



FEDERAL ACTIONS



Federal Trade Commission

CRAB FISHERMEN'S ASSOCIATION RULED GUILTY OF UNFAIR COMPETITION AND RESTRAINT OF TRADE:

In an initial decision (Initial Decision 7859, Crabs) announced on May 23, 1963, a Federal Trade Commission hearing examiner ruled that a Westport, Washington, Association of crab fishermen and its crab fishermen members have unlawfully restrained competition in the Dungeness crab fishing and processing industries in their area. This is not a final decision and may be reviewed by the Commission.

The Commission examiner found that the respondents have used coercion, threats, and intimidation to limit the "catch" or supply of Dungeness crabs, to prevent persons from making purchases or sales, and to compel nonmember fishermen to join the association.

He said that no physical violence was committed but "many personal threats were made and much damage was threatened on several occasions and was actually done on one occasion to the property of others."

Issuing a broad order which would halt such unfair practices, the examiner stated: "Respondents have obtained control of a substantial part of the production of Dungeness crab in the coastal and ocean waters within and adjacent to the State of Washington which constitutes one of the most important sources of that product. They likewise have control of a substantial part of the processing of Dungeness crabs which of necessity must be carried on at or near the source of their production. This control has been gained by reason of the conspiracy, acts, policies, and practices hereinbefore found which unlawfully restrain, hinder, and destroy competition in the fishing for, processing, shipping, and marketing of crabs. Such control constitutes a monopoly and respondents have the capacity and

intent to extend such monopoly further if not restrained therefrom. By reason of the fact that many of respondents fish for aquatic products other than crabs and have the capacity to at least attempt to create a monopoly in such products the cease and desist order issued herewith is not confined solely to the Dungeness crab fishing and processing industries."

The Association, the examiner said, was incorporated in the early spring of 1958 by a large group of Westport crab fishermen who had become dissatisfied with the low prices paid by processors. Thereafter, the members fixed the prices on deliveries of raw crabs to the processors by market orders. In May 1959, a crab processing cannery was purchased by some 50 members and a cooperative was organized.

Described by the examiner were various incidents where members used "show of force" tactics to accomplish their objectives. One such incident involved a "massive array" of about 30 members to prevent another member from unloading his catch and selling to a processor who did not have a market order.

Rejecting respondents' contention that this mass movement was entirely proper, the examiner said, "They could have taken legal action. But they took the law into their own hands. While no physical force was used by respondents on this occasion, they certainly did make a very great 'show of force' and by their illegal actions secured compliance with their demands."

On another occasion, he noted, the respondents similarly "took the law into their own hands and forbade and prevented any delivery of crabs by two partner processors under the clearly implied threat that they would get no further crabs from Association members. These processors, however, had a perfect legal right after catching crabs with

their own boats or buying crabs from Association members, to sell them to whom they pleased and undoubtedly would have sold some of their own excess crabs to a Seattle concern had not respondents made a strong show of force, and threats, and prevented them from doing so. While the dock was a public one, respondents with an impressive show of force unlawfully interfered in a business deal between others."

Joined in the examiner's order were eleven men as trustees or officers of the Association, and as representative of the entire membership.

See Commercial Fisheries Review, July 1960 p. 78 and June 1960 p. 66.

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SHRIMP PROCESSING MACHINERY FIRM FOUND NOT GUILTY OF SUPPRESSING COMPETITION:

A Federal Trade Commission (FTC) hearing examiner issued an order (Initial Decision, 7887, Shrimp Processing Machinery) on May 5, 1963, which would dismiss charges that a New Orleans, La., partnership, has used unfair methods of competition which have unlawfully hindered its competitors in the shrimp processing machinery industry.

At the same time, however, the examiner ruled in his initial decision on a Commission complaint of May 13, 1960, that the concern was illegally charged West Coast licensees of its machinery discriminatory and much higher rates than those granted to licensees in other states. His order would require the firm and its six active partners to discontinue this practice. This is not a final decision and may be reviewed by the Commission.

Specifically, the examiner ordered dismissal of allegations in the complaint that the New Orleans firm has unfairly:

1. Entered into agreements with patentees and prospective patentees, thus obtaining exclusive rights to shrimp processing machines; and in most instances never attempted to manufacture, develop, or commercially exploit such machinery.
2. Required inventors to disclose and assign to the company future inventions in this field.
3. Filed patent infringement suits against manufacturers and users of a competitive

shrimp peeler, and offered unfair selling terms to purchasers and prospective purchasers and prospective purchasers of this machine located in foreign countries.

4. Required licensees to buy a certain number of debentures at \$500 each.

After giving the background of license agreements between the New Orleans firm and various inventors, the examiner held: "Commission counsel have failed to sustain their burden of showing by reliable, probative, and substantial evidence that any of the individual respondents, or its predecessor company have by means or exclusive licenses or otherwise in any way suppressed competition in shrimp processing machinery as alleged in the complaint."

The examiner similarly ruled that the Commission's staff counsel have failed to prove that the company has "entered into or exacted any requirements from inventors as to licensing of future inventions of shrimp processing machinery in violation of Section 5 of the" FTC Act.

On the patent-enforcement issue, the examiner pointed out, United States courts have declared United States patents owned by the company, valid and infringed by the competitive machines.

The New Orleans firm, when asked to do so, has consistently stated its intention of enforcing its patent rights against the infringing machines. No person purchasing, making, selling or using a competitive machine has done so without awareness of that intention. No action by this firm has been inconsistent with the belief that it possesses valid patent rights infringed by the competitive machine.

Through the years of litigation which have followed the invasion of the patent rights of the New Orleans firm, the competitive machines have continued to be offered to the trade, both by advertising to the trade, and by offers to sell abroad. Where sold their use has been stopped, to the extent it has been stopped, solely by the assertion by the New Orleans firm of its legal monopoly granted it in due course under the patent laws of the various countries where it holds patents and this assertion of its rights has been solely by proper notice and, if necessary, legal action as provided by law.

Concerning the requirement that lessees purchased debentures, the examiner found that this practice, which was discontinued in July 1961, "constituted a lawful method of providing financing."

The examiner also ordered dismissal of (1) the complaint as to a Houma, La., firm a silent partner in the New Orleans company, and (2) the charge that both have combined in carrying out these alleged unfair activities.

There is no evidence, he said, "that the Houma, La., firm or any officer or representative thereof has agreed or combined with any individual respondent or the New Orleans company to adopt any unfair method of competition or unfair acts and practices. The record is completely lacking in any evidence whatsoever of any agreement, combination or conspiracy between the Houma firm (or any representative of said corporation), on the one hand, and any individual respondent or the New Orleans firm on the other, to adopt or carry out the alleged unlawful acts. In the large amount of evidence taken in this proceeding there is none which shows that the policies of the New Orleans firm or its predecessor were shaped by consideration of any interest of the Houma company or that this firm's policies were in any way shaped by any consideration of any interest of the New Orleans company.

The examiner found, however, that the New Orleans company violated the FTC Act by charging lessees of its machinery in Oregon, Washington, and Alaska twice as much as competing lessees on the Gulf Coast.

Note: See Commercial Fisheries Review, September 1960 p. 71 and July 1960 p. 78.



Department of the Interior

FISH AND WILDLIFE SERVICE

BUREAU OF COMMERCIAL FISHERIES

NEW AND AMENDED FEDERAL STANDARDS PROPOSED FOR GRADES OF FISH STICKS AND FISH PORTIONS:

Proposed voluntary standards were announced in the May 22, 1963, Federal Register for grades of (1) frozen fried fish sticks, (2) frozen fried fish portions, and (3) frozen

raw breaded fish sticks. The latter two proposed standards, if made effective, would be the first issued by the Department of the Interior prescribing Government standards for those specific commodities. The proposed standard for frozen fried fish sticks would be an amendment to the standard previously promulgated in the Federal Register, September 1, 1960.

All of the proposed standards include product and grade descriptions as well as a method of determining the grade which involves factors of quality such as flavor, odor, appearance, character, and absence of defects. The standards also contain definitions and methods of analysis, and tolerances for certification of officially drawn samples.

The products covered by the proposed standards are partially defined as follows:

1. Frozen fried fish sticks weigh up to and including $1\frac{1}{2}$ ounces; are at least $\frac{1}{4}$ -inch thick; and their largest dimension is at least 3 times the next largest dimension. Frozen fried fish sticks contain not less than 60 percent, by weight, of fish meat. All sticks in an individual package are prepared from the meat of one species of fish.

