steak, and flick off residual skin glaze by knife or hand.

(e) Repeat steps (b), (c), and (d) on each steak in package or sample unit.

(f) Weigh de-glazed halibut steaks (D, actual net weight of sample).

(Steps (a) through (f) of this subdivision are completed within three minutes.)

(v) Calculate percentage glaze: Percentage glaze = $\frac{C-D}{D} \times 100$.

(b) "Cooked state" means that the thawed product has been cooked in a suitable manner which is defined as being heated submerged in boiling water, unseasoned, and in a boilable film type pouch for ten minutes. (Steaks over one inch in thickness may require five additional minutes of heating.)

(c) Uniformity of thickness means that the thickness is substantially the same for one or more steaks within a package or sample unit.

(d) Color defects:
 (1) "Discoloration of drip liquor" means that the free liquid which drains from the thawed steaks is discolored with blood residue usually from the dorsal aorta of the halibut.

(2) "Discoloration of light meat" means that the normal flesh color of the main part of the halibut steak has darkened due to deteriorative influences.

(3) "Discoloration of the dark meat" means that the normal color of the surface fat shows increasing degrees of yellowing due to oxidation.

(4) "Non-uniformity of color" refers to noticeable differences in color on a single steak or between adjacent steaks in the same package.

(e) "Dehydration" refers to the appearance of a whitish area on the surface of a steak due to the removal of water or drying of the affected area.

(f) "Honeycombing" refers to the visible appearance of numerous discrete holes or openings of varying size on the steak surface.

(g) "Workmanship defects" refers to appearance defects that were not eliminated during processing and are considered either objectionable or poor commercial practice.

(h) "Texture defect" refers to an undesirable increase in toughness and/or dryness, fibrousness, and watery nature of halibut examined in the cooked state.

LOT CERTIFICATION TOLERANCES

§ 175.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified on the basis of Part 170 of this chapter (23 F.R. 5064).

SCORE SHEET
§ 175.31 Score sheet for frozen halibut steaks.

General

Label.....
 Size and kind of container.....
 Container mark or identification.....
 Size of lot.....
 Number of samples.....
 Actual net weight (ounces).....
 Number of steaks per container.....
 Product style.....

Scored factors (table 1)	Deductions
Frozen:	
1. Dehydration.....
2. Percentage glaze.....
3. Uniformity of thickness.....
4. Uniformity of weight.....
Thawed:	
5. Workmanship.....
6. Color defects.....
7. Honeycombing.....
8. Texture.....
Total deductions.....	
Rating for scored factors (100—Total deductions).....	
Unscored factors	Rating
Cooked:	
a. Odor.....
b. Flavor (light meat).....
(dark meat).....
Flavor and odor rating.....
Final grade.....	

TABLE I—SCHEDULE OF POINT DEDUCTIONS FOR FACTORS RATED BY SCORE POINTS¹

	Factor	Description of quality variation	Deduct
Frozen		Per steak	
		1. Dehydration ²	Surface area affected: Less than 1 square inch but obvious..... 1 1 to 2 square inches..... 2 Above 2 square inches..... 3
		2. Percentage glaze.....	Over 0.0, not over 6.0 percent by weight of sample unit.... 0 Over 6.0, not over 7.0..... 1 Over 7.0, not over 8.0..... 2 Over 8.0, not over 9.0..... 3 Over 9.0..... 4
		3. Uniformity of thickness.....	For each 1/16 inch above 1/16-inch variation in steak thickness (maximum total deduction permitted 6 points per sample unit)..... 2
Thawed		4. Uniformity of weight and minimum weight.....	Style I—Random weight.—Use either (a) or (b), whichever gives a greater deduction. (a) For each steak less than 3.0 ounces in weight per sample package..... 4 (b) For each 0.1 ounce below 4.0 ounces in average steak weight per sample..... 3/4
		5. Workmanship—Defects of: Cutting, collar bone, loose skin, fins, blood spots, bruises, foreign material, backbone, cartilage, sawdust.....	Slight or moderate..... 1 Excessive..... 2 (For each defect, per occurrence, per sample package or per 2 pounds for packages over 2 pounds net weight.)
		6. Color defects: (a) Discoloration of drip liquor.....	(Per sample unit) Slight..... 1 Moderate..... 2 Excessive..... 3
		(b) Discoloration of light meat ³	(Per steak) Slight..... 1 Moderate..... 2 Excessive..... 3
Cooked		(c) Discoloration of dark meat ³	(Per steak) Slight..... 1 Moderate..... 2 Excessive..... 3
		(d) Non-uniformity of color.....	(Per sample unit) Slight..... 1 Moderate..... 2 Excessive..... 3
		7. Honeycombing ²	(Per steak) Surface area affected: 26 to 50 percent..... 1/2 51 to 75 percent..... 1 76 to 100 percent..... 2
		8. Texture defect ³ (tough, dry, fibrous, or watery).....	(Per steak) Slight..... 1 Moderate..... 2 Excessive..... 3

¹ This schedule of point deductions is based on the examination of sample units composed of: (a) An entire sample package and its contents (for retail sized packages) or (b) a representative subsample consisting of three or more halibut steaks taken from each sample package (for institutional sized packages), except that the entire sample package shall be examined for factor 4.

² Point deductions for these factors are based on a 3 steak sample unit. For samples containing other than 3 steaks per sample unit or per package, multiply the results by the correction factor $\frac{3}{n}$ where n equals the number of steaks.

Dept. of the Interior (Cont.):

PROPOSED REGULATIONS ON FISHING VESSEL MORTGAGE INSURANCE:

Regulations and procedures for a fishing vessel mortgage and loan program, designed to facilitate construction of modern fishing vessels, were submitted on January 22, 1959, by the Secretary of the Interior. The proposed regulations were published in Federal Register on January 23, 1959, and interested parties were given 30 days from the date of publication to submit comments.

The function was transferred from the Maritime Administration, Department of Commerce, in April 1958, under the provisions of the Fish and Wildlife Act of 1956.

The program, when activated, will be operated by the U. S. Bureau of Commercial Fisheries. The Bureau reports that there is considerable interest being evidenced by fishermen and private financial institutions in the program.

Under this program the Government guarantees the repayment of mortgages and loans up to 75 percent of the vessel cost. For this guarantee, the vessel owner will pay the Government a premium of one percent annually on the amount due on mortgages and one-half of one percent on loans for construction.

A mortgage cannot be granted until the vessel has been constructed and registered; the term "loan" applies to that period before completion and registry. Mortgage insurance will be limited to 15 years for a vessel. The vessel owner will protect his investment against insurable losses through private companies.

BUREAU OF SPORT FISHERIES AND WILDLIFE

ALASKA ACTING REGIONAL DIRECTOR APPOINTED:

The appointment of Urban C. Nelson as acting regional director in Alaska for the Bureau of Sport Fisheries and Wildlife, United States Fish and Wildlife Service, was announced February 13, by the Department of the Interior. Nelson succeeds, in an acting capacity, to the post held by Clarence Rhode who disappeared with two other persons last August dur-

ing an aircraft flight in the Brooks Range area of Arctic Alaska.

Nelson has been serving as Chief of the Bureau's Division of Fish and Game Restoration, with headquarters at the Regional Office in Juneau. In this position he has been responsible for supervising and coordinating the Bureau's Federal Aid in fish and wildlife restoration and the refuge programs in Alaska. Nelson has been with the Service in Alaska since 1948 when he transferred from the Soil Conservation Service of the Department of Agriculture, at Stillwater, Minn. He is a native of Minneapolis, Minn., and holds a B. S. degree from the University of Minnesota.



Department of Labor

WAGE AND HOUR AND PUBLIC CONTRACTS DIVISION

INTERPRETATIVE BULLETIN ISSUED ON FISHERY INDUSTRIES EXEMPTIONS UNDER FAIR LABOR STANDARDS ACT:

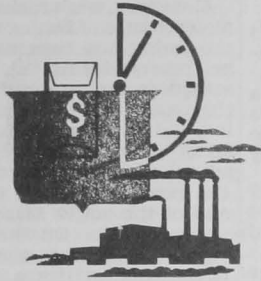
The application of exemptions from the Fair Labor Standards Act for employees in the fishery and seafood industries is discussed in an interpretative bulletin (Part 784 of Title 29, Code of Federal Regulations) issued on February 11, 1959, by the Administrator of the U. S. Labor Department's Wage and Hour and Public Contracts Division. The bulletin went into effect the day of issue.

