



FEDERAL ACTIONS



Federal Court of Appeals

PROMOTIONAL ALLOWANCE RULING REVERSED BY UNITED STATES COURT:

Section 2(d) of the Robinson-Patman Act makes unlawful the granting of a promotional allowance to one customer which is not available on proportionally equal terms to all other customers competing in the distribution of such products or commodities. Over the past two decades, some confusion has existed as to whether the phrase "such products or commodities" embraced the complete line of goods offered by a seller, or was to be limited only to products of like grade and quality. There was likewise some confusion as to whether the availability of promotional advertising allowances was to be in any way related to the time of sales.

In a recent decision a Federal Court of Appeals reversed the Federal Trade Commission which had held that an advertising allowance given to one customer to promote the sale of canned ham required that proportionally equal allowances be given to customers purchasing wholly different pork products. The court held that Section 2(d) required proportionally available advertising allowances only on goods of like grade and quality. This ruling confirms the practice of many canners in limiting their cooperative advertising programs to one canned food, or having different cooperative advertising promotions on different canned foods.

The decision likewise establishes that an advertising allowance offered to one customer during a particular month does not require that a proportionally equal advertising allowance be given to other customers purchasing five months later. In other words, the decision confirms the practice of many canners of limiting promotional allowances to sales made during particular periods of time.



Federal Trade Commission

SEAFOOD CANNERS AND THEIR SALES AGENT DENY FAVORING CHAIN STORE BUYERS:

Three Seattle, Wash., seafood canners and their exclusive sales agent have denied categorically Federal Trade Commission charges of favoring chain store buyers with reduced prices reflecting illegal absorption of brokerage (Answer 7200, Seafood).

The complaint of July 18 alleged that, acting on their own or through their sales agent, the canners granted certain chains discounts or allowances in lieu of brokerage or lower prices which reflect it. The complaint further charged that the sales agent granted or passed on unlawful brokerage to certain buyers while acting as primary broker for other seafood packers. These practices, the complaint said, violate Sec. 2(c) of the Robinson-Patman Amendment to the Clayton Act, which forbids the payment of brokerage on purchases for the buyer's own account.

Denying these allegations in their joint answer, the respondents asked dismissal of the complaint.

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CONSENT ORDER PROHIBITS ILLEGAL BROKERAGE PAYMENTS BY SEAFOOD PACKER AND SELLING AGENT:

The Federal Trade Commission on August 11 approved a consent order (7021, Canned Seafood) requiring a Seattle, Wash., seafood packer and its affiliated selling agent to stop making illegal brokerage payments to their customers.

The action represents the adoption by the Commission of an initial decision by Hearing Examiner Joseph Callaway based on an order agreed to by the concerns and the Commission's Bureau of Litigation.

The complaint of December 31, 1957, charged the companies with granting some customers discounts or allowances in lieu of brokerage, or reduced prices reflecting brokerage. These arrangements violate Section 2(c) of the Robinson-Patman Amendment to the Clayton Act, the complaint alleged.

For example, the complaint said, on direct sales not involving field brokers, the price to favored customers is reduced by the 2½ percent which ordinarily would be paid as brokerage fees; and in transactions handled through field brokers, favored customers are allowed discounts under the guise of advertising allowances, accomplished by cutting the brokers' normal commission.

Joined in the order forbidding these practices in the future are the officers and partners of the two firms.

The agreement is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law.

* * * * *

SEAFOOD CANNER AND BROKER DENIES GRANTING ILLEGAL PRICE REDUCTION:

A Seattle, Wash., seafood canner and broker on September 19, 1958, denied (Answer 7208, Seafood) Federal Trade Commission charges of granting favored buyers illegal price reductions in lieu of brokerage.

The Seattle firm not only cans and distributes its own seafood pack, but also acts as a primary broker for other packers, usually receiving a 5-percent brokerage fee for its services. All the field brokers employed by the firm are paid a 2½-percent commission, except one which gets 3½ percent.