2. Frozen fried fish portions weigh more than $1\frac{1}{2}$ ounces and are at least $\frac{3}{8}$ -inch thick. Frozen fried fish portions contain not less than 65 percent, by weight, of fish meat. Portions in an individual package are prepared from the meat of one species of fish.

3. Frozen raw breaded fish sticks weigh up to and including $1\frac{1}{2}$ ounces; are at least $\frac{3}{8}$ -inch thick; and their largest dimension is at least 3 times the next largest dimension. Frozen raw breaded fish sticks contain not less than 72 percent, by weight, of fish meat. All sticks in an individual package are prepared from the meat of one species of fish.

Interested persons had until June 21, 1963, to submit written comments, suggestions, or objections on the proposed standards.

The announcement dated May 16, 1963, it appeared in the May 22, 1963, Federal Register follows:

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 261]

FROZEN FRIED FISH STICKS

Proposed U.S. Standards for Grades

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 6(a) of the Fish and Wildlife Act of August 8, 1956 (16 U.S.C. 742e), it is proposed to amend Title 50 Code of Federal Regulations by the addition of a new Part 261. The purpose of this amendment is to issue standards for grades of frozen fried fish sticks in accordance with the authority contained in Title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U.S.C. 1621-1627). These regulations, if made effective, will be an amendment to Part 261—U.S. Standards for Grades of Frozen Fried Fish Sticks previously promulgated in the FEDERAL REGISTER, September 1, 1960, pages 8442 and 8443.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Bureau of Commercial Fisheries, U.S. Fish and Wildlife Service, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

JAMES K. CARR,

Acting Secretary of the Interior.

MAY 16, 1963.

Second Issue: These standards will supersede the standards which have been in effect since August 21, 1956.

PART 261—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED FISH STICKS¹

- 261.1 Description of the product.
- 261.3 Grades of frozen fried fish sticks.
- 261.11 Determination of the grade.
- 261.21 Definitions.
- 261.25 Tolerances for certification of officially drawn samples.

261.1 Description of the product.

Frozen fried fish sticks are clean, wholesome, rectangular-shaped unglazed masses of cohering pieces (not ground) fish flesh coated with breading and partially cooked. The sticks are cut from frozen fish blocks; are coated with a suitable, wholesome batter and breading; are fried, packaged, and frozen in accordance with good commercial practice. They are maintained at temperatures necessary for preservation of the product. Frozen fried fish sticks weigh up to and including 1½ ounces; are at least ¼ inch thick; and their largest dimension is at least 3 times the next largest dimension. Frozen fried fish sticks contain not less than 60 percent, by weight, of fish flesh. All sticks in an individual package are prepared from the flesh of the species of fish.

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

§ 261.3 Grades of frozen fried fish sticks.

(a) "U.S. Grade A" is the quality of frozen fried fish sticks that (1) possess good flavor and odor and (2) rate a total score of not less than 85 points for those factors of quality that are rated in accordance with the scoring system outlined elsewhere in this part.

(b) "U.S. Grade B" is the quality of frozen fried fish sticks that (1) possess at least reasonably good flavor and odor and (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen fried fish sticks that meet the requirements of § 261.1 *Description of product*, but otherwise fail to meet the requirements of "U.S. Grade B."

§ 261.11 Determination of the grade.

The grade is determined by examining the product in the frozen and cooked states and is evaluated by considering the following factors:

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with the schedule in table 1. The total of points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling, and tasting, after the product has been cooked in accordance with § 261.21.

(1) Good flavor and odor (essential requirements for a Grade A Product) means that the cooked product has the typical flavor and odor of the indicated species of fish and of the breeding and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B Product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

§ 261.21 Definitions.

(a) Selection of the sample unit: The sample unit shall consist of 10 frozen fried fish sticks taken at random from one or more packages as required. The fish sticks are spread out on a flat pan or sheet and are examined according to table 1. Definitions of factors for point deductions are as follows:

(b) Examination of sample, frozen state:

(1) "Condition of package" refers to the presence in the package of free excess oil and/or loose breading and/or loose frost.

(2) "Ease of separation" refers to the difficulty of separating sticks from each other or from packaging material that are frozen together after the frying operation and during the freezing.

(3) "Broken stick" means a stick with a break or cut equal to or greater than one-half the width of the stick.

(4) "Damaged stick" means a stick that has been mashed, physically or

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT OF 10 STICKS

FROZEN STATE		
Factors scored	Method of determining score	Deduct
1	Condition of package..... Small degree: Loose free oil, and/or moderate loose breading and/or moderate frost. Large degree: Oil soaking through package and/or excessive loose breading and/or excessive amount frost.	2 5
2	Ease of separation..... Minor: Hand separated with difficulty.—Each affected.....	1½
3	Broken stick..... Major: Separated only by knife or other instrument.—Each affected. Break or cut greater than ½ length or width.—Each affected..... <i>Mashed, mechanically and/or physically injured, misshaped or mutilated¹</i>	1 10
4	Damaged stick..... Minor: 1 to 3 instances.—Each affected..... Major: Over 3 instances.—Each affected.....	2 4
5	Uniformity: Size..... Deviation in length or width between the 2 largest and 2 smallest sticks is: Up to ¼ inch..... Over ¼ inch and up to ½ inch..... Over ½ inch.....	0 3 10
6	Weight..... Weight ratio of the 2 heaviest divided by the 2 lightest sticks: Over 1.0; not over 1.15..... Over 1.15; not over 1.3..... Over 1.3; not over 1.4..... Over 1.4.....	0 2 5 10
COOKED STATE		
7	Distortion..... Minor: Bending, shrinking, twisting (¼ to ½ inch).—Each affected. Major: Excessive bending, shrinking, twisting (over ½ inch).—Each affected.	1 2
8	Color..... Minor: Sticks differing slightly from average color of sticks in sample unit.—Each affected. Major: Sticks excessively dark or light from average color of sticks in sample unit.—Each affected. <i>Bare spots, blistering, ridges, breaks, curds¹</i>	2 4
9	Coating defects..... Minor: 1 to 3 instances.—Each affected..... Major: Over 3 instances.—Each affected..... <i>Skin, blood spots, bruises, discolorations¹</i>	1 3
10	Blemishes..... Minor: 1 to 6 instances.—Each affected..... Major: Over 6 instances.—Each affected.....	1 3
11	Bones..... Sticks containing bones (potentially harmful).—Each affected.....	10
12	Texture: Coating..... Small degree: Moderately dry, soggy, doughy, oily, and tough..... Large degree: Farinaceous (mealy), pasty, very tough and/or oily.....	5 15
13	Fish flesh..... Small degree: Moderately dry, soft, mushy..... Large degree: Dry to the point of fibrousness, very mushy, tough, and rubbery.....	5 15

¹ An instance = each ¼ square inch (¼-inch square).

mechanically injured, misshaped or mutilated to the extent that its appearance is materially affected. The amount of damage is measured by using a grid composed of squares $\frac{1}{4}$ inch (that is, squares with an area of $\frac{1}{16}$ square inch each) to measure the area of the stick affected. Deductions are not made for damage less than $\frac{1}{16}$ square inch.

(5) "Uniformity of size" refers to the degree of uniformity in length and width of the frozen sticks. Deviations are measured from the combined lengths of the two longest minus the combined lengths of the two shortest and/or the combined widths of the two widest minus the combined widths of the two narrowest. Deductions are not made for overall deviations in length of width up to $\frac{1}{4}$ inch.

(6) "Uniformity of weight" refers to the degree of uniformity of the weights of the sticks. Uniformity is measured by the combined weight of the two heaviest sticks divided by the combined weight of the two lightest sticks. No deductions are made for weight ratios less than 1.15.

(c) Cooked state means the state of the product after cooking in accordance with the instructions accompanying the product. However, if specific instructions are lacking, the product for inspection is cooked as follows: Transfer the product, while still in frozen state, onto a flat pan or sheet of sufficient size to accommodate 10 sticks spaced at least $\frac{1}{4}$ inch apart. Place the pan and frozen contents in a properly ventilated oven preheated to 400° F. until thoroughly cooked (about 15 to 18 minutes or to an internal temperature of 160° F.).