The new bulletin serves as a practical guide to employers and employees on how the Divisions interpret two exemptions. One is a minimum-wage and overtime pay exemption for workers employed in catching, processing, distributing, and performing other specified operations on fish and other aquatic products.

The bulletin explains the application of this exemption both to "offshore" and "shore" activities, and points out that it cannot be taken for processing or distributing nonperishable aquatic products.

Dept. of Labor (Cont.):

The other exemption is one from the overtime-pay provisions--but not the minimum-wage requirements--applying to workers employed in canning fish and



other aquatic products. The bulletin indicates what activities are included in the term "canning" and makes it clear that the exemption applies only to employees whose activities are an integral part of the canning operation.

Also discussed are such subjects as how the exemptions apply when employees do work within the scope of both exemptions, and their application to office, clerical, and maintenance employees.

Unless specifically exempt, employees covered by the Act must be paid at a rate of at least \$1.00 an hour and not less than one and one-half times their regular rate of pay for all hours worked in excess of 40 in a workweek. The Act covers employees engaged in interstate commerce or the production of goods for interstate commerce, including any closely related process or occupation directly essential to such production.

The new interpretative bulletin, part 784, of Title 29, Code of Federal Regulations, as published in the Federal Register of February 11, 1959, follows:

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER B—STATEMENTS OF GENERAL POLICY OR INTERPRETATION NOT DIRECTLY RELATED TO REGULATIONS

PART 784—SCOPE AND APPLICABILITY OF EXEMPTIONS PROVIDED BY SECTIONS 13(a)(5) AND 13(b)(4) OF THE FAIR LABOR STANDARDS ACT OF 1938 AS AMENDED¹

In accordance with section 3 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1002), and pursuant to authority hereinafter cited, Title 29 Code of Federal Regulations, Part 784 is hereby amended to read as follows:

- Sec.
- 784.0 Introductory statement.
- 784.1 Guiding interpretative principles.
- 784.2 Employment in exempt, nonexempt, and noncovered work during a workweek.
- 784.3 Off or dead season work.
- 784.4 Addition of foreign ingredients to the aquatic forms of animal and vegetable life.
- 784.5 General character of the section 13(a)(5) exemption.
- 784.6 General scope of section 13(a)(5) exemption.
- 784.7 Office, clerical and maintenance employees.
- 784.8 Off-shore activities.
- 784.9 Shore activities—“Loading, unloading, or packing of such products for shipment”.
- 784.10 Processing (other than canning), freezing, and curing.
- 784.11 Fish and seafood wholesaling.
- 784.12 Processing or manufacturing operations which are not within the exemption.
- 784.13 Definition of canning under section 13(b)(4).
- 784.14 “Necessary preparatory operations”.
- 784.15 “Hermetically sealing and sterilizing or pasteurizing”.

784.16 Subsequent operations.
784.17 Exempt and nonexempt employees.
AUTHORITY: §§ 784.0 to 784.17 issued under 52 Stat. 1060 (29 U.S.C. 201-219). Interpret or apply 52 Stat. 1067 (29 U.S.C. 213).

§ 784.0 Introductory statement.
(a) Scope and significance: (1) The purpose of this part is to make available in one place the general interpretations of the Department of Labor pertaining to the exemptions provided in section 13(a)(5) and 13(b)(4) of the Fair Labor Standards Act of 1938, as amended.² It is intended that the positions stated will serve as “a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it.”³ These interpretations contain the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the Act, unless and until they are otherwise directed by authoritative decisions of the courts or conclude upon the examination of an interpretation that it is incorrect. To the extent that prior administrative rulings, interpretations, practices and enforcement policies relating to sections 13(a)(5) and 13(b)(4) are inconsistent or in conflict with the principles stated in this part, they are hereby rescinded. The interpretations contained herein may be relied upon in accordance with section 10 of the Portal to Portal Act,⁴ so long as they remain effective and are not modified, amended, rescinded, or determined by judicial authority to be incorrect.

¹ Under Reorganization Plan No. 6 of 1950 and pursuant to General Order No. 45-A issued by the Secretary of Labor on May 24, 1950; interpretations of the provisions (other than the child labor provisions) of the Act are issued by the Administrator of the Wage and Hour Division. See 15 F.R. 3290.
² *Sidmore v. Swift & Co.*, 323 U.S. 134, 138.
³ 29 U.S.C. 251-262.

(2) The Fair Labor Standards Act applies to employees engaged in interstate or foreign commerce or in the production of goods for such commerce, including any closely related process or occupation directly essential to such production. It requires the payment to these covered employees of a prescribed minimum hourly wage rate, and overtime compensation of not less than one and one-half times the employees' regular rates of pay for all hours worked in excess of 40 in a workweek, unless such employees are exempt from one or both of these requirements by virtue of some specific provision of the Act such as section 13(a)(5) or section 13(b)(4).

(3) Neither the minimum wage nor overtime provisions of the Act apply to employees who are exempt under section 13(a)(5). However, employees who come within the scope of section 13(b)(4) must be paid the prescribed minimum wage but need not be paid the statutory overtime compensation.

(4) Section 13(a)(5) applies to “any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing (other than canning), marketing, freezing, curing, storing, or distributing the above products or by-products thereof;”.

(5) Section 13(b)(4) applies to “any employee employed in the canning of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof;”.

⁴ Formerly “canning” was included in section 13(a)(5), but the 1949 Amendments explicitly removed “canning” from this section and enacted the separate section 13(b)(4).

§ 784.1 Guiding interpretative principles.

(a) It is clear that Congress intended the Fair Labor Standards Act to be broad in its scope. "Breadth of coverage is vital to its mission,"⁶ and any exemption from its coverage must be narrowly construed and applied only to those employees who are plainly and unmistakably within its terms and spirit. This construction of the exemptions is necessary to carry out the broad remedial objectives for which the Act was passed.⁷

(b) An examination of the terminology in which the exemptions from the general coverage of the Fair Labor Standards Act are stated discloses language patterns which reflect congressional intent. Thus, Congress differentiated as to whether employees are to be exempt because they are employed by a particular employer, employed in a particular type of establishment, employed in a particular industry, or employed in a particular capacity or operation.⁸

(c) The language in both sections 13(a)(5) and 13(b)(4), the legislative history, and court decisions make clear that these exemptions are not to be interpreted as though they were intended to grant an exemption to all employees employed in the fishing industry or in the fish canning industry.⁹ By their own terms, the exemptions are applicable only to employees employed in certain specified capacities or occupations. Though a person may be employed in an occupation closely related and directly essential to the catching, processing, or canning of fish so as to bring him within the coverage of the Act, if his activities are not an integral part of the catching,

⁶ Powell v. U.S. Cartridge Co., 339 U.S. 497.

⁷ Phillips v. Walling, 324 U.S. 490; Calaf v. Gonzalez, 127 F. 2d 934 (C.A. 1); Bowie v. Gonzalez, 117 F. 2d 11 (C.A. 1); Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1); Fleming v. Hawkeye Pearl Button Co., 113 F. 2d 52 (C.A. 8).

⁸ See Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1), wherein the court in considering the various types of exemptions contained in the Act stated that the applicability of sections 13(a)(5) and 13(b)(4) depended on the capacity in which the particular employee was acting.

⁹ See 83 Cong. Rec. 7443 where the sponsor of the exemption as it finally appeared in the original Act stated: "This amendment is not the same. In the last amendment I was trying to define the fishing industry. I am now dealing with those persons who are exempt." See also 83 Cong. Rec. 7408, 7421-23, 7443; Conf. Rep. No. 1453, 81st Cong. 1st Sess. (1949); U.S. Code Cong. Serv. 1949, Vol. 2 p. 2268; Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1); Dize v. Maddrix, 144 F. 2d 584 (C.A. 4), affirmed 324 U.S. 697.

Compare McComb v. Consolidated Fisheries Co., 174 F. 2d 74 (C.A. 3), which was decided before the Stinson case and before the Supreme Court's decision in the Farmers' Irrigation case, 337 U.S. 755, and also before the enactment of the 1949 amendments. As pointed out in the Stinson decision, the reasoning of the Consolidated Fisheries decision is inconsistent with the legislative history and is therefore "not persuasive" authority (217 F. 2d at 216). Also, the reasoning of the Consolidated Fisheries decision is directly opposite to that of the Supreme Court's subsequent decision in the Farmers' Irrigation case, 337 U.S. at 759-760, in particular Footnote 7, where Dize v. Maddrix is cited with approval.

processing, or canning of fish, the respective exemptions would not be available.¹⁰

§ 784.2 Employment in exempt, nonexempt, and noncovered work during a workweek.