The firm denies the charges in the Commission's complaint of July 23, 1958, that, either as a packer or primary broker, it has allowed brokerage to certain buyers for their own account, or given them price concessions in lieu of brokerage. The complaint alleged that these practices violate Sec. 2(c) of the Robinson-Patman Amendment to the Clayton Act.

The company asked that the complaint be dismissed.

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CANNED SEAFOOD PACKER AND ITS BROKERS CHARGED WITH PAYMENT OF ILLEGAL BROKERAGE:

The Federal Trade Commission on September 25, 1958, charged a Seattle, Wash., seafood packer and its exclusive brokers with granting illegal brokerage to some of their customers.

Cited in the Commission's complaint (7249, Canned Seafood) are the packer and its president and treasurer, and the brokerage firm and its president.

The complaint charges the firms with granting favored buyers discounts or allowances in lieu of brokerage, in violation of Sec. 2(c) of the Robinson-Patman Amendment to the Clayton Act. Typical methods used by the firms, the complaint charges, were: (1) granting buyers price reductions where either a primary or field broker, or both, were not used or, if used, took a reduction in their fee; and (2) selling at net prices lower than those accounted for to the packer-principal.

The complaint states that prior to August 1956, the packer sold its seafood products directly and through primary and secondary brokers, who received 5 percent and 2½ percent of the net selling price, respectively. In August 1956, the complaint continues, the brokers entered into a joint venture with the packer, becoming his exclusive primary brokers, with certain direct sales excepted. They shared the packer's facilities and clerical personnel, the complaint adds, and all shared the brokerage earnings. In 1957 the brokers became brokers for the packer's entire stock and for other packers. The packer has continued to share in their fees, the complaint alleges.

The parties were granted 30 days in which to file answer to the complaint. A hearing before a Commission hearing examiner was scheduled on November 24 in Seattle, Wash.



Department of the Interior

FISH AND WILDLIFE SERVICE

PROPOSED REVISION OF NORTHWEST ATLANTIC HADDOCK AND COD REGULATIONS:

In accordance with Section 4(a) of the Northwest Atlantic Fisheries Act of 1950, amendments to existing regulations which are now being proposed to implement the Northwest Atlantic Fisheries Commission's proposals, were submitted to the Advisory Committee to the United States Commissioners on the International Commission for the Northwest Atlantic Fisheries on February 6, 1958, and were again reviewed with the Advisory Committee on May 28, 1958. Revised regulations as proposed have thus received the approval, in principle, of the Advisory Committee.

Notice was given that the Commissioner of Fish and Wildlife proposed to recommend to the Secretary of the Interior the adoption of the regulations set forth in tentative form in the Federal Register

[50 CFR Part 155]

NORTHWEST ATLANTIC COMMERCIAL FISHERIES; HADDOCK AND COD PROVISIONS

NOTICE OF PROPOSED RULE MAKING

At its Fifth Annual Meeting held in Ottawa, Canada, June 6-11, 1955, the International Commission for the Northwest Atlantic Fisheries, a body created pursuant to Article II of the International Convention for the Northwest Atlantic Fisheries signed at Washington, D. C., under date of February 8, 1949, adopted three proposals recommending that the Contracting Governments take appropriate action to—

(1) Prohibit the taking of haddock and cod in Sub-area 3 of the Convention Area with a trawl net having a mesh size of less than four inches;

(2) Prohibit the taking of haddock and cod in Sub-areas 4 and 5 of the Convention Area with a trawl net having a mesh size of less than four and one-half inches;

(3) Permit persons to take haddock and cod in Sub-areas 3, 4, and 5 of the Convention Area with trawl nets having a mesh size less than that proscribed so long as such persons do not have in possession on board a vessel fishing primarily for other species, haddock or cod in amounts in excess of five thousand pounds for each species or ten percent by weight for each species of all fish on board such vessel, whichever is greater; and

(4) To prohibit the use of any means or device which would obstruct the meshes of the trawl net or which otherwise would have the effect of diminishing the size of the meshes of the net, except that the use of a protective covering (chafing gear) might be permitted to reduce and prevent damage to trawl nets so long as such protective covering is used in conformity with conditions prescribed by the Commission.