(d) Examination of sample, cooked state:

(1) "Distortion" refers to the degree of bending of the long axis of the stick. Distortion is measured as the greatest deviation from the long axis. Deductions are not made for deviations of less than $\frac{1}{4}$ inch.

(2) "Color" refers to the reasonably uniform color typical of the sample material.

(3) "Coating defects" refers to breaks, lumps, ridges, depressions, blisters or swells and curds in the coating of the cooked product. Breaks in the coating are objectionable bare spots through which the fish flesh is plainly visible. Lumps are objectionable outcroppings of breading on the stick surface. Ridges are projections of excess breading at the edges of the fish flesh. Depressions are objectionable visible voids or shallow areas which are lightly covered by breading. Blisters are measured by the swelling or exposed area in the coating resulting from the bursting or breaking of the coating. Curd refers to crater-like holes in the breading filled with coagulated albumin. Instances of these defects are measured by a plastic grid marked off in $\frac{1}{4}$ -inch squares ($\frac{1}{16}$ square inch). Each square is counted as 1 whether it is full or fractional.

(4) "Blemishes" refers to skin, blood spots or bruises, objectionable dark fatty flesh, carbon specks or extraneous material. Instances of blemishes refers to each occurrence measured by placing a plastic grid marked off in $\frac{1}{4}$ -inch squares ($\frac{1}{16}$ square inch) over the defect area. Each square is counted as 1 whether it is full or fractional.

(5) "Bones" means the presence of po-

tentially harmful bones in a stick. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate.

(6) "Texture defects of the coating" refers to the absence of the normal textural properties of the coating which are crispness and tenderness. Coating texture defects are dryness, sogginess, mushiness, doughiness, toughness, pastyness, as sensed by starchiness or other sticky properties felt by mouth tissues; oiliness to the degree of impairment of texture; and/or mealiness.

(7) "Texture defects of the fish flesh" refers to the absence of normal textural properties of the cooked fish flesh, which are tenderness, firmness, and moistness without excess water. Texture defects of the flesh are dryness, softness, toughness, and rubberiness.

(e) General definitions:

(1) "Small" (overall assessment) refers to a condition that is noticeable but is not seriously objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(f) Minimum fish flesh content refers to the minimum percent, by weight, of the average fish flesh content of 3 or more additional sticks per sample unit as determined by the following method:

(1) *Equipment needed.* (i) Water bath (for example, a 3- to 4-liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to $\pm 2^\circ$ F.

(ix) Copper sulfate crystals ($\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$ —one pound).

(2) *Procedure.* (i) Weigh all sticks in the sample while they are still hard frozen.

(ii) Place each stick individually in the water bath maintained at 63° F. to 86° F. and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 30 to 110 seconds for sticks held in storage at 0° F.). If the sticks were prepared using batters that are difficult to remove after one dipping, redip them for up to 5 seconds after the initial debreading and remove residual batter material.

NOTE: Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the sticks in a sample unit. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulphate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off provided that (1) the "debreaded" sticks are still solidly frozen and (2) only a slight trace of blue color is visible on the surface of the "debreaded" fish sticks.

(iii) Remove the stick from the bath; blot lightly with double thickness paper

towel; and scrape off or pick coating from the fish flesh with spatula or nut picker.

(iv) Weigh all the "debreaded" sticks.

(v) Calculate the percent of fish flesh in the sample by the following formula:

$$\text{Percent fish flesh} = \frac{\text{Weight of fish flesh (iv)}}{\text{Weight of fried fish sticks (i)} \times (1.0)} \times 100$$

§ 261.25 Tolerances for certification, officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260, of this chapter (Regulations Governing Processed Fish Products, 25 F.R. 8427, September 1960) except that a sample unit shall consist of 10 sticks taken at random from one or more packages as required.

[50 CFR Part 276]

FROZEN FRIED FISH PORTIONS

Proposed U.S. Standards for Grades

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 6(a) of the Fish and Wildlife Act of August 1956 (16 U.S.C. 742e), it is proposed to amend Title 50 Code of Federal Regulations by the addition of a new Part 276. The purpose of this amendment is to issue standards for grades of frozen fried fish portions in accordance with the authority contained in Title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U.S.C. 1621-1627). These regulations, if made effective, will be the first issued by the Department of the Interior prescribing Government standards for this commodity.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Bureau of Commercial Fisheries, U.S. Fish and Wildlife Service, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

JAMES K. CARR,
Acting Secretary of
the Interior

MAY 16, 1963.

PART 276—UNITED STATES STANDARDS FOR GRADES OF FROZEN FRIED FISH PORTIONS¹

Sec.	276.1	Description of the product.
	276.3	Grades of frozen fried fish portions.
	276.11	Determination of the grade.
	276.21	Definitions.
	276.25	Tolerances for certification of officially drawn samples.

§ 276.1 Description of the product.

Frozen fried fish portions are clean, wholesome, uniformly shaped, unbroken masses of cohering pieces (not ground) of fish flesh coated with breading.

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.

partially cooked. The portions are cut from frozen fish blocks; are coated with suitable, wholesome batter and breading; are fried, packaged, and frozen in accordance with good commercial practice. They are maintained at temperatures necessary for preservation of the product. Frozen fried fish portions weigh more than 1½ ounces and are at least ¾ inch thick. Frozen fried fish portions contain not less than 65 percent, by weight, of fish flesh. All portions in an individual package are prepared from the flesh of one species of fish.

§ 276.3 Grades of frozen fried fish portions.

(a) "U.S. Grade A" is the quality of frozen fried fish portions that (1) possess good flavor and odor and (2) rate a total score of not less than 85 points for those factors of quality that are rated in accordance with the scoring system outlined elsewhere in this part.

(b) "U.S. Grade B" is the quality of frozen fried fish portions that (1) possess at least reasonably good flavor and odor and (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen fried fish portions that meet the requirements of § 276.1 *Description of product*, but otherwise fail to meet the requirements of "U.S. Grade B."

§ 276.11 Determination of the grade.

The grade is determined by examining the product in the frozen and cooked

states and is evaluated by considering the following factors:

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with the schedule in table 1. The total of points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling and tasting, after the product has been cooked in accordance with § 276.21.

(1) Good flavor and odor (essential requirements for a Grade A Product) means that the cooked product has the typical flavor and odor of the indicated species of fish and of the breading and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B Product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

§ 276.21 Definitions.

(a) *Selection of the sample unit:* The sample unit shall consist of 10 frozen fried fish portions taken at random from one or more packages as required. The portions are spread out on a flat pan or sheet and are examined according to table 1. Definitions of factors for point deductions are as follows:

(b) *Examination of sample, frozen state:*

(1) "Condition of package" refers to the presence in the package of free excess oil and/or loose breading and/or loose frost.

(2) "Ease of separation" refers to the difficulty of separating portions from each other or from packaging material that are frozen together after the frying operation and during the freezing.

(3) "Broken portion" means a portion with a break or cut equal to or greater than one-half the width or length of the portion.

(4) "Damaged portion" means a portion that has been mashed, physically or mechanically injured, misshaped or mutilated to the extent that its appearance is materially affected. The amount of damage is measured by using a grid composed of squares ¼ inch (that is, squares with an area of ¼² square inch each) to measure the area of the portion affected. Deductions are not made for damage less than ¼² square inch.

(5) "Uniformity of size" refers to the degree of uniformity in length and width of the frozen portions. Deviations are measured from the combined lengths of the two longest minus the combined lengths of the two shortest and/or the combined widths of the two widest minus the combined widths of the two narrowest. Deductions are not made for overall deviations in length or width up to ¼ inch.

(6) "Uniformity of weight" refers to the degree of uniformity of the weights of the portions. Uniformity is measured by the combined weight of the two heaviest portions divided by the combined weight of the two lightest portions. No deductions are made for weight ratios less than 1.20.

(c) *Cooked state* means the state of the product after cooking in accordance with the instructions accompanying the product. However, if specific instructions are lacking, the product for inspection is cooked as follows: Transfer the product, while still in frozen state, onto a flat pan or sheet of sufficient size to accommodate 10 portions spaced at least ¼ inch apart. Place the pan and frozen contents in a properly ventilated oven preheated to 420° F. until thoroughly cooked (about 15 to 18 minutes or to an internal temperature of 160° F.).