(a) The wage and hour requirements of the Act do not apply to any employee during any workweek in which a portion of his activities falls within section 13(a)(5) if no part of the remainder of his activities is covered by the Act. Similarly, the overtime requirements are inapplicable in any workweek in which a portion of an employee's activities falls within section 13(b)(4) if no part of the remainder of his activities is covered by the Act.

(b) Where an employee, during any workweek, performs work that is exempt under section 13(a)(5) or 13(b)(4), and also performs nonexempt work, some part of which is covered by the Act, the exemption will be deemed inapplicable unless the time spent in performing nonexempt work during that week is not substantial in amount. For enforcement purposes, nonexempt work will be considered substantial in amount if more than 20 percent of the time worked by the employee in a given workweek is devoted to such work. However, where exempt and nonexempt work is performed during a workweek by an employee and is not or cannot be segregated so as to permit separate measurement of the time spent in each, the employee will not be exempt.¹¹

(c) The combination of exempt work under section 13(a)(5) and 13(b)(4), or of one of these sections with exempt work under another section of the Act, is permitted. Where a part of an employee's covered work in a workweek is exempt under section 13(a)(5) and the remainder is exempt under another section which grants an exemption from the minimum wage and overtime provisions of the Act, the wage and hour requirements would not be applicable. If the scope of the exemptions is not the same, however, the exemption applicable to the employee is that provided by whichever exemption provision is more limited in extent unless, of course, the time spent in performing work which is nonexempt under the broader exemption is not substantial. For example, an employee may devote part of his workweek to work within section 13(b)(4) and the remainder to work exempt from both the minimum wage and overtime requirements under another section of the Act. In such a case he must receive the minimum wage but is not required to receive time and one-half for his overtime work during that week.¹² Each activity is

¹⁰ Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1); Dize v. Maddrix, 144 F. 2d 584 (C.A. 4), affirmed 324 U.S. 697. See also Farmers' Irrigation Co. v. McComb, 337 U.S. 755 wherein the Supreme Court held that the agricultural exemption which is similarly worded must be strictly limited to the particular specified operations, exclusive of activities which, though necessary or even indispensable to the specified operation were not actually a part of the operation itself.

¹¹ Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1); Walling v. Public Quick Freezing and Cold Storage Co., 62 F. Supp. 924 (S.D. Fla.).

¹² Cf. Mitchell v. Myrtle Grove Packing Co., 350 U.S. 891; Tobin v. Blue Channel Corp., 198 F. 2d 245 (C.A. 4).

tested separately under the applicable exemption as though it were the sole activity of the employee for the whole workweek in question. Unless the employee meets all the requirements of each exemption a combination exemption would not be available.

§ 784.3 Off or dead season work.

Generally, work such as the repair and maintenance of fishing equipment and of processing and canning equipment and machinery during the dead or inactive season is not exempt.¹³ Consequently, the repair and maintenance of processing and canning machinery and equipment before or after the close of the active season are not exempt. Similarly, the repair of fishing equipment at the end of the active season would be non-exempt work. On the other hand, the repair of fishing equipment such as boats, nets and traps immediately prior to the beginning of the fishing season has a sufficiently close relationship to the exempt operations so as to bring the employees of an employer engaged in fishery operations who are employed in such duties within the exemption. In any event, nonexempt work performed in the inactive season is closely related and directly essential to the production of goods for commerce which takes place during the active season and, therefore, is subject to the provisions of the Act.¹⁴

§ 784.4 Addition of foreign ingredients to the aquatic forms of animal and vegetable life.

(a) By their terms, sections 13(a)(5) and 13(b)(4) provide no exemption with respect to operations performed on any products other than the aquatic products named in these subsections. Accordingly, neither of the exemptions is applicable to the making of any commodities from ingredients only part of which consist of such aquatic products, if a substantial amount of other products is contained in the commodity so produced.¹⁵ Thus, the canning or processing of codfish cakes, clam chowder, dog food, crabcakes or livestock feed containing aquatic products is often not exempt within the meaning of either section 13(a)(5) or section 13(b)(4).

(b) To exempt employees employed in processing or canning products composed of the named commodities and a substantial amount of ingredients not named in the exemptions would be contrary to the language and purposes of such exemptions which specifically enumerate the commodities on which exempt operations were intended to be performed. Consequently, all operations performed on the mixed products at and from the time of the addition of the foreign ingredients.

¹³ See Maneja v. Waiialua Agricultural Co., 349 U.S. 254; Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1); Malsonet v. Central Coloso, 4 Labor Cases (CCH) par. 61,337, 2 WH Cases 752 (D. P.R.); Abram v. San Joaquin Cotton Oil Co., 49 F. Supp. 393 (S.D. Calif.), and Heaburg v. Independent Oil Company, 46 F. Supp. 751 (W.D. Tenn. E.D.).

¹⁴ Farmers' Irrigation Co. v. McComb, 337 U.S. 755; Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1); Bowie v. Gonzalez, 117 F. 2d 11 (C.A. 1); Weaver v. Pittsburgh Steamship Co., 153 F. 2d 597 (C.A. 6), cert. den. 328 U.S. 858.
¹⁵ Cf. Walling v. Bridgemann-Russell Co., 6 Labor Cases (CCH) par. 61,422, 2 WH Cases 785 (D. Minn.); Miller v. Litchfield Creamery Co., 11 Labor Cases (CCH) par. 63, 247, 5 WH Cases 1039 (N.D. Ind.).

redients, including those activities which are an integral part of processing or canning, would be nonexempt activities. However, activities performed in connection with the processing (other than canning) of the named aquatic products prior to the addition of the foreign ingredients would be deemed exempt processing under section 13(a)(5). Where the commodity produced contains an insubstantial amount of products not named in the exemption, the handling and preparation of the foreign ingredients for use in the exempt operations would also be considered as exempt activities.

(c) As an enforcement policy in applying the principles stated in this section, if more than 20 percent of a commodity consists of products other than aquatic products named in section 13(a)(5) or 13(b)(4), the commodity will be deemed to contain a substantial amount of such nonaquatic products.

§ 784.5 General character of the section 13(a)(5) exemption.

(a) As indicated by the legislative history, the purpose of the exemption is to except from the minimum wage and overtime provisions of the Act those activities in the fishing industry that are controlled or materially affected by natural factors or elements, such as the vicissitudes of the weather, the changeable conditions of the water, the run of the catch, and the perishability of the products obtained.¹⁸

(b) The activities enumerated in section 13(a)(5) fall into two general groups. The first group, which embraces "the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including the going to and returning from work," includes those "off shore" or "trip" activities which have to do with the procurement or appropriation from nature of seafood and other forms of aquatic life, and which depend to a considerable degree on natural factors. The activities described in the latter part of the exemption, embracing "the loading, unloading, or packing of such products for shipment or . . . propagating, processing (other than canning), marketing, freezing, curing, storing or distributing the above products or byproducts thereof," are "shore" activities which in general have to do with the movement of the perishable products to a nonperishable state or to points of consumption. This latter part of the exemption may be considered as intended to implement and supplement the first part by exempting "shore" activities which are necessarily somewhat affected by the same natural factors as the "offshore" or "trip" activities mentioned in the first part of the subsection. These "shore" activities are affected primarily, however, by fluctuations in the supply of the product or by the necessity for consumption or preservation of such products before spoilage occurs.

(c) Activities performed after the conversion of an aquatic product to a nonperishable state cannot form the basis for application of the exemption

¹⁸ 83 Cong. Rec. 7408, 7443; Fleming v. Hawkeye Pearl Button Co., 113 F. 2d 52 (C.A. 8); Walling v. W. D. Haden, 153 F. 2d (C.A. 5), cert. den. 328 U.S. 866.

unless the subsequent operation is an integral part of exempt operations on the aquatic forms of animal and vegetable life mentioned in section 13(a)(5). The exemption is, consequently, not available for the handling or shipping of nonperishable products by an employer who did not commence operations on the product in a perishable state. Thus, employees of dealers in or distributors of such nonperishable products as fish oil and fish meal, or canned seafood, are not within the exemption. Similarly, there is no basis for application of the exemption to employees employed in further processing or manufacturing operations on products previously rendered nonperishable, such as refining fish oil or handling fish meal in connection with the manufacture of feeds.

(d) In applying the principle stated in paragraph (c) of this section, the Divisions have not asserted that the exemption is inapplicable to the performance of the operations described in section 13(a)(5) on frozen, smoked, salted, or cured fish. They will continue to follow this rule until further clarification from the courts.