In each of the three Commission proposals, the recommended restrictions on the mesh size of a net are stated in terms of a trawl not constructed of manila twine, with the provision that when trawl nets other than manila are used they shall have a selectivity equivalent to that of a four-inch manila trawl net or a four and one-half inch manila trawl net, as the case may be.

The proposal relating to Sub-area 5 adopted at the Commission's Fifth Annual Meeting had the effect of superseding a proposal initially adopted at a

Commission meeting held in St. Andrews, New Brunswick, Canada, June 30-July 9, 1952, which had recommended mesh size restrictions applicable only to haddock fishing in Sub-area 5 of the Convention Area. The three proposals adopted at the Commission's Fifth Annual Meeting recommended mesh size

restrictions for cod fishing, as well as haddock fishing, in Sub-area 5 and, for the first time, recommended the institution of mesh size restrictions applicable to both haddock fishing and cod fishing within Sub-areas 3 and 4 of the Convention Area.

At its Sixth Annual Meeting held in Halifax, Nova Scotia, Canada, June 11-15, 1956, the Commission amended the proposal relating to Sub-area 5 which had been adopted at its Fifth Annual Meeting to provide for an alternative to the "five thousand pound-ten percent" exemption per fishing trip. The alternative exemption so proposed was limited in application to the taking of haddock and cod in Sub-area 5 only. Under the alternative provided by the Commission's amended proposal all Contracting Governments might also exempt from the mesh size restriction any person fishing in Sub-area 5 who does not catch, in any period of twelve months, haddock or cod in quantities in excess of ten percent for each species of all the trawl-caught fish taken by such person during such period of twelve months.

Acceptance of the proposal relating to Sub-area 5 adopted at the Commission's Fifth Annual Meeting, as amended by the Commission at its Sixth Annual Meeting, was completed by the Governments of the United States and Canada on November 26, 1956. Accordingly, in accordance with the provisions of the International Convention for the Northwest Atlantic Fisheries, the proposal as adopted and amended entered into force with respect to all Contracting Governments on March 26, 1957. Subsequently, the proposal was implemented with respect to persons under the jurisdiction of the United States engaged in fishing within Sub-area 5 through a revision of Part 155, Title 50, Code of Federal Regulations, issued on September 6, 1957 (22 F. R. 7426).

At its Seventh Annual Meeting held in Lisbon, Portugal, May 20-25, 1957, the Commission amended each of the three proposals adopted at its Fifth Annual Meeting to impose additional re-

of September 19, 1958, to replace Part 155 - Haddock and Cod Fisheries of the Northwest Atlantic Commercial Fisheries Regulations. Aside from minor editorial changes, the regulations proposed for adoption differ from existing regulations in three major respects in that they will extend trawl net mesh-size restrictions to Subareas 3 and 4; will give additional specifications for twines eligible for certification as having a dry-before use mesh size equivalent to that of a wet-after use mesh size; and will modify the restrictions applicable to the fastening of chafing gear to cod ends used in taking haddock and cod in Subarea 5.

Prior to the final adoption of the proposed regulations, consideration was given to any written data, views, or arguments relating thereto which were received by the Director, Bureau of Commercial Fisheries, U. S. Fish and Wildlife Service, Washington 25, D. C., on or before October 15, 1958.

The proposed regulations, scheduled to become effective about November 1, 1958, as printed in the Federal Register follow:

restrictions on the manner in which chafing gear may be fastened to the cod ends of trawl nets. Since Canada and the United States are the only Contracting Governments participating in Panel 5 for Sub-area 5, and both Governments having accepted the amendments made at the Commission's Seventh Annual Meeting, the amendment relating to Sub-area 5 will become effective on September 28, 1958, for all Contracting Governments to the Convention. Acceptance of the amendments for Sub-areas 3 and 4 not having been completed by all Contracting Governments participating in Panels 3 and 4, the effective dates of the amendments to the proposals for Sub-areas 3 and 4 are indeterminate. In the circumstances, the provisions of the 1955 Commission proposals governing the manner of fastening chafing gear to cod ends employed in fishing for haddock and cod in Sub-areas 3 and 4 thus far remain unchanged.