(d) *Examination of sample, cooked state:*

(1) "Distortion" refers to the degree of bending of the long axis of the portions. Distortion is measured as the greatest deviation from the long axis. Deductions are not made for deviations of less than ¼ inch.

(2) "Color" refers to the reasonably uniform color within the sample unit.

(3) "Coating defects" refers to breaks, lumps, ridges, depressions, blisters or swells and curds in the coating of the cooked product. Breaks in the coating are objectionable bare spots through which the fish flesh is plainly visible. Lumps are objectionable outcroppings of breading on the portion surface. Ridges are projects of excess breading at the edges of the fish flesh. Depressions are objectionable visible voids or shallow areas which are lightly covered by breading. Blisters are measured by the swelling or exposed area in the coating resulting from the bursting or breaking of the coating. Curd refers to crater-like holes in the breading filled with

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT OF 10 PORTIONS

FROZEN STATE		
Factors scored	Method of determining score	Deduct
1 Condition of package	Small degree: Loose free oil, and/or moderate loose breading and/or moderate frost.	3
	Large degree: Oil soaking through package and/or excessive loose breading and/or excessive amount frost.	6
2 Ease of separation	Minor: Hand separated with difficulty.—Each affected	1
3 Broken portion	Major: Separated only by knife or other instrument.—Each affected	2
	Break or cut greater than ½ length or width.—Each affected	10
4 Damaged portion	<i>Mashed, mechanically and/or physically injured, misshaped or mutilated</i> ¹	
	Minor: 1 to 3 instances.—Each affected	2
5 Uniformity: Size	Major: over 3 instances.—Each affected	4
	Deviation in length or width between the 2 largest and 2 smallest portions is:	
	Up to ¼ inch	0
	Over ¼ inch and up to ½ inch	3
	Over ½ inch	10
6 Weight	Weight ratio of the 2 heaviest divided by the 2 lightest portions:	
	Over 1.0; not over 1.20	0
	Over 1.20; not over 1.3	3
	Over 1.3; not over 1.4	6
	Over 1.4	10
COOKED STATE		
7 Distortion	Minor: Bending, shrinking, twisting (¼ to ½ inch).—Each affected	1
	Major: Excessive bending, shrinking, twisting (over ½ inch).—Each affected	2
8 Color	Minor: Portions differing slightly from average color of portions in sample unit.—Each affected	2
	Major: Portions excessively darker or lighter from average color of portions in sample unit.—Each affected	4
9 Coating defects	<i>Bare Spots, blistering, ridges, breaks, curds</i> ¹	
	Minor: 1 to 3 instances.—Each affected	1
	Major: over 3 instances.—Each affected	3
10 Blemishes	<i>Skin, blood spots, bruises, discolorations</i> ¹	
	Minor: 1 to 6 instances.—Each affected	1
11 Bones	Major: over 6 instances.—Each affected	3
	Portions containing bones (potentially harmful).—Each affected	10
12 Coating	Small degree: Moderately dry, soggy, doughy, oily and/or tough	5
	Large degree: Farinaceous (mealy), pasty, very tough and/or oily	10
13 Fish flesh	Small degree: Moderately dry, soft, mushy	5
	Large degree: Dry to the point of fibrousness, very mushy, tough, and/or rubbery	15

¹ An instance—each ¼² square inch (¼-inch square).

coagulated albumin. Instances of those defects are measured by a plastic grid marked off in $\frac{1}{4}$ inch squares ($\frac{1}{16}$ square inch). Each square is counted as 1 whether it is full or fractional.

(4) "Blemishes" refers to skin, blood spots or bruises, objectionable dark fatty flesh, carbon specks or extraneous material. Instances of blemishes refers to each occurrence measured by placing a plastic grid marked off $\frac{1}{4}$ -inch squares ($\frac{1}{16}$ square inch) over the defect area. Each square is counted as 1 whether it is full or fractional.

(5) "Bones" means the presence of potentially harmful bones in a portion. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate.

(6) "Texture defects of the coating" refers to the absence of the normal textural properties of the cooked coating which are crispness and tenderness. Coating texture defects are dryness, soggy, mushiness, doughiness, toughness, pastyness, as sensed by starchiness or other sticky properties felt by mouth tissues; oiliness to the degree of impairment of texture; and/or mealiness.

(7) "Texture defects of the fish flesh" refers to the absence of the normal textural properties of the cooked fish flesh, which are tenderness, firmness, and moistness without excess water. Texture defects of the flesh are dryness, mushiness, toughness, and rubbery.

(e) General definitions:

(1) "Small" (overall assessment) refers to a condition that is noticeable but is not seriously objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but also is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(f) Minimum fish flesh content refers to the minimum percent, by weight, of the average fish flesh content of 3 or more additional portions per sample unit as determined by the following method:

(1) *Equipment needed.* (i) Water bath (for example, a 3- to 4-liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to $\pm 2^\circ$ F.

(ix) Copper sulfate crystals ($\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$)—one pound.

(2) *Procedure.* (i) Weigh all portions in the sample while they are still hard frozen.

(ii) Place each portion individually in the water bath maintained at 63° F. to 86° F. and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 30 to 110 seconds for portions held in storage at 0° F.). If the portions were prepared using batters that are difficult to remove after one dipping,

redip them for up to 5 seconds after the initial debreading and remove residual batter material.

NOTE: Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the portions in a sample unit. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulphate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off provided that (1) the "debreaded" portions are still solidly frozen and (2) only a slight trace of blue color is visible on the surface of the "debreaded" fish portions.

(iii) Remove the portion from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the fish flesh with the spatula or nut picker.

(iv) Weigh all the "debreaded" fish portions.

(v) Calculate the percent of fish flesh in the sample by the following formula:

$$\text{Percent fish flesh} = \frac{\text{Weight of fish flesh (iv)}}{\text{Weight of fried fish portions (i)}} \times 100$$

§ 276.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260, of this chapter (Regulations Governing Processed Fishery Products, 25 F.R. 8427, September 1, 1960) except that a sample unit shall consist of 10 portions taken at random from one or more packages as required.

[50 CFR Part 277]

FROZEN RAW BREADED FISH STICKS Proposed U.S. Standards for Grades

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 6(a) of the Fish and Wildlife Act of August 8, 1956 (16 U.S.C. 742e), it is proposed to amend Title 50 Code of Federal Regulations by the addition of a new Part 277. The purpose of this amendment is to issue standards for grades of frozen raw breaded fish sticks in accordance with the authority contained in Title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U.S.C. 1621-1627). These regulations, if made effective, will be the first issued by the Department of the Interior prescribing Government standards for this commodity.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Bureau of Commercial Fisheries, U.S. Fish and Wildlife Service, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

JAMES K. CARR,
Acting Secretary of
the Interior.

MAY 16, 1963.

PART 277—UNITED STATES STANDARDS FOR GRADES OF FROZEN RAW BREADED FISH STICKS¹

Sec.	Description of the product.
277.1	Grades of frozen raw breaded fish sticks.
277.11	Determination of the grade.
277.21	Definitions.
277.25	Tolerances for certification of officially drawn samples.

§ 277.1 Description of the product.

Frozen raw breaded sticks are clean, wholesome, rectangular-shaped unglazed masses of cohering pieces (not ground) of fish flesh coated with breading. The sticks are cut from frozen fish blocks, are coated with a suitable, wholesome batter and breading; are packaged, and frozen in accordance with good commercial practice. They are maintained at temperatures necessary for preservation of the product. Frozen raw breaded fish sticks weigh up to and including $1\frac{1}{2}$ ounces; are at least $\frac{3}{8}$ inch thick; and their largest dimension is at least 3 times the next largest dimension. Frozen raw breaded fish sticks contain not less than 72 percent, by weight, of fish flesh. All sticks in an individual package are prepared from the flesh of one species of fish.

§ 277.3 Grades of frozen raw breaded fish sticks.

(a) "U.S. Grade A" is the quality of frozen raw breaded fish sticks that (1) possess good flavor and odor and (2) rate a total score of not less than 80 points for those factors of quality that are rated in accordance with the scoring system outlined elsewhere in this part.

(b) "U.S. Grade B" is the quality of frozen raw breaded fish sticks that (1) possess at least reasonably good flavor and odor and (2) rate a total score of not less than 70 points for those factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen raw breaded sticks that meet the requirements of § 277.1 *Description of product*, but otherwise fail to meet the requirements of "U.S. Grade B."