(e) As has been noted previously, employees may at times engage in activities which would bring them within the exemption provided by section 13(a)(5) and at other times may engage in activities which would be nonexempt. When this occurs, the principles stated in § 784.2(b) will determine the applicability of the exemption in specific workweeks.

§ 784.6 General scope of section 13(a)(5) exemption.

(a) Despite its comprehensive reach, the legislative history and the court decisions make it clear that the exemption does not extend to every operation performed in the fishing industry. The scope of the named operations or activities is conditioned by the unpredictable natural factors in the industry, the perishability of the aquatic products, and the time when the operations are performed. While an employee may in a sense perform the identical work for the same purpose in two given situations, in one case a relationship may exist to cause the work to be exempt, while in the other case such relationship may be absent, causing work to be nonexempt. For example, the time at which the particular work is performed may in some cases determine whether the work is exempt, such as when certain kinds of work are done during the inactive season as compared to the active season.

(b) The exemption does not apply where the work is not sufficiently closely related to a named operation to be a part of the operation. Clearly, the actual performance of the operations enumerated in the exemption, such as the catching of fish, and the freezing of fish, are within the exemption. Whether other operations or activities are within the exemption depends on their relationship to the enumerated activities.

(c) Only those operations that are an integral part of an enumerated operation are considered sufficiently closely related to the named operation to be a part of it. Generally, the usual duties performed in connection with a named operation are an integral part of the operation. For example, the spreading of ice on fresh fish packed for shipment is part

of the packing of fish. Similarly, work which contributes directly to the continuous operation of fishing boats or processing equipment or other exempt activity bears the necessary relationship. On the other hand, such work as making ice for use in packing fish cannot be said to be a part of the packing operations so as to be exempt.¹⁷ The exemption does not extend to the manufacture of products for use in the exempt operations, such as boxes for shipment of fish or rubber boots for fishermen.

§ 784.7 Office, clerical and maintenance employees.

(a) Unless office, clerical and maintenance employees are engaged in activities which are an integral part of the named operations, they are nonexempt. For example, office and clerical employees of a firm which is engaged in operating fishing boats or selling fish are not within section 13(a)(5) except when they perform marketing or distributing activities such as selling, taking and putting up orders, recording sales, taking cash, and making telephone connections for customer or dealer calls. Whether a clerical employee working in a processing plant is exempt likewise depends on the relationship of his activities to the named operations. The work of a tallyman counting fish as they are unloaded at the plant is within the exemption as an integral part of the unloading operation. Bookkeepers, stenographers, typists, file clerks, and others who perform general office work such as posting to ledgers, sending bills and making up payrolls are not within the section 13(a)(5) exemption.

(b) Similarly, such employees as kitchen and restaurant workers who prepare and serve food to the employees engaged in exempt processing operations, laboratory workers who perform research in fishery products, and bus drivers transporting workers to and from the plant are not within the exemption.¹⁸

(c) The repair and maintenance of the processing plant, whether performed during the "active" or "dead" season, are generally not within section 13(a)(5) because such activities are not sufficiently closely related to the named operations. It follows that employees such as carpenters, repairmen, and janitors engaged in general maintenance work, and watchmen are not exempt. However, if the repairman or other employee is engaged in repairing, oiling or greasing machinery or equipment which is currently used in the actual processing operations or in making repairs in the production room, such as to the floor or around the processing equipment or machinery, which repair is essential to prevent interruption to the processing operation, the exemption would apply. Employees who clean the processing machinery or equipment in order to prevent interruptions or breakdowns are also so closely related to the processing as to be part of it. Similarly, the providing of heat which is used for the exempt processing is an exempt activity.

(d) Certain warehousing activities are ordinarily performed in connection with the processing operations. Articles such

¹⁷ See footnote 10 and cases there cited.

¹⁸ See Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1), so holding in an analogous situation under section 13(b)(4).

as salt, condiments, cleaning supplies, and boxes or other containers, are received and stored in the warehouse for use in connection with the processing operations. The unloading and storing of these ingredients and supplies in the plant or warehouse for subsequent use in the processing operation would not be exempt operations. On the other hand, the delivery of these ingredients or supplies from stock to meet the daily needs of the processing department would be exempt work. For example, assembling boxes to be currently used in packing fish would be exempt, whereas the receiving, unloading and storing of the knocked-down or already formed boxes, or the assembling of boxes for stock to be used at some relatively remote future time, would not be exempt work.

§ 784.8 Off-shore activities.

(a) *In general.* (1) The expression "off-shore activities" is used to describe the category of named operations pertaining to the acquisition from nature of aquatic forms of animal and vegetable life. The "catching, taking, harvesting, cultivating, or farming" of the various forms of aquatic life includes not only the actual performance of the activities, but also the usual duties inherent in the occupations of those who perform the activities. Thus, the fisherman who is engaged in "catching" and "taking" must see to it that his lines, nets, seines, traps and other equipment are not fouled and are in working order. He may also have to mend or replace his lines or nets or repair or construct his traps. Such activities are an integral part of the operations of "catching" and "taking" fish and are exempt.

(2) The replacement, repair, mending or construction of the fisherman's equipment performed at the place of the fishing operation would be exempt. Such activities performed in contemplation of the trip are also within the exemption if the work is closely related both in point of time and causation to the acquisition of the aquatic life. For example, the repair of the nets, or of the vessel, or the building of fish trap frames on the shore immediately prior to the opening of the fishing season would be within the exemption. It is immaterial if such work is performed by the fisherman himself or by some other employee of the fishing organization. However, the exemption would not apply to employees of a manufacturer of supplies nor to employees of independent shops which repair boats and equipment.²⁹

(b) *Going to and returning from work.* The phrase "including the going to and returning from work" relates to the preceding named operations which pertain to the procuring and appropriation of seafood and other forms of aquatic life from nature. The expression obviously includes the time spent by fishermen and others who go to and from the fishing grounds or other locations where the aquatic life is reduced to possession. In performing such travel the fishermen may be required to row, guide or sail the boat or otherwise assist in its operation. Similarly, if an employee were digging for clams or other shellfish or gathering seaweed on the sand or rocks it might be necessary to drive a truck or other vehicle to reach his destination. Such activities are exempt within the meaning

²⁹ *Dize v. Maddrix*, 144 F. 2d 584 (C.A. 4), affirmed 324 U.S. 697.

of this language. However, the phrase does not apply to employees who are not engaged in the acquisition of aquatic animal or vegetable life such as those going to or returning from work at processing or refrigerator plants, or wholesale establishments.

(c) *Trip employees who may be exempt under section 13(a)(14).* Section 13(a)(14) provides an exemption from the minimum wage and overtime provisions of the Act for "any employee employed as a seaman". This exemption applies to employees working aboard vessels whose services are rendered primarily as an aid in the operation of the vessel as a means of transportation. Typically, the exemption extends to members of the crew such as deckhands, sailors, engineers, repairmen, radio operators, firemen, pursers, surgeons, cooks, and stewards. For a further explanation of the seaman's exemption see part 783 of this chapter issued by the Department of Labor.³⁰

§ 784.9 Shore activities—"Loading, unloading, or packing of such products for shipment."

The phrase "loading, unloading, or packing of such products for shipment" applies to activities connected with the removal of aquatic products from the fishing vessels and their initial movement to markets or processing plants. Included are such activities as unloading the aquatic products from the vessels, placing the products on conveyors for movement into a processing plant or placing them into boxes, and loading the products on trucks or other transportation facilities for shipment.

§ 784.10 Processing (other than canning), freezing, and curing.

(a) Processing (other than canning), freezing and curing embrace a variety of operations that change the form of the "aquatic forms of animal and vegetable life." They include such operations as filleting, cutting, scaling, salting, smoking, drying, pickling, curing, freezing, extracting oil, manufacturing meal or fertilizer, drying seaweed preparatory to the manufacture of agar, drying and cleaning sponges.³¹

(b) Such operations as transporting aquatic products to the processing plant; moving the products from place to place in the plant; cutting, trimming, eviscerating, peeling, shelling and otherwise working on the product; packing the product; and moving the products from the production line to storage or to the shipping platform are typical of the operations included in the exemption. Removal of waste, such as clam and oyster shells, and operation of processing and packing machinery are also included. As for the application of the exemption to office, maintenance, warehouse and other employees, see the discussion in § 784.7.

(c) As previously indicated in § 784.5, after the character of the aquatic products as taken from nature has been altered by the performance of the enumerated operations so as to render them nonperishable, e.g., drying and cleaning sponges, section 13(a)(5) provides no exemption for any subsequent operations on the preserved products, unless the subsequent operation is an integral part

³⁰ 29 CFR Part 783.