On November 29, 1957, the two proposals adopted at the Commission's Fifth Annual Meeting recommending mesh size restrictions to govern haddock fishing and cod fishing in Sub-areas 3 and 4 became effective for all Contracting Governments, except for paragraph IV (restricting the use of chafing gear) which did not become effective until January 1, 1958.

In accordance with section 4 (a) of the Northwest Atlantic Fisheries Act of 1950, amendments to existing regulations which are now being proposed to implement the Commission's proposals, as described above, were submitted to the Advisory Committee to the United States Commissioners on the International Commission for the Northwest Atlantic Fisheries on February 6, 1958, and were again reviewed with the Advisory Committee on May 28, 1958. Revised regulations as herein proposed have thus received the approval, in principle, of the Advisory Committee.

Notice is hereby given, pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238, 5 U. S. C. 1003), that the Commissioner of Fish and Wildlife proposes to recommend to the Secretary of the Interior the adoption of the regulations set forth in tentative form below to replace Part 155—Haddock and Cod Fisheries. Aside from minor editorial changes, the regulations proposed for adoption differ from

existing regulations in three major respects in that they will extend trawl net mesh size restrictions to Sub-areas 3 and 4; will give additional specifications for twines eligible for certification as having a dry-before use mesh size equivalent to that of a wet-after use mesh size; and will modify the restrictions applicable to the fastening of chafing gear to cod ends used in taking haddock and cod in Sub-area 5.

The proposed regulations, to become effective on or about November 1, 1958, are to be issued under the authority contained in section 7 (a) of the Northwest Atlantic Fisheries Act of 1950 (64 Stat. 1067, 1069; 16 U. S. C. 986).

Prior to the final adoption of the proposed regulations set forth below, consideration will be given to any written data, views, or arguments relating thereto which are received by the Director, Bureau of Commercial Fisheries, Fish and Wildlife Service, Washington 25, D. C., on or before September 30, 1958.

Dated: September 16, 1958.

ARNIE J. SUOMELA,
Commissioner of
Fish and Wildlife.

Sec.	Meaning of terms.
155.1	Meaning of terms.
155.2	Registration certificates.
155.3	Restrictions on fishing gear.
155.4	Temporary suspension of registration certificates.
155.5	Certain persons and vessels exempted.

§ 155.1 *Meaning of terms.* When used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section.

(a) *Convention area.* The term "Convention area" means and includes all waters, except territorial waters, bounded by a line beginning at a point on the coast of Rhode Island in 71°40' west longitude; thence due south to 39°00' north latitude; thence due east to 42°00' west longitude; thence due north to 59°00' north latitude; thence due west to 44°00' west longitude; thence due north to the coast of Greenland; thence along the west coast of Greenland to 78°10' north latitude; thence southward to a point in 75°00' north latitude and 73°30' west longitude; thence along a rhumb line to a point in 69°00' north latitude and 59°00' west longitude; thence due south to 61°00' north latitude; thence due west to 64°30' west longitude; thence due south to the coast of Labrador; thence in a southerly direction along the coast of Labrador to the southern terminus of its boundary with Quebec; thence in a westerly direction along the coast of Quebec, and in an easterly and southerly direction along the coasts of New Brunswick, Nova Scotia, and Cape Breton Island to Cabot Strait; thence along the coasts of Cape Breton Island, Nova Scotia, New Brunswick, Maine, New Hampshire, Massachusetts, and Rhode Island to the point of beginning.