§ 277.11 Determination of the grade.

The grade is determined by examining the product in the frozen and cooked states and is evaluated by considering the following factors:

(a) *Factors rated by score points.* Points are deducted for variations in the quality of each factor in accordance with the schedule in table 1. The total points deducted is subtracted from 100 to obtain the score. The maximum score is 100; the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "flavor and odor" is evaluated organoleptically by smelling, and tasting, after the product has been cooked in accordance with § 277.21.

(1) Good flavor and odor (essential requirements for a Grade A Product) means that the cooked product has the typical flavor and odor of the indicated

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.

species of fish and of the breading and is free from rancidity, bitterness, staleness, and off-flavors and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements of a Grade B Product) means that the cooked product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

of the frozen sticks. Deviations are measured from the combined lengths of the two longest minus the combined lengths of the two shortest and/or the combined widths of the two widest minus the combined widths of the two narrowest. Deductions are not made for overall deviations in length or width up to 1/4 inch.

(6) "Uniformity of weight" refers to

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE UNIT OF 10 STICKS

FROZEN STATE

Factors scored	Method of determining score	Deduct
1 Condition of package	Small degree: Moderate loose breading and/or moderate frost Large degree: Excessive loose breading and/or excessive amount frost	2 5
2 Ease of separation	Minor: Hand separated with difficulty—Each affected Major: Separated only by knife or other instrument.—Each affected	1 2
3 Broken stick	Break or cut greater than 1/2 length width.—Each affected <i>Mashed, mechanically and/or physically injured, misshaped or mutilated¹</i>	10
4 Damaged stick	Minor: 1 to 3 instances.—Each affected Major: Over 3 instances.—Each affected	2 4
5 Uniformity: Size	Deviation in length or width between the 2 largest and 2 smallest sticks is: Up to 1/4 inch Over 1/4 inch and up to 1/2 inch Over 1/2 inch	0 3 10
6 Weight	Weight ratio of the 2 heaviest divided by the 2 lightest sticks: Over 1.0; not over 1.15 Over 1.15; not over 1.3 Over 1.3; not over 1.4 Over 1.4	0 2 5 10

COOKED STATE

7 Distortion	Minor: Bending, shrinking, twisting (1/4 to 1/2 inch).—Each affected Major: Excessive bending, shrinking, twisting (over 1/2 inch).—Each affected <i>Bare Spots, blistering, ridges, breaks, curds¹</i>	1 2
8 Coating defects	Minor: 1 to 3 instances.—Each affected Major: Over 3 instances.—Each affected <i>Skin, blood spots, bruises, discolorations¹</i>	1 2
9 Blemishes	Minor: 1 to 6 instances.—Each affected Major: Over 6 instances.—Each affected	2 4
10 Bones	Sticks containing bones (potentially harmful).—Each affected	10
11 Texture: Coating	Small degree: Moderately dry, soggy, doughy or tough Large degree: Farinaceous (mealy), pasty, very tough	5 15
12 Fish flesh	Small degree: Moderately dry, soft, mushy Large degree: Dry to the point of fibrousness, very mushy, tough or rubbery	5 15

¹ An instance=each 1/16 square inch (3/4-inch square).

§ 277.21 Definitions.

(a) Selection of the sample unit: The sample unit shall consist of 10 frozen raw breaded fish sticks taken at random from one or more packages as required. The fish sticks are spread out on a flat pan or sheet and are examined according to table 1. Definitions of factors for point deductions are as follows:

(b) Examination of sample, frozen state:

(1) "Condition of package" refers to the presence in the package of loose breading and/or loose frost.

(2) "Ease of separation" refers to the difficulty of separating sticks from each other or from packaging material that are frozen together during the freezing.

(3) "Broken stick" means a stick with a break or cut equal to or greater than one-half the width of the stick.

(4) "Damaged stick" means a stick that has been mashed, physically or mechanically injured, misshaped or mutilated to the extent that its appearance is materially affected. The amount of damage is measured by using a grid composed of squares 1/4 inch (that is, squares with an area of 1/16 square inch each) to measure the area of the stick affected. Deductions are not made for damage less than 1/16 square inch.

(5) "Uniformity of size" refers to the degree of uniformity in length and width

the degree of uniformity of the weights of the sticks. Uniformity is measured by the combined weight of the two heaviest sticks divided by the combined weight of the two lightest sticks. No deductions are made for weight ratios less than 1.15.

(c) Cooked state means the state of the product after cooking in accordance with the instructions accompanying the product. However, if specific instructions are lacking, the product for inspection is cooked as follows: Transfer the product, while still in frozen state, into a wire mesh fry basket large enough to hold the fish sticks in a single layer and cook by immersing 2-3 minutes in 375° F. liquid or hydrogenated cooking oil. After cooking, allow the fish sticks to drain 15 seconds and place the fish sticks on a paper napkin or towel to absorb excess oil.

(d) Examination of sample, cooked state:

(1) "Distortion" refers to the degree of bending of the long axis of the stick. Distortion is measured as the greatest deviation from the long axis. Deductions are not made for deviations of less than 1/4 inch.

(2) "Coating defects" refers to breaks, lumps, ridges, depressions, blisters or swells and curds in the coating of the

cooked product. Breaks in the coating are objectionable bare spots through which the fish flesh is plainly visible. Lumps are objectionable outcroppings of breading on the stick surface. Ridges are projections of excess breading at the edges of the fish flesh. Depressions are objectionable visible voids or shallow areas which are lightly covered by breading. Blisters are measured by the swelling or exposed area in the coating resulting from the bursting or breaking of the coating. Curd refers to crater-like holes in the breading filled with coagulated albumin. Instances of these defects are measured by a plastic grid marked off in 1/4-inch squares (1/16 square inch). Each square is counted as 1 whether it is full or fractional.

(3) "Blemishes" refers to skin, blood spots or bruises, objectionable dark fatty flesh, or extraneous material. Instances of blemishes refers to each occurrence measured by placing a plastic grid marked off in 1/4-inch squares (1/16 square inch) over the defect area. Each square is counted as 1 whether it is full or fractional.

(4) "Bones" means the presence of potentially harmful bones in a stick. A potentially harmful bone is one that after being cooked is capable of piercing or hurting the palate.

(5) "Texture defects of the coating" refers to the absence of the normal textural properties of the coating which are crispness and tenderness. Coating texture defects are dryness, soggy, mushiness, doughiness, toughness, pastyness, as sensed by starchiness or other sticky properties felt by mouth tissues and/or meallness.

(6) "Texture defects of the fish flesh" refers to the absence of the normal textural properties of the cooked fish flesh, which are tenderness, firmness, and moistness without excess water. Texture defects of the flesh are dryness, mushiness, toughness, and rubberyness.

(e) General definitions:

(1) "Small" (overall assessment) refers to a condition that is noticeable but is not seriously objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(f) Minimum fish flesh content refers to the minimum percent, by weight, of the average fish flesh content of 3 or more additional sticks per sample unit as determined by the following method:

(1) *Equipment needed.* (i) Water bath (for example, a 3- to 4-liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to ±2° F.

(ix) Copper sulfate crystals (CuSO₄ · 5H₂O—one pound.

(2) *Procedure.* (i) Weigh all sticks in the sample while they are still hard frozen.

(ii) Place each stick individually in the water bath maintained at 63° F. to 86° F. and allow to remain until the breading becomes soft and can easily be removed from the still frozen fish flesh (between 10 to 80 seconds for sticks held in storage at 0° F.). If the sticks were prepared using batters that are difficult to remove after one dipping, redip them for up to 5 seconds after the initial debreading and remove residual batter materials.

NOTE: Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the sticks in a sample unit. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulphate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off, provided that (1) the "debreaded" sticks are still solidly frozen and (2) only a slight trace of blue color is visible on the surface of the "debreaded" fish sticks.

(iii) Remove the stick from the bath; blot lightly with double thickness paper toweling; and scrape off or pick out coating from the fish flesh with the spatular or nut picker.

(iv) Weigh all the "debreaded" fish sticks.

(v) Calculate the percent of fish flesh in the sample by the following formula:
Percent fish flesh

$$= \frac{\text{Weight of fish flesh (iv)}}{\text{Weight of raw breaded fish sticks (i)}} \times (100)$$

§ 277.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260, of this chapter (Regulations Governing Processed Fishery Products, 25 F.R. 8427, September 1, 1960) except that a sample unit shall consist of 10 sticks taken at random from one or more packages as required.