³¹ *Fleming v. Hawkeye Pearl Button Co.*, 113 F. 2d 52 (C.A. 8).

of the exempt operations. The subsequent storing, marketing, or distributing of such preserved products (including products processed during previous weeks or seasons) by the employer who performed the exempt operations on them will be considered an integral part of those exempt operations in those weeks in which he is actively engaged in processing, freezing or curing.

(d) If, on the other hand, the aquatic products, though subjected to a processing operation, are still in a perishable state, the subsequent performance of any of the enumerated operations on the still perishable products will be within the exemption no matter who the employer performing the exempt operations may be. He may be the same employer who performed the prior processing or other exempt operations, another processor, or a wholesaler, as the case may be.

(e) The same would be true where the specified operations are performed on perishable byproducts. For example, fish-reduction operations performed on the inedible and still perishable portions of fish resulting from processing or canning operations, to produce fish oil or meal, would come within the exemption.³² Subsequent operations on the oil to fortify it would not be exempt, however, since fish oil is nonperishable in the sense that it may be held for a substantial period of time without deterioration.

§ 784.11 Fish and seafood wholesaling.

(a) Section 13(a)(5) provides exemption for employment in "marketing" storing, or distributing" the named aquatic products or byproducts. As applied to the wholesaling of fish and seafood, this provision affords exemption to such activities as unloading the aquatic product at the establishment, icing or refrigerating the product and storing it, placing the product into boxes, and loading the boxes on trucks or other transportation facilities for shipment to retailers or other receivers. Transportation to and from the establishment is also included.³³ Office and clerical employees of a wholesaler who perform general office work such as posting to ledgers, sending bills and statements, preparing tax returns and making up payrolls are not exempt. Such activities as selling, taking and putting up orders, recording sales, and taking cash are, however, within the exemption. See § 784.7(a) in this connection.

(b) Employees of a wholesaler engaged in the performance of any of the enumerated operations on fresh fish or fish products will be engaged in exempt work. However, any such operations which they perform on aquatic products which have been canned or otherwise rendered nonperishable are nonexempt in accordance with the principles stated in § 784.5.

§ 784.12 Processing or manufacturing operations which are not within the exemption.

(a) Since the subject matter of the exemption is concerned with "aquatic forms of animal and vegetable life", the courts have held that the manufacture of

³² Any operation performed on such fish scraps, an unsegregated portion of which is to be canned, would come within section 13(b)(4) and not section 13(a)(5).

³³ *Johnson v. Johnson and Company, Inc.*, 47 F. Supp. 650 (N.D. Ga.).

buttons from clam shells or the dredging of shells to be made into lime and cement are not within the scope of the exemption because the shells are not living things.²⁴ Similarly, the production of such items as crushed shell and grit, shell lime, pearl buttons, knife handles, novelties, liquid glue, isinglass, pearl-essence and fortified or refined fish oil is not within the section 13(a)(5) exemption.

(b) In addition, the exemption would not be applicable to the manufacture of boxes, barrels or ice by a seafood processor for packing or shipping its seafood products or for use of the ice in its fishing vessels. These operations, when performed by an independent manufacturer, would likewise not be exempt.²⁵

§ 784.13 Definition of canning under section 13(b)(4).

(a) Section 13(b)(4) provides an exemption from the overtime but not from the minimum wage provisions of the Act for "any employee employed in the canning of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof." The enforcement policy set forth in § 784.5(d) with reference to the performance of the operations specified in section 13(a)(5) of the Act on frozen, smoked, salted or cured fish is also applicable to canning under section 13(b)(4).

(b) This section of the Act was adopted in 1949. Unlike section 13(a)(5) which specifies a number of exempt operations, section 13(b)(4) is concerned with only one; namely, "canning". The legislative history of this section explains the type of activities included in that term as follows:²⁶

Under the conference agreement "canning" means hermetically sealing and sterilizing or pasteurizing and has reference to a process involving the performance of such operations. It also means other operations performed in connection therewith such as necessary preparatory operations performed on the products before they are placed in bottles, cans, or other containers to be hermetically sealed, as well as the actual placing of the commodities in such containers. Also included are subsequent operations such as the labeling of the cans or other containers and the placing of the sealed containers in cases or boxes whether such subsequent operations are performed as part of an uninterrupted or interrupted process. It does not include the placing of such products or byproducts thereof in cans or other containers that are not hermetically sealed as such an operation is "processing" as distinguished from "canning" and comes within the complete exemption contained in section 13(a)(5).

§ 784.14 "Necessary preparatory operations".

(a) All necessary preparatory work performed on the exempt aquatic products as an integral part of a single uninterrupted canning process is subject to section 13(b)(4) and not to section 13(a)(5).²⁷ Such activities conducted as essential and integrated steps in the continuous and uninterrupted process of

²⁴ Fleming v. Hawkeye Pearl Button Co., 113 F. 2d 52 (C.A. 8); Walling v. W. D. Haden, 153 F. 2d 196 (C.A. 5).

²⁵ Dize v. Maddrix, 144 F. 2d 584 (C.A. 4), affirmed 324 U.S. 697.

²⁶ House (Conference) Report No. 1453, 81st Cong., 1st Session; 95 Cong. Rec. 14878, 14932-33.

²⁷ Mitchell v. Myrtle Grove Packing Company, 350 U.S. 891; Tobin v. Blue Channel Corporation, 198 F. 2d 245 (C.A. 4).

canning are clearly within the definition of "canning" as contemplated by Congress and cannot be viewed in isolation from the canning process as a whole. Exempt preparatory operations include the necessary weighing, cleaning, picking, peeling, shucking, cutting, heating, cooling, steaming, mixing, cooking, carrying, conveying, and transferring to the containers the exempt aquatic products. But the preparatory operations do not include operations specified in section 13(a)(5) pertaining to the acquisition of the exempt products from nature. Therefore, if a canner employs fishermen or others to catch, take, harvest, cultivate or farm aquatic animal and vegetable life, section 13(a)(5) and not section 13(b)(4) would apply to those particular operations.

(b) The mere fact that operations preparatory to canning are physically separated from the main canning operations of hermetically sealing and sterilizing or pasteurizing would not be sufficient to remove them from the scope of section 13(b)(4). If the operations of separate processors are integrated in producing canned seafood products, all employees of such processors who perform any part of the described continuous series of operations to accomplish this result would be "employed in the canning of" such products. Where preparatory operations such as the steaming or shucking of oysters are performed in an establishment owned, operated, or controlled by a canner of seafood as part of a process consisting of a continuous series of operations in which such products are hermetically sealed in containers and sterilized or pasteurized, all employees who perform any part of such series of operations on any portion of such aquatic products for canning purposes are within the scope of the term "canning".

(c) Moreover, preliminary operations performed in a separately owned processing establishment which are directed toward the particular requirements of a cannery pursuant to some definite arrangement between the operators of the two establishments would generally appear to be integrated with the cannery operations within the meaning of the above principles, so that the employees engaged in the preliminary operations in the separate establishment would be employed in "canning" within the meaning of section 13(b)(4) of the Act. Whether or not integration exists in a specific case of this general nature will depend, of course, upon all the relevant facts and circumstances in such case.

(d) The cooling, icing, or refrigeration of the aquatic products in the course of canning does not constitute such a break or discontinuance of the process as to bring the preparatory operations within section 13(a)(5) instead of section 13(b)(4) if the purpose of the refrigeration is to prevent spoilage for a short period, such as over the weekend, or during the transfer or shipment of the prepared products, or directly prior to the opening of the canning season. On the other hand, the freezing of aquatic products to be stored for a protracted or indefinite period for future canning is too remote from the actual canning to be an integral part of that operation and therefore is not within section 13(b)(4) but within section 13(a)(5).

§ 784.15 "Hermetically sealing and sterilizing or pasteurizing".

(a) As previously stated, under the conference agreement, "canning" means hermetically sealing and sterilizing or pasteurizing and a processing involving such operations would constitute canning within the meaning of section 13(b)(4).

(b) Where section 13(b)(4) and section 13(a)(5) operations are intermingled, the former and not the latter exemption applies.²⁸ Thus, where preparatory operations are performed on fish or seafood, some of which are to be canned and some of which are for processing (other than canning), all the necessary preparatory operations are exempt under section 13(b)(4) until that point in the operations where the commodity is channeled to accomplish the separate objectives, namely, canning or processing. Thereafter, the canning operations would be exempt under section 13(b)(4) and the processing (other than canning) operations would be exempt under section 13(a)(5). For example, all the preparatory activities in a roe canning plant such as any unloading of the fish, cutting off the heads and tails, cleaning and scaling leading up to, and including the extraction of the roe would come within section 13(b)(4), whereas the subsequent boning and filleting of the fish would come within section 13(a)(5), when none of the filleted fish is to be canned.