(b) *Regulatory area.* The term "regulatory area" means and includes the whole of those portions of the Convention area which are separately described as follows:

(1) *Sub-area 3.* The term "Sub-area 3" means that portion of the Convention area, including all waters except territorial waters, lying south of the parallel of 52°15' north latitude; and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52°15' north latitude; to the north of the parallel of 39°00' north latitude; and to the east and north of a rhumb line extending in a northwesterly direction which passes through a point in 43°30' north latitude, 55°00' west

longitude, in the direction of a point in 47°50' north latitude, 60°00' west longitude, until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland, with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

(2) *Sub-area 4.* The term "Sub-area 4" means that portion of the Convention area, including all waters except territorial waters, lying to the west of Sub-area 3 as described in subparagraph (1) of this paragraph, and to the east of a line described as follows: Beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point in 44°46'35.34" north latitude, 66°54'11.23" west longitude; thence due south to the parallel of 43°50' north latitude; thence due west to the meridian of 67°40' west longitude; thence due south to the parallel of 42°20' north latitude; thence due east to a point in 66°00' west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00' north latitude, 65°40' west longitude; thence due south to the parallel of 39°00' north latitude.

(3) *Sub-area 5.* The term "Sub-area 5" means that portion of the Convention area, including all waters except territorial waters, bounded by a line beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel at a point in 44°46'35.34" north latitude, 66°54'11.23" west longitude; thence due south to the parallel of 43°50' north latitude; thence due west to the Meridian of 67°40' west longitude; thence due south to the parallel of 42°20' north latitude; thence due east to a point in 66°00' west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00' north latitude, 65°40' west longitude; thence due south to the parallel of 39°00' north latitude; thence due west to the Meridian of 71°40' west longitude; thence due north to a point three miles off the coast of the State of Rhode Island; thence along the coasts of Rhode Island, Massachusetts, New Hampshire, and Maine at a distance of three miles to the point of beginning.

(c) *Haddock.* The word "haddock" denotes any fish of the species *Melanogrammus aeglefinus*.

(d) *Haddock fishing.* The words "haddock fishing" mean and include (1) the catching, taking or fishing for or the attempted catching, taking or fishing for fish of the species *Melanogrammus aeglefinus*; and (2) the outfitting and departure of a vessel for or the return of a vessel from haddock fishing.

(e) *Cod.* The word "cod" denotes any fish of the species *Gadus callarias*.

(f) *Cod fishing.* The words "cod fishing" mean and include (1) the catching, taking or fishing for or the attempted catching, taking or fishing for fish of the species *Gadus callarias*; and (2) the outfitting and departure of a vessel for or the return of a vessel from cod fishing.

(g) *Fishing vessel.* The words "fishing vessel" denote every kind, type or description of watercraft subject to the jurisdiction of the United States used in or outfitting for catching or processing fish or transporting fish from fishing grounds.

(h) *Trawl net.* The words "trawl net" mean any large bag net dragged in the sea by a vessel or vessels for the purpose of taking fish.

(i) *Cod end.* The words "cod end" mean the bag-like extension attached to the after end of the belly of the trawl net and used to retain the catch.

§ 155.2 *Registration certificates.* (a) Unless permitted to do so by § 155.5, after the _____ day of _____ 1958,

no person shall engage in haddock fishing or cod fishing within the regulatory area, nor shall any person possess, transport or deliver by means of any fishing vessel haddock or cod taken within such area except under a registration certificate issued and in force in conformity with the provisions of this part.

(b) The owner or operator of a fishing vessel may obtain without charge a registration certificate by furnishing, on a form to be supplied by the Bureau of Commercial Fisheries, information specifying the names and addresses of the owner and operator of the vessel, the name, official number and home port of the vessel, and the period for which the registration certificate is desired. The form shall be submitted, in duplicate, to the Regional Director, Bureau of Commercial Fisheries, Gloucester, Massachusetts, who shall grant the registration certificate for the duration specified by the applicant in the form but in no event to extend beyond the end of the calendar year during which the registration certificate is issued. New registration certificates shall similarly be issued to replace expired, lost or mutilated certificates. An application for replacement of an expiring registration certificate shall be made in like manner as the original application not later than ten days prior to the expiration date of the expiring certificate.