State Department

AGENCY FOR INTERNATIONAL DEVELOPMENT

FOREIGN CURRENCY LOANS AVAILABLE TO UNITED STATES FIRMS:

The equivalent of 180 million United States dollars in foreign currencies is available for lending to qualified United States firms, the Agency for International Development (AID) announced on May 1, 1963.

Of this amount, 167 million dollars in "Cooley" funds is available in 25 countries. AID is actively encouraging "Cooley" loan applications in the following 19 countries: (Latin American area)--Bolivia and Paraguay; (Near East-South Asia area)--Egypt, Greece, India, Iran, Israel, Pakistan, Syria,

and Turkey; (Far East area)--Taiwan, Indonesia, Korea, and Vietnam; (Africa-Europe area)--Finland, Guinea, Morocco, Sudan, and Tunisia.

No new applications are being accepted for Chile, Colombia, Ecuador, Peru, the Philippines, and Uruguay because applications on hand exceed funds presently available.

"Cooley" loans are available to qualified United States business firms and their affiliates for development or expansion of their foreign operations; and to foreign firms if their use will result in the expansion of markets for United States agricultural products. This program is named after Representative Harold D. Cooley of North Carolina, who sponsored the amendment to Public Law 480 (Food for Peace) authorizing such loans. The loans are in local currencies received from the sales of United States agricultural products and are repayable in local currencies.

In addition, local currencies are available for lending in Brazil. Through agreements with that country, the equivalent of 12.8 million dollars in cruzeiros is available to private companies from the National Bank of Brazil. At least half this amount may be lent to United States enterprises.



Department of the Treasury

INTERNAL REVENUE SERVICE

DEDUCTION FOR SOIL OR WATER CONSERVATION EXPENDITURES EXTENDED TO FISH FARMERS:

On April 18, 1963, the Internal Revenue Service announced (Federal Register, April 1, 1963) that income tax regulations relating to the deduction for soil and water conservation available to farmers since 1954, would be extended to fish farmers. The announcement as it appeared in the Federal Register follows:

Title 26--INTERNAL REVENUE

Chapter I--Internal Revenue Service,
Department of the Treasury

[T.D. 6649]

PART 1--INCOME TAX; TAXABLE
YEARS BEGINNING AFTER DECEMBER 31, 1953

Farming

The Income Tax Regulations (26 CFR Part 1) under section 175 of the Internal

Revenue Code of 1954, relating to the deduction of soil or water conservation expenditures by farmers, are amended to extend the application of that section to fish farmers. The amended provisions read as follows:

Paragraph 1. Section 1.175-3 is amended to read as follows:

§ 1.175-3 Definition of "the business of farming."

The method described in section 175 is available only to a taxpayer engaged in "the business of farming". A taxpayer is engaged in the business of farming if he cultivates, operates, or manages a farm for gain or profit, either as owner or tenant. For the purpose of section 175, a taxpayer who receives a rental (either in cash or in kind) which is based upon farm production is engaged in the business of farming. However, a taxpayer who receives a fixed rental (without reference to production) is engaged in the business of farming only if he participates to a material extent in the operation or management of the farm. A taxpayer engaged in forestry or the growing of timber is not thereby engaged in the business of farming. A person cultivating or operating a farm for recreation or pleasure rather than a profit is not engaged in the business of farming. For the purpose of this section, the term "farm" is used in its ordinary, accepted sense and includes stock, dairy, poultry, fish, fruit, and truck farms, and also plantations, ranches, ranges, and orchards. A fish farm is an area where fish are grown or raised, as

opposed to merely caught or harvested; that is, an area where they are artificially fed, protected, cared for, etc. A taxpayer is engaged in "the business of farming" if he is a member of a partnership engaged in the business of farming. See paragraphs (a) (8) (i) and (c) (1) (iv) of § 1.702-1.

PAR. 2. Paragraph (a) (1) of § 1.175-4 is amended to read as follows:

§ 1.175-4 Definition of "land used in farming".

(a) * * *

(1) The land must be used for the production of crops, fruits, or other agricultural products, including fish, or for the sustenance of livestock. The term "livestock" includes cattle, hogs, horses, mules, donkeys, sheep, goats, captive fur-bearing animals, chickens, turkeys, pigeons, and other poultry. Land used for the sustenance of livestock includes land used for grazing such livestock.

PAR. 3. That portion of the material preceding the example in paragraph (a) (2) of § 1.175-5 is amended to read as follows:

§ 1.175-5 Percentage limitation and carryover.

(a) *The limitation.* * * *

(2) *Definition of "gross income from farming."* For the purpose of section 175, the term "gross income from farming" means the gross income of the taxpayer, derived in "the business of farming" as defined in § 1.175-3, from the production of crops, fruits, or other agricul-

tural products, including fish, or from livestock (including livestock held for draft, breeding, or dairy purposes). It includes such income from land used in farming other than that upon which expenditures are made for soil or water conservation or for the prevention of erosion of land. It does not include gains from sales of assets such as farm machinery or gains from the disposition of land. A taxpayer shall compute his "gross income from farming" in accordance with his accounting method used in determining gross income. (See the regulations under section 61 relating to accounting methods used by farmers in determining gross income.) The provisions of this subparagraph may be illustrated by the following example.

Because this Treasury decision serves only to liberalize the existing interpretation of section 175 and will not adversely affect any existing rights accorded taxpayers, it is found that it is unnecessary to issue such Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: April 12, 1963.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

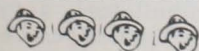


United States District Court

FISHERMEN CONSIDERED EMPLOYEES FOR TAX PURPOSES:

Fishing vessel crews and captains who operate under the "share" system are considered employees for Federal tax purposes, according to a ruling handed down April 9, 1963, by a Judge of the United States District Court in Portland, Maine. Two New England vessel owners had filed suit to recover a substantial amount of money paid out in Social Security and unemployment taxes over a period of three years. The owners claimed that they should not have had to pay the taxes from fishing vessel payrolls because the crewmen were not considered employees, but were independent contractors. The United States District Court Judge ruled that "the relationship which the parties (vessel owners and fishermen) intended to, and did in fact, establish, was an employment relationship within the meaning of the applicable statutes."

Note: See *Commercial Fisheries Review*, August 1962 p. 78



Eighty-Eighth 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 by the House and Senate, as well as signature into law or other final disposition are covered.

ANADROMOUS FISH CONSERVATION: H. R. 6856 (Tupper) introduced in House on June 6, 1963, to authorize the Secretary of the Interior to initiate a program for the conservation, development, and enhancement of the Nation's anadromous fish in cooperation with the several States; referred to the Committee on Merchant Marine and Fisheries.

ANTIDUMPING ACT AMENDMENT: H. R. 6517 (Olsen) May 23, 1963; H. R. 6918 (Monagan) June 11, 1963; H. R. 7064 (Baker) and H. R. 7063 (Herlong) June 17, 1963; H. R. 7122 (Harsha) June 19, 1963; H. R. 7222 (Gilbert) and H. R. 7225 (Hemphill) June 24, 1963; and H. R. 7241 (McIntire) and H. R. 7260 (Green) June 25, 1963, introduced in House, to amend the Antidumping Act, 1921; referred to Committee on Ways and Means.

CHEMICAL PESTICIDE COORDINATION: The Senate Committee on Commerce on June 6, 1963, began hearings on S. 1250, to provide for advance consultation with the Fish and Wildlife Service and with State wildlife agencies before the beginning of any Federal program involving the use of pesticides or other chemicals designed for mass biological controls, and S. 1251, to amend the Act of August 1, 1958, in order to prevent or minimize injury to fish and wildlife from the use of insecticides, herbicides, fungicides, and pesticides.

The Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries began hearings June 18, 1963, on H. R. 2857, to provide for advance consultation with the Fish and Wildlife Service and with State wildlife agencies before the beginning of any Federal program involving the use of pesticides or other chemicals designed for mass biological controls; and H. R. 4487, to amend the Act of August 1, 1958, in order to prevent or minimize injury to fish and wildlife from the use of insecticides, herbicides, fungicides, and pesticides.