§ 784.16 Subsequent operations.

Canning, within the meaning of the exemption, includes operations performed after hermetic sealing of the cans or other containers such as labeling of them and placing of them in cases or boxes, which are required to place the canned products in the form in which it will be sold or shipped by the canner. This is so whether or not such operations immediately follow the actual canning operation as a part of an uninterrupted process. Storing and shipping operations performed by the employees of the cannery in connection with its canned products, during weeks in which canning operations are going on, come within the exemption. The fact that such activities relate in part to products processed during previous weeks or seasons would not affect the application of the exemption, provided canning operations such as hermetic sealing and sterilizing, or labeling, are currently being carried on.

§ 784.17 Exempt and nonexempt employees.

(a) Since canning is the only operation named in section 13(b)(4), only those employees whose activities are an integral part of that operation are within the exemption. Thus, employees engaged in placing the fish or seafood into the cans, or operating the machinery that seals the cans or the equipment that sterilizes the canned product are engaged in exempt activities. In addition, can loft workers, those engaged in removing and carrying supplies from the stock rooms for current use in canning operations, and employees whose duty it is to reform cans, when canning operations are going on, for current use and not for the purpose of producing a reserve supply of cans which may be

²⁸ See § 784.2(c).

used at a relatively remote time are engaged in exempt activities. Similarly, the repairing, oiling, or greasing during the active season of canning machinery or equipment currently used in the actual canning operations are exempt activities. The making of repairs in the production room such as to the floor around the canning machinery or equipment would also be deemed exempt activities where the repairs are essential to the continued canning operations or to prevent interruptions in the canning operations.

(b) On the other hand, office employees who make up and maintain employment, social security, payroll, and other records such as bills of lading, packing tickets, time cards, and books and ledgers, bus drivers who transport

workers to and from the cannery,¹⁰ cooks, kitchen help and waiters who prepare and serve food to the cannery employees, nurses, laboratory workers developing new products, watchmen and general maintenance employees are not considered as being engaged in exempt work. The receiving, unloading, and storing of supplies such as salt, condiments, cleaning supplies, containers, etc., in the plant or warehouse for subsequent use in the canning operations would not be within the exemption. The delivery of these articles from stock to meet the daily needs of the canning operations would, however, be exempt work.

(c) It may be that employees are engaged in the same workweek in per-
¹⁰ Mitchell v. Stinson, 217 F. 2d 210 (C.A. 1).

forming exempt and nonexempt work. For example, a shop machinist engaged in making a new part to be used in the repair of a machine currently used in canning operations would be doing exempt work. If he also in the same week makes parts to be stocked for use in case of future breakdowns, this work since it does not directly contribute to continuous operations, would be non-exempt work causing the loss of the exemption if such work occupied a substantial amount (for enforcement purposes, more than 20 percent) of the employee's worktime in that week.¹¹

Signed at Washington, D.C., this 5th day of February 1959.

CLARENCE T. LUNDQUIST,
Administrator.



Treasury Department

BUREAU OF CUSTOMS

GROUND FISH FILLET IMPORT TARIFF-RATE QUOTA FOR 1959:

The reduced-tariff-rate import quota on fresh and frozen groundfish (cod, haddock, hake, pollock, cusk, and ocean perch) fillets and steaks for calendar year 1959 is 36,919,874 pounds, the Bureau of Customs announced in the February 17 Federal Register. Divided into quarterly quotas this means that 9,229,968 pounds of groundfish fillets and steaks during each quarter of 1959 may be imported at the 1-7/8 cents-per-pound rate of duty, and any imports over the quarterly quota will be dutiable at the rate of 2 1/2 cents a pound.

The reduced-rate import quota for 1959 is 2.9 percent more than the 1958 quota of 35,892,221 pounds. From 1951 to 1959 the

Table 1 - Reduced-Tariff-Rate Import Quota for Fresh and Frozen Groundfish Fillets, 1951-1959

1959	1958	1957	1956	1955	1954	1953	1952	1951
(Million Pounds)								
36.9	35.9	37.4	35.2	35.4	34.0	33.9	31.5	29.3

quantity of fresh and frozen groundfish fillets permitted to enter the United States at the reduced rate of duty of 1-7/8 cents a pound has increased 26 percent.

Average aggregate apparent annual consumption in the United States of fresh and frozen groundfish fillets and steaks (including the fillet blocks and slabs used in the manufacture of fish sticks, but excluding blocks of fish bits) for the three years (1956-1958) preceding 1959 was

246,132,491 pounds, calculated in accordance with the proviso to item 717(b) of Part I, Schedule XX, of the General Agreement on Tariffs and Trade (T. D. 51802). This was substantially greater than the con-

Table 2 - United States Aggregate Apparent Annual Consumption of Fresh and Frozen Groundfish Fillets and Steaks

3-Year Period	Quantity
	Million Lbs.
1956-58	246.1
1955-57	239.3
1954-56	249.2
1953-55	234.6
1952-54	236.2
1951-53	226.3

sumption of 239,281,473 pounds for 1955-57, but still not as high as the 249,170,004 pounds consumed in the three-year period of 1954-56.

Note: Also see Commercial Fisheries Review, April 1958, p. 80.



Eighty-Sixth Congress

(First 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 actions by the House and Senate, as well as signature into law or other final disposition are covered.



CONSUMER EXPENDITURES STUDY BY FEDERAL TRADE COMMISSION: H. R. 4420 (Zablocki), a bill to provide for a study and investigation of certain matters affecting the American consumer to be conducted by the Federal Trade Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce; introduced in House February 11. Provides for a thorough study and investigation to determine portion of consumer expenditures attributed (1) to labor, materials, distribution, advertising, and other cost factors; (2) returns realized by producer, processor, distributor, and other persons; (3) relationship between prices, profits, and wages; (4) factors primarily responsible for inflation and deflation as affects U. S. economy; and (5) to determine if any measures are necessary to safeguard the position of the consumer.

DOGFISH SHARK ERADICATION: S. 1264 (Magnuson), a bill to amend the act providing for a program to eradicate the dogfish shark on the Pacific coast in order to expand such program; to the Committee on Interstate and Foreign Commerce; introduced in Senate March 5. The bill would amend the Act providing for a program to eradicate the dogfish shark on the Pacific Coast, approved September 2, 1958 (72 Stat. 1710), so as to extend the program from a "four year" to a "five year" period. The bill would also provide incentive payments to fishermen with respect to whole dogfish shark carcasses at rates not to exceed \$15 per ton and 15 cents per pound for dogfish shark livers. Such payments to be in addition to any amounts which domestic fishermen may obtain by selling such carcasses and livers.

FROZEN FISH BITS TO BE CLASSIFIED UNDER FILLETS: H. R. 4730 (O'Neill), a bill to make certain frozen fish blocks classifiable under paragraph 717 of the Tariff Act of 1930; to the Committee on Ways and Means; introduced in House February 18. Similar to H. R. 3883 and other bill previously introduced. Would classify blocks of frozen fish bits under the same category as fillets but at flat rate of duty of 2½ cents a pound.

HAWAII STATEHOOD: H. R. 4183 (Burns of Hawaii), a bill to provide for the admission of the State of Hawaii into the Union; also H. R. 4221 (O'Brien of New York), both introduced in House February 5, and H. R. 5440 (Fulton) introduced in House March 11; all to the Committee on Interior and Insular Affairs. Similar to H. R. 50 which was replaced by a clean bill--H. R. 4221. H. R. 4221 with amendment (H. Rept. No. 32) was favorably reported out by Committee on Interior and Insular Affairs on February 11 and referred to the Committee of the Whole House on the State of the Union.

Subcommittee on Territories and Insular Affairs of the Senate Committee on Interior and Insular Affairs on February 25 held and concluded hearings and ordered favorably reported to the full committee with amendments S. 50, to provide for the admission of Hawaii into the Union. The Senate Committee on Interior and Insular Affairs on March 3 unanimously ordered favorably reported with amendments S. 50 and on March 5 submitted the bill to the Senate with a favorable report (S. Rept. 80).

The Senate on March 11, by a vote of 76 to 15 passed S. 50, to provide for the admission of Ha-

wai into the Union, after adopting committee amendments en bloc and a series of technical amendments.