(c) The registration certificate issued by the Bureau of Commercial Fisheries shall be carried at all times on board the vessel for which it is issued and such certificate, the vessel, its gear and equipment shall at all times be subject to inspection for the purposes of this part by officers authorized to enforce the provisions of this part.

§ 155.3 *Restrictions on fishing gear.*

(a) No person shall possess at any time on board a vessel for which a registration certificate is in force, or use or attempt to use from such vessel, a trawl net or nets, parts of nets, or netting of manila twine having a mesh size, as defined in this section, of less than four and one-half inches, or a trawl net or nets, parts of nets, or netting of material other than manila twine unless it shall have a selectivity equivalent to that of a four and one-half inch manila trawl net. *Provided*, That any person who shall have first obtained a special permit, issuable by the Regional Director, Bureau of Commercial Fisheries, Gloucester, Massachusetts, authorizing such possession and use for haddock fishing or cod fishing in Sub-area 3 of the regulatory area may possess on board a vessel for which a registration certificate is in force and may use from such vessel while engaged in haddock fishing or cod fishing within Sub-area 3 only, a trawl net or nets, parts of nets, or netting of manila twine having a mesh size, as defined in this section, of not less than four inches, or a trawl net or nets, parts of nets, or netting of material other than manila twine having a selectivity equivalent to that of a four-inch manila trawl net.

(b) As used in this section, the term "mesh size" shall mean: (1) With respect to any part of the net except the cod end, the average of the measurements of any twenty consecutive meshes in any row located at least ten meshes from the side lacings measured when wet after use; and (2) with respect to the cod end, the average of the measurements of any fifty consecutive meshes running parallel to the long axis of the cod end, beginning at the after end of the cod end, and being at least ten meshes from the side lacings or, if the cod end is less than fifty meshes in length, the average of the measurements of the meshes in any series of consecutive meshes running the full length of the cod end, parallel to the long axis of the cod end and located at least ten

1/ The Federal Register of October 4, 1958, amended the data for submitting written data, views, or arguments to October 15, 1958.

meshes from the side lacings, such measurements of the cod end to be made when wet after use, or, at the option of the user, a cod end which has been approved, in accordance with paragraph (d) of this section, by an authorized employee of the Bureau of Commercial Fisheries, as having a mesh size when dry before use equivalent to not less than four and one-half inches when wet after use.

(c) All measurements of meshes shall be made by the insertion into the meshes under pressure of not less than ten nor more than fifteen pounds of a flat wedge-shaped gauge having a taper of two inches in eight inches and a thickness of three thirty-seconds of an inch.

(d) For the purpose of approving a dry cod end before use, as contemplated by paragraph (b) of this section, the average mesh size of such cod end shall be determined by measuring the length of any single row of meshes running the length of the cod end, parallel to the long axis of the cod end and located at least ten meshes from the side lacings, when stretched under a tension of two hundred pounds, and dividing the length by the number of meshes in such row: *Provided*, That not more than ten per

cent of the meshes in such row shall be more than one-half inch smaller when measured between knot centers than the average of the row. A cod end so measured which is constructed of one of the twines and is of not less than the average mesh size specified in the table below for such twine may be approved for haddock fishing or cod fishing by any authorized employee of the Bureau of Commercial Fisheries by the attachment to such cod end of an appropriate seal. The omission from the table of one or more specifications of twines shall not preclude the continued use of cod ends constructed from such twines where the cod ends received approval pursuant to the provisions of this part as the same were in effect between the dates of January 1, 1954, and October 24, 1956.

(e) The alteration, defacement or re-use of any seal affixed to a cod end in accordance with this section is prohibited.

(f) The repair, alteration or other modification of a cod end to which a seal has been affixed in accordance with this section shall invalidate such seal and such cod end shall not thereafter be deemed to be approved for haddock fishing or cod fishing. Nothing con-

tained in this paragraph shall preclude the continued use at the option of the user of a cod end having an invalidated seal affixed thereto if such cod end after repair, alteration or other modification does not have a mesh size of less than four and one-half inches as defined in paragraph (b) of this section.