COLLISION AT SEA, REGULATIONS FOR PREVENTION: On June 4, 1963, the House Committee on Merchant Marine and Fisheries met in executive session and ordered reported favorably, amended, H. R. 6012, to authorize the President to proclaim regulations for preventing collisions at sea.

The House on June 6, 1963, received the report (H. Rept. 365) from the Committee on Merchant Marine and Fisheries on H. R. 6012.

COLUMBIA RIVER BASIN: H. R. Doc. 403, Volumes I, IV, and V, Columbia River and Tributaries (A letter from the Secretary of the Army transmitting a letter from the Chief of Engineers, Department of the Army, dated March 31, 1961, submitting a report, together with accompanying papers and illustrations, on a review of the Columbia River and tributaries, requested by resolution of the Committee on Public Works, United States Senate adopted July 28, 1955, and other resolutions by the Committee and by the Committee on Public Works, House of Representatives, listed in the report, House of Representatives, 87th Congress, 2nd Session), 641 pp., 492 pp., and 170 pp., respectively, illus., printed. Volume I contains chapters on the Columbia River Basin, flood control, power, navigation, other water uses, Willamette River Basin, potential plans, selection of major water plan, and accomplishments of the major water plan. Chapter V, Other Water Uses, covers the commercial and sport fisheries in the Columbia River Basin, the size and status of migratory fish runs, fisheries development program, fish-handling facilities at high dams, recommendations of the U. S. Fish and Wildlife Service, water pollution abatement, and recreational resources of the Pacific Northwest. Volume IV, contains Appendix D, Reports of Other Agencies, which include National Park Service, U. S. Forest Service, U. S. Fish and Wildlife Service, Public Health Service, and Soil Conservation Service. Volume V contains Appendix E, Project Details,

which include project drawings, detailed cost estimates and specific Congressional resolutions.

COMMERCIAL FISHERIES FUND: The Senate Committee on Commerce on June 4, 1963, in executive session, ordered favorably reported, with amendment S. 627, to promote State commercial fishery research and development projects, and for other purposes.

COMMODITY PACKAGING AND LABELING: H. R. 6674 (Grabowski) introduced in House May 29, 1963, to amend the Clayton Act to prohibit restraints of trade carried into effect through the use of unfair and deceptive methods of packaging or labeling certain consumer commodities distributed in commerce, and for other purposes; referred to Committee on the Judiciary.

The Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary on June 13, 1963, in executive session, approved for full committee consideration with amendments S. 387, to amend the Clayton Act to prohibit restraints of trade carried into effect through the use of unfair and deceptive methods of packaging or labeling certain consumer commodities distributed in commerce, and for other purposes.

CONTROL OF RED TIDE IN FLORIDA'S GULF COAST: The Senate on June 25, 1963, was presented with a memorial from the Senate (Senate Memorial 637) of the Florida Legislature to the U. S. Bureau of Commercial Fisheries and the U. S. Public Health Service urging their cooperation to the fullest extent with State agencies in the control of the red tide in Florida's Gulf waters. Referred to the Senate Committee on Commerce.

EXEMPT TRANSPORTATION OF AGRICULTURAL AND FISHERY PRODUCTS: The House Committee on Interstate and Foreign Commerce on June 4, 1963, resumed hearings on H. R. 4700, to exempt certain carriers from minimum rate regulation in the transportation of bulk commodities, agricultural and fishery products, and passengers, and for other purposes. The hearings were concluded by the Committee on June 7, 1963.

The Senate on June 17, 1963, and the House on June 14, 1963, were presented with a joint resolution of the Legislature of the State of Maine urging that Congress take action on H. R. 4700.

The Surface Transportation Subcommittee of the Senate Committee on Commerce on June 14, 1963, adjourned the hearings, subject to call, on S. 1061, to exempt certain carriers from minimum rate regulation in the transportation of bulk commodities, agricultural and fishery products, and passengers, and for other purposes.

EXTENSION OF CANADIAN TERRITORIAL WATERS: On June 6, 1963, Senator Bartlett (Alaska) presented a statement to the Senate (Congressional Record, June 6, 1963, pp. 9707-9708) on the announcement made by Prime Minister Lester Pearson of Canada, that Canada will adopt the base line principle and a 12-mile territorial limit to protect its off-shore fishing resources. He stated ". . . that the United Kingdom has recently called for a conference among European nations for the purpose of considering the multilateral extension of the territorial waters in respect to fishing rights. Our Federal Government which has the power to do so, has not taken unilateral action to establish base lines outside the 1958 Geneva Convention nor have we taken any action in terms of extending our terri-

territorial waters beyond the 3-mile limit to protect our fishery resources. The basis of our inaction could well have been founded on a fear that unilateral action on our part might excite other nations to act independently. But while we have been waiting, Canada has acted on its own and European nations are moving in concert in that direction. We must move ahead in the same direction." Also included in his statement is an article carried by the New York Times of June 5 on Prime Minister Pearson's statement.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT: S. 1605 (Ribicoff & Pearson) introduced in Senate May 29, 1963, to amend the Federal Insecticide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, and to eliminate registration under protest; referred to the Committee on Agriculture and Forestry. Also introduced in the House H. R. 6828 (Rosenthal) June 5, 1963, and H. R. 6913 (Dingell), June 11, 1963; both referred to the Committee on Agriculture.

FISH AND FISH PRODUCTS EMBARGO: H. R. 6656 (Van Deerlin) introduced in the House May 28, 1963, and S. 1651 (Engle & Magnuson) introduced in the Senate June 4, 1963, to authorize the President of the United States to place an embargo on certain fish and fish products; referred to the House Committee on Ways and Means and the Senate Committee on Finance. Would empower and direct the President of the United States to impose an embargo against fisheries imports from any nation adjudged to be harassing or interfering with American-flag vessels on the high seas.

FISH & WILDLIFE ACT OF 1956 AMENDMENT: H. R. 7067 (Dingell) introduced in House June 17, 1963, to amend the Fish and Wildlife Act of 1956, to permit civil actions for damages in the case of water pollution affecting fish and wildlife; referred to the Committee on Merchant Marine and Fisheries.

FOOD-FOR-PEACE, AND FISH: H. R. 6621 (Tupper) introduced in House May 27, 1963, relating to domestically-produced fishery products; referred to Committee on Ways and Means. Identical or similar to other bills previously introduced in House.

IMPORT COMMODITY LABELING: The Senate Committee on Finance, in executive session, June 12, 1963, ordered favorably reported without amendment H. R. 2513, to amend the Tariff Act of 1930, to require certain new packages of imported articles to be marked to indicate the country of origin, and for other purposes. Would make three substantial changes in existing law: (1) it would be required that articles removed from a container be marked to show country of origin; (2) containers for articles for export to the United States must be marked to indicate that in event of repackaging, such repackaging must contain the designation of the country of origin; and (3) there is a penalty provision for failure to comply with these marking requirements applicable in the case of repackaging. The Senate on June 13, 1963, received the report (S. Rept. 243) on H. R. 2513.

INTERIOR DEPARTMENT APPROPRIATIONS FY 1964: The Senate Committee on Appropriations May 22, 1963, in executive session, marked up and ordered favorably reported with amendments H. R. 5279, making appropriations for the Department of the Interior and related agencies for the fiscal year 1964, and for other purposes. The Senate received the report (S. Rept. 181) from the Committee on May 23, 1963.

Senators Moss, Young (North Dakota), Mundt, Anderson, Jackson, and Hayden, on May 23, 1963, filed notices of intention to move to suspend the rules for purposes of proposing amendments to H. R. 5279.

S. Rept. 181, Interior Department and Related Agencies Appropriation Bill, 1964 (May 22, 1963, report from the Committee on Appropriations, U. S. Senate, 88th Congress, 1st Session, to accompany H. R. 5279), 40 pp., printed. Included are funds for the Fish and Wildlife Service, its two bureaus--Commercial Fisheries and Sport Fisheries and Wildlife, and the Office of the Commissioner.

For the Bureau of Commercial Fisheries under management and investigations of resources, the Committee recommended an appropriation of \$18,582,500, this is \$445,500 under the budget estimate of \$19,028,000 but \$1,407,500 over the House allowance.

For research, the Committee recommended \$9,778,300, an increase of \$625,600 over the House allowance. Of this increase \$87,600 is for expanded research on effects of pesticides, \$6,500 for payment to employee's compensation fund, and \$531,500 for the oceanographic program.