The House on March 12 agreed to consider Senate bill S. 50, under provisions of H. Res. 205, in lieu of H. R. 4221, and by a vote of 323 to 89 passed without amendment S. 50 to provide for the admission of the State of Hawaii into the Union. This cleared the bill for the White House.

House Report No. 32, Hawaii Statehood (February 11, 1959, 86th Congress, 1st Session, Report of the House Committee on Interior and Insular Affairs to accompany H. R. 4221), 70 pp., printed. Contains legislative history, major provisions of the bill, geography, demography, economy, highlights of business activities and commerce, reasons and readiness for statehood, arguments for and against statehood, sectional analysis of the bill, and Executive Department reports supporting statehood. The appendix contains the Constitution for the State of Hawaii, indexes of congressional investigations and House and Senate hearings and reports on Hawaii statehood, resolution which provided for annexation of the Hawaiian Islands to the United States, and changes in existing laws.

Senate Report No. 80, Statehood For Hawaii (March 5, 1959, 86th Congress, 1st Session, Report of the Senate Committee on Interior and Insular Affairs to accompany S. 50), 76 pp., printed. Contains major provisions of the bill, committee amendments, background of legislation, basic physical facts regarding geography and population, reasons and readiness for statehood, arguments against statehood, sectional analysis of the bill, executive agency reports, and changes in existing law. The appendix contains the constitution for the State of Hawaii, index of congressional investigations made since 1935 on statehood for Hawaii, listing of printed volumes of House and Senate Hearings and reports since 1933 on Hawaii Statehood, copy of resolution which provided for annexation of the Hawaiian Islands to the United States, and certain memoranda prepared by the Department of Interior regarding economic regulations over surface transportation, and application of the Commerce Clause of the Federal Constitution to Interisland Transactions in Hawaii.

IMPORTED COMMODITY LABELING: H. R. 5054 (Herlong), a bill to amend the Tariff Act of 1930 with respect to the marking of imported articles and containers; to the Committee on Ways and Means; introduced in House February 26. Similar to H. R. 2554 previously introduced.

IMPORTS OF POLLUTED SHELLFISH PROHIBITED: S. 1127 (Eastland), a bill to prohibit the importation into the United States of polluted shellfish; to the Committee on Finance; introduced in Senate February 19. Similar to H. R. 1244, previously introduced.

INTERIOR SUPPLEMENTAL APPROPRIATIONS: House Document No. 90, Proposed Supplemental Appropriations for the Legislative Branch, the Judiciary, the District of Columbia, and various Departments and Agencies of the Executive Branch of the Government, Fiscal Year 1959 (March 2, 1959, 86th Congress, 1st Session, 18 pp.), printed. A communication from the President of the United States to the House of Representatives transmitting

requests by the various Federal Agencies for additional funds for fiscal year 1959 to meet increased pay costs authorized by law in 1958. Included under the Department of Interior are increases for the Fish and Wildlife Service and its two Bureaus.

MARINE GAME FISH RESEARCH: H. R. 5004 (Lennon), a bill authorizing and directing the Secretary of the Interior to undertake continuing research on the biology, fluctuations, status, and statistics of the migratory marine species of game fish of the United States and contiguous waters; to the Committee on Merchant Marine and Fisheries; introduced in House February 25.

MARINE RESEARCH LABORATORY FOR SEATTLE AREA: H. R. 4402 (Pelly), a bill to provide for the construction of a salt-water research laboratory at Seattle, Wash., to the Committee on Interior and Insular Affairs; introduced in House February 11; referred to Committee on Merchant Marine and Fisheries February 16. The bill would provide for the construction and equipping of a laboratory for the purpose of conducting research on marine life. The proposed laboratory will be built in conjunction with an aquarium to be built by the city of Seattle. Such laboratory will be operated jointly by the State of Washington Department of Fisheries, the University of Washington College of Fisheries and School of Oceanography, and the Fish and Wildlife Service, U. S. Department of the Interior.

MEDICAL CARE FOR VESSEL PERSONNEL: H. R. 4868 (Pelly), a bill to provide medical care for certain persons engaged on board a vessel with care, preservation, or navigation of such vessel; to the Committee on Interstate and Foreign Commerce; introduced in House February 23. Similar to S. 255 previously introduced.

OCEANOGRAPHIC RESEARCH: The House Committee on Merchant Marine and Fisheries has set up a Subcommittee on Oceanography and on March 3, 1959, was still receiving testimony and conducting hearings on the need of extensive oceanographic research.

PRICE DISCRIMINATION: S. 138 (Capehart), a bill to define the application of the Clayton and Federal Trade Commission Acts to certain pricing practices; to the Committee on the Judiciary; introduced in Senate January 9. Similar to H. R. 11 and other bills previously introduced.

Subcommittee on Antitrust and Monopoly of Senate Committee on the Judiciary planned to begin hearings on S. 11 and S. 138 on March 17, 1959.

PRICE DISCRIMINATION ENFORCEMENT OF ORDERS: The Senate Committee on the Judiciary concluded hearings on March 2 and favorably reported out S. 726, a bill to amend section 11 of the Clayton Act so as to provide for the more expeditious enforcement of cease and desist orders issued thereunder (with amendments); the Committee reported the bill favorably to the Senate on March 5 (S. Rept. 83).

Senate Report No. 83, Making Clayton Act Orders Final (March 5, 1959, 86th Congress, 1st Session, Report of the Senate Committee on the Judiciary together with individual views to accompany S. 726, 11 pp.), printed. The report contains

testimony presented by Federal Agencies related to the purpose of the bill, technical amendments, and changes in existing law.

PRICE DISCRIMINATION ACTIONS FOR DAMAGES FOR VIOLATIONS: H. R. 4350 (Cunningham), a bill to amend the Clayton Act so as to supplement existing laws against unlawful restraints and monopolies by providing that violations of the Robinson-Patman Act shall constitute violations of the antitrust laws; to the Committee on the Judiciary; introduced in House February 11. Similar to H. R. 212 and other bills previously introduced.

PRICE DISCRIMINATION FUNCTIONAL DISCOUNTS: H. R. 4530 (Reuss), a bill to reaffirm the national public policy and the purposes of Congress in enacting the Robinson-Patman Antiprice Discrimination Act entitled "An act to amend section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes," and to clarify the intent and meaning of the aforesaid law by providing for the mandatory nature of functional discounts under certain circumstances; to the Committee on the Judiciary; introduced in House February 16. Similar to H. R. 848 and other bills previously introduced.

RIGHTS OF U. S. VESSELS ON THE HIGH SEAS: S. 971 (Magnuson), a bill to amend the act of August 27, 1954 (68 Stat. 883) relating to the rights of vessels of the United States on the high seas and in the territorial waters of foreign countries; to the Committee on Interstate and Foreign Commerce; introduced in Senate February 6. The bill provides that, in addition to the amount of any fines imposed, owners of seized U. S. vessels would be reimbursed for any losses, including reasonable expenses, of fishing gear, equipment, and catch. Crew members, who are U. S. citizens, would be reimbursed for expenses and losses which might be incurred from injuries sustained as a direct result of vessel seizure and in the event of death of any such crew member from such injuries, the bill provides for payment of the sum of \$10,000 to the surviving wife or minor children. The Secretary of State shall take actions necessary to collect on claims against a foreign country for amounts expended because of seizure of a U. S. vessel and shall make a report to the Congress annually as to the status of such claims.

SALMON IMPORT RESTRICTIONS: H. R. 4293 (Pelly), a bill to facilitate the application and operation of the Fish and Wildlife Act of 1956, and for other purposes; to the Committee on Merchant Marine and Fisheries; introduced in House February 9. Similar to H. R. 605 and other bills previously introduced designed to protect and preserve our salmon fishery resources by discouraging nationals of other countries from indiscriminate and uncontrolled net fishing not in compliance with the International Convention for the High Seas Fisheries of the North Pacific Ocean. The new bill, introduced as a revision of H. R. 605, retains restrictions which would prohibit the importation of salmon products derived from fish caught by nationals of any country that permits fishing for salmon by gill nets on the high seas at times and places where occur large quantities of immature

salmon of North American origin. The bill also includes a new provision to make the law inoperative if the fishing activities of foreign nationals are deemed not to be adversely affecting conservation of our salmon runs.

House Joint Memorial of the Legislative Assembly of the State of Oregon was presented to the Senate by Senator Neuberger and to the House by Congressman Green on March 2. The Memorial urges the President of the United States to complete a treaty with Japan and other nations on maximum salmon fishing in the north Pacific Ocean; Memorial to the Senate was referred to Committee on Foreign Relations.

SMALL BUSINESS CONCERN DEFINITION: H. R. 4171 (Michel), a bill to amend section 3 of the Small Business Act with respect to the definition of "small business concern;" to the Committee on Banking and Currency; introduced in House February 5.

Definition of "Small Business" within meaning of Small Business Act of 1953, as amended (Hearings before Subcommittee No. 2 of the Select Committee on Small Business, House of Representatives, 85th Congress, 2nd Session, May 27, June 3, 4, 10, 17, 18, and 25, 1958), 305 pp., printed. Reports in detail testimony presented by Government Agencies and various firms specifically on the definition of "Small Business."

SMALL BUSINESS INVESTMENT ACT OF 1958 AMENDMENT: S. 979 (Sparkman), a bill to amend the Internal Revenue Code of 1954 so as to provide further incentive for assistance to small business concerns by small business investment companies operating under the Small Business Investment Act of 1958; to Committee on Finance; introduced in Senate February 6. The proposed legislation is designed to eliminate certain tax pitfalls that tend to discourage investments in new companies. The bill would provide that small business investment companies would be exempt from the imposition of the accumulations surtax on earnings and profits when they keep their funds invested. Small business investment companies would be extended tax benefits covering straight loans which would allow a 15 percent tax deduction on interest income under the proposed amendment.

Also H. R. 4406 (Roosevelt) introduced in House February 11; and H. R. 4720 (Lane) introduced in House February 18; both to Committee on Ways and Means. Similar to S. 979 previously introduced.

SMALL BUSINESS TAX RELIEF: H. R. 4794 (Cunningham), a bill to provide a program of tax relief for small business and for persons engaged in small business; introduced in House February 19; also H. R. 5005 (McIntire) introduced in House February 25; both to Committee on Ways and Means. Similar to H. R. 2 and other bills previously introduced.

SHRIMP CONSERVATION CONVENTION WITH CUBA: The convention between the United States of America and Cuba for the conservation of shrimp, signed at Habana, Cuba, on August 15, 1958, was transmitted on March 5, 1959, to the Senate by the President of the United States for ratification together with a report of the Acting Secretary of State; referred to the Committee on Foreign Relations.

STARFISH ERADICATION IN LONG ISLAND SOUND: H. R. 5119 (Giaino), a bill to provide that the Secretary of the Interior shall develop and carry out an emergency program for the eradication of starfish in Long Island Sound and adjacent waters; introduced in House March 2; also H. R. 5271 (Kowalski) introduced in House March 4; both to Committee on Merchant Marine and Fisheries. Similar to H. R. 1984 and other bills previously introduced.

TRADE AGREEMENTS ADJUSTMENT ACT OF 1959: H. R. 4846 (Bailey), a bill to regulate the foreign commerce of the United States by amending section 350 of the Tariff Act of 1930, as amended, and for other purposes; introduced in House February 23. The bill is designed to meet the problem of import competition faced by American industry and agriculture and remove the fear of injury that now exists under foreign trade policy. The provisions of the bill would make possible the limitation and containment of injury without a drastic reduction of imports. This would be accomplished through tariff adjustments or use of import quotas and would leave control over trade to the U. S. Tariff Commission. The powers of the President in rejecting commission recommendations in escape clause actions are redefined. In addition, provision is made in the bill for compensating other countries for withdrawal of concessions under special conditions.

Also H. R. 4918 (Davis of Georgia), H. R. 4919 (Dent), H. R. 4931 (Lane), H. R. 4937 (Mack of Washington), H. R. 4940 (Moore), and H. R. 4950 (Thomson of Wyoming), all introduced in House February 24; H. R. 5087 (Saylor) introduced in House February 26; H. R. 5121 (Huddleston) and H. R. 5130 (Oliver) introduced in House March 2; and H. R. 5215 (Smith of Kansas), H. R. 5221 (Withrow) introduced in House March 3; all to the Committee on Ways and Means. Similar to H. R. 4846 and other bills previously introduced which provide for meeting import competition.

UNEMPLOYMENT RELIEF IN DEPRESSED AREAS: H. R. 4172 (Moore), a bill to assist areas to develop and maintain stable and diversified economies by a program of financial and technical assistance and otherwise, and for other purposes; introduced in House February 5.

Also H. R. 4253 (Byrne of Pennsylvania), H. R. 4259 (Conte), H. R. 4264 (Fenton), and H. R. 4278 (Kilburn), all introduced in House February 9; S. 1064 (Dirksen) introduced in Senate February 16; H. R. 4616 (Green of Pennsylvania), introduced in House February 17; H. R. 4878 (Van Zandt) introduced in House February 23; H. R. 4897 (Adanizio) and H. R. 4907 (Bennett of Michigan) both introduced in House February 24; H. R. 4996 (Foley) introduced in House February 25; H. R. 5065 (Perkins) introduced in House February 26; H. R. 5107 (Elliott) introduced in House March 2; H. R. 5173 (Diggs) introduced in House March 3; H. R. 5275 (Nix) introduced in House March 4; H. R. 5318 (Morgan) and H. R. 5330 (Toll) both introduced in House March 5. All to the Committee on Banking and Currency. Similar to H. R. 71 and other bills previously introduced.

A draft of proposed legislation to assist areas to develop and maintain stable and diversified

economies by a program of financial and technical assistance and otherwise, and for other purposes was transmitted with an accompanying paper from the Secretary of Commerce; to the Committee on Banking and Currency on February 6.

The subcommittee on Production and Stabilization of the Senate Committee on Banking and Currency on February 25 began hearings on pending area redevelopment legislation (S. 268, 722, and 1064).

House Committee on Banking and Currency subcommittee No. 3 began hearings March 9 on H. R. 3505 and related bills providing for economic assistance and unemployment relief to depressed areas.

WAGES: H. R. 5171 (Diggs), a bill to amend the Fair Labor Standards Act of 1938 so as to increase the minimum hourly wage from \$1 to \$1.25; to the Committee on Education and Labor; introduced in House March 3; also H. R. 5339 (Halpern) introduced in House March 5; both to the Committee on Education and Labor. Similar to H. R. 83 and other bills previously introduced to amend the Fair Labor Standards Act of 1938, as amended, solely to increase the minimum hourly wage.

H. R. 4409 (Teller), a bill to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of large enterprises engaged in retail trade or service and other employers engaged in activities affecting commerce, to increase the minimum wage under the act to \$1.25 an hour, and for other purposes; introduced in House February 11. Also H. R. 4488 (Roosevelt) and H. R. 4544 (Wier) introduced in House and S. 1046 (Kennedy & 6 other Senators) introduced in Senate February 16; H. R. 4579 (Dent) and H. R. 4664 (Zelenko) introduced in House February 17; and H. R. 4740 (Rodino) introduced in House February 18; House bills to the Committee on Education and Labor, Senate bill to Committee on Labor and Public Welfare. Similar to H. R. 188 and other bills previously introduced to amend the Fair Labor Standards Act of 1938, as amended, to provide coverage for employees of employers who

are engaged in activities affecting interstate commerce; to provide for review of industry committee recommendations by the Secretary of Labor; to increase the minimum wage rates; to eliminate certain exemptions; and for other purposes. The bill retains provisions which would continue to exempt any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal life, including the going to and returning from work and loading and unloading when performed by any such employee.

S. 1116 (Goldwater), a bill to amend the Fair Labor Standards Act of 1938, as amended, to provide for review by the Secretary of Labor of the minimum wage recommendations of industry committees; to the Committee on Labor and Public Welfare; introduced in Senate February 19. Similar to H. R. 3865, previously introduced. The bill would restore certain provisions, abolished by the 1955 amendments to the Fair Labor Standards Act, to provide for a review by the Secretary of Labor of the wage rate recommendations of the tripartite industry committees in Puerto Rico and the Virgin Islands. The proposal is designed to carry out a recommendation made by the President when he signed the enrolled enactment of the American Samoa Labor Standards Amendments of 1956. The amendment would also require that the Secretary of Labor prescribe by rules and regulations the procedures to be followed for the orderly review of the minimum wage determinations of the industry committees.

H. R. 2435 (Libonati) as previously reported in February 1959 issue of *Commercial Fisheries Review* should have read H. R. 2345 (Libonati). H. R. 317 (Addonizio) previously listed under FAIR LABOR STANDARDS AMENDMENTS OF 1959, is now listed under WAGES.

H. R. 188 (Lane), and H. R. 253 (Rooney), H. R. 450 (Zelenko), H. R. 1198 (Wier), and H. R. 2345 (Libonati) previously reported as similar to H. R. 83, are really the same as H. R. 188 which contains provisions other than solely to increase the minimum wage rate.