In marketing and technology, the Committee recommended \$3,997,800, an increase of \$136,800 for initiation of a North Pacific gear research and development program. For Columbia River fishery facilities activity, the Committee recommended \$2,088,000, the budget estimate, an increase of \$8,100 over the House allowance. In addition, the Committee recommended \$537,000 for the following:

Technical assistance in the Big Bend and other reservoir areas in South Dakota	\$92,000
Biological studies of menhaden in the Gulf of Mexico	125,000
Research on means of controlling the red tide phenomenon	120,000
Research on commercial methods of processing and preserving king and tanner crab and shrimp	75,000
Research on commercial utilization of rough fish in the Mississippi River	125,000
Total	\$537,000

For "Construction" the Committee recommended an appropriation of \$4,458,000, \$2,658,000 more than the House allowance, but \$1,295,000 less than the budget estimate. The increase over the House allowance includes \$2,650,000 for construction of a fishery research vessel for use in the North Pacific and Bering Sea and \$8,000 additional for advanced planning for construction of laboratories and vessels. The \$1,095,000 requested for the shellfish research center at Milford, Connecticut, and the \$200,000 restoration requested for operational studies on Columbia River fishery facilities, were not allowed.

For "General Administrative Expenses," the Committee recommended an appropriation of \$653,000, an increase of \$13,000 over the House allowance but a decrease of \$42,000 under the budget estimate.

For the special foreign currency program, the Committee concurred with the House allowance of \$300,000, the same as the budget estimate.

The Committee concurred with the House allowance of \$750,000 for construction of fishing vessels. This is the full amount of the budget estimate and provides subsidy payments for fishing vessels constructed in United States shipyards.

For the administration of the Pribilof Islands, the Committee concurred with the House allowance of \$2,468,000. This is a decrease of \$85,000 under the budget estimate which is now unnecessary inasmuch as the Bureau has acquired a needed supply vessel through the accelerated public works program.

For the Bureau of Sport Fisheries and Wildlife, the Committee recommended an appropriation of \$31,685,400, \$201,400 over the budget estimate and \$1,806,000 over the House allowance. Increases of appropriations are for operation of new hatcheries and other facilities; planning of the National Fisheries Center and Aquarium; expansion of pesticide-wildlife studies; water-fowl management investigations; investigations of wildlife control methods; and site selection and engineering design of a marine game fish research station at Narragansett Bay, Rhode Island.

The Committee concurred with the House appropriation of \$386,000, the same as the budget estimate, for the Office of the Commissioner.

The Senate on May 28, 1963, passed with amendments H. R. 5279, making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1964, and for other purposes. One of the amendments (Boggs) increased the funds for the Bureau of Commercial Fisheries by \$100,000 for disease-resistant oyster research. The bill as passed by the Senate would appropriate \$24,843,500 for the Bureau of Commercial Fisheries, an increase of \$4,078,500 over the House appropriation, but \$1,782,500 less than the budget estimate. The funds for the Office of the Commissioner remained the same as the House had allotted--\$386,000 and the same as the budget estimate. For the Bureau of Sport Fisheries and Wildlife, the Senate bill appropriates \$48,942,900 an increase of \$4,060,500 over the House-passed bill of \$44,882,400; the budget estimate for 1964 was \$47,754,000. The Senate insisted on its amendments, asked for conference with House, and appointed as conferees Senators Hayden, Russel, McClellan, Bible, Byrd (West Virginia), Mundt, and Young (North Dakota).

MEDICAL CARE FOR VESSEL PERSONNEL: The Senate on May 27, 1963, received the report (S. Rept. 194) from the Committee on Commerce on S. 978, to provide medical care for certain persons engaged on board a vessel in the care, preservation, or navigation of such vessel. Bill restores to self-employed United States fishermen eligibility for medical care in hospitals, outpatient clinics, and other medical facilities of the Public Health Service in the event of illness or injury incurred while engaged in their hazardous but essential occupation.

The Senate on May 28, 1963, passed S. 978. The House on May 29, 1963, received from the Senate, S. 978, referred to the Committee on Interstate and Foreign Commerce.

H. R. 7002 (McIntire) introduced in House June 12, 1963, to provide medical care for certain persons engaged on board a vessel in the care, preservation, or

navigation of such vessel; referred to Committee on Interstate and Foreign Commerce.

OCEANOGRAPHIC RESEARCH PROGRAM: Introduced in House, H. R. 6997 (Lennon) and H. R. 7015 (Pelly) June 12, 1963; H. R. 7029 (Casey), H. R. 7036 (Keith), and H. R. 7040 (Rogers) June 13, 1963, to provide for a comprehensive, long-range, and coordinated national program in oceanography, and for other purposes; all referred to Committee on Merchant Marine and Fisheries.

OUTDOOR RECREATION BUREAU: H. Rept. 303, Federal and State Programs Relating to Outdoor Recreation (May 15, 1963, a report from the Committee on Conference, House of Representatives, 88th Congress, 1st Session, to accompany S. 20, to promote the coordination and development of effective Federal and State programs relating to outdoor recreation, and for other purposes), 5 pp., printed. The Committee having agreed, recommended passage of the bill to their respective Houses. Contains the statement of the manager on the part of the House.

The President on May 28, 1963, signed the bill S. 20 (P. L. 88-29). Authorities and responsibilities given the Secretary of the Interior include maintenance of an inventory of outdoor recreation facilities, establishment of a classification system, provision for technical assistance, encouragement of regional cooperation by the States and developing facilities, conducting research, cooperating with educational institutions in developing personnel and disseminating recreation knowledge, and promoting coordination of Federal activities in outdoor recreation.

SUPPLEMENTAL APPROPRIATIONS FY 1963, Supplemental Appropriations for 1963 (Hearings before the Committee on Appropriations, United States Senate, 88th Congress, 1st Session on H. R. 5517, making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes), 979 pp., printed. Contains the hearings held, with testimony from the various agencies requesting supplemental appropriations. Included is the testimony for the Bureau of Commercial Fisheries, the justifications, etc., for the funds requested.

H. Rept. 290, Supplemental Appropriation Bill, 1963 (May 13, 1963, a report from the Committee on Conference, House of Representatives 88th Congress, 1st Session, to accompany H. R. 5517), 9 pp., printed. The Committee on Conference, agreed and recommended passage of the bill to their respective Houses. Contains the report and the statement of the managers on the part of the House. The President on May 17, 1963, signed H. R. 5517 (P. L. 88-25).

TRANSPORTATION ACT OF 1963: The House Committee on Interstate and Foreign Commerce on June 4, 1963, resumed hearings on H. R. 4701, to provide for strengthening and improving the national transportation system, and for other purposes. The Committee on June 7, 1963, concluded the hearings on H. R. 4701.

The Surface Transportation Subcommittee of the Senate Committee on Commerce, June 14, 1963, adjourned the hearings, subject to call, on S. 1062, to strengthen and improve the national transportation system and for other purposes.

VESSEL COLLISION LIABILITY: The Subcommittee on Merchant Marine and Fisheries of the Senate Committee on Commerce on May 22, 1963, recessed hearings, subject to call, on S. 555, to unify apportionment of liability in cases of collision between vessels and in other maritime casualties.

VESSEL OWNERS LIABILITY: The Subcommittee on Merchant Marine and Fisheries of the Senate Committee on Commerce on May 22, 1963, recessed hearings, subject to call, on S. 556, to limit the liability of shipowners, and for other purposes.

WATER POLLUTION CONTROL ADMINISTRATION: The Special Subcommittee on Air and Water Pollution of the Senate Committee on Public Works, on June 17, 1963, began a series of hearings on S. 649, to amend

the Federal Water Pollution Control Act, as amended, to establish the Federal Water Pollution Control Administration, to increase grants for construction of municipal sewage treatment works, to provide financial assistance to municipalities and others for the separation of combined sewers, to authorize the issuance of regulations to aid in preventing, controlling and abating pollution of interstate, or navigable waters, and for other purposes.

WATER POLLUTION CONTROL TRANSFER TO INTERIOR DEPARTMENT: H. R. 6494 (Dingell) introduced in House May 23, 1963, transferring to the Secretary of the Interior all functions relating to water pollution control; referred to the Committee on Public Works.



PER CAPITA PROTEIN CONSUMPTION