(g) For the purposes of this section, a cod end constructed of twine other than manila and not subject to approval and certification when measured dry before use as provided in paragraph (d) of this section shall be deemed to have a selectivity equivalent to that of a four and one-half inch manila trawl net if such cod end has a mesh size of not less than four and one-quarter inches when measured wet after use in the manner prescribed in paragraph (b) of this section.

(h) The use in haddock fishing or cod fishing within the regulatory area of any device or method which will obstruct the meshes of the trawl net or which otherwise will have the effect of diminishing the size of said meshes is prohibited: *Provided*, That (1) a protective covering of canvas, netting, or other material may be attached to the underside of the cod end only of the net to reduce and prevent damage and (2) a rectangular piece of netting may be attached to the upper side of the cod end only of the net to reduce and prevent damage so long as the netting attached to the upper side of the cod end conforms to the following conditions:

(i) Such netting shall not have a mesh size less than that specified in this section. For the purposes of this paragraph the required four and one-half inch mesh size when measured wet after use shall be deemed to be the average of the measurements of twenty consecutive meshes in a series across the netting, such measurements to be made with a like gauge inserted into the meshes as specified in paragraph (c) of this section.

(ii) Such netting shall not exceed sixteen meshes in length counted parallel to the long axis of the cod end and the width of the netting shall be at least one and one-half times the width of the area of the cod end which is covered; such widths to be measured at right angles to the long axis of the cod end.

(iii) Such netting may be fastened to the cod end of the trawl net only along the forward and lateral edges of the netting and at no other place in the netting and when used in Sub-area 5 of the regulatory area the netting shall be fastened in such a manner that it extends forward of the splitting strap no more than four meshes and ends not less than four meshes in front of the cod line mesh.

§ 155.4 *Temporary suspension of registration certificates.* (a) The owner or operator of any fishing vessel which is proposed to be used in haddock fishing or cod fishing beyond the limits of the regulatory area or is proposed to be used in fishing within such area for species of fish other than haddock or cod, may obtain a temporary suspension of the registration certificate issued for such vessel for the specified period during which such nonregulated fishing is to be conducted.

(b) Temporary suspension of registration certificates shall be granted upon oral or written request, specifying the period of suspension desired, by an au-

Type of twine	Manufacturer's specifications				Average mesh size
Manila, double strand:					
4-ply 45-yard					5.625 inches (55 $\frac{1}{2}$ "')
4-ply 60-yard					5.625 inches (55 $\frac{1}{2}$ "')
4-ply 75-yard					5.625 inches (55 $\frac{1}{2}$ "')
4-ply 80-yard					5.500 inches (53 $\frac{1}{2}$ "')
Cotton:					
120-thread					4.250 inches (41 $\frac{1}{4}$ "')
	1st	Prep	Cable	Yds/lb.	
Synthetic:					
400/3 twisted twine, double strand, 840 denier 3 x 4 x 3.	S 2.7 T. P. I.	Z 5.0 T. P. I.	S 2.0 T. P. I.	129	4.375 inches (43 $\frac{1}{2}$ "')
200/3 twisted twine, single strand, 840 denier 6 x 4 x 3.	2.1 T. P. I.	4.4 T. P. I.	1.8 T. P. I.	62	4.500 inches (43 $\frac{1}{2}$ "')
No. 400 Single Braid	Linear density, 78.38 yards/lb. Average circumference, 0.493. Outside braid construction, 32 ends. 225 denier/68 filaments/3 ply continuous filament nylon. Ply twist, 5.0 T. P. I. of "Z" twist. Single twist, 85 T. P. I. of "S" twist. Picks/inch, 26.3. Core yarn, 7 ends. 225 denier/68 filaments/3 ply/5 ply continuous filament nylon. 3 ply twist 6.4 T. P. I. of "Z." 5 ply twist 1.1 T. P. I. of "S."				
Double strand					4.375 inches (43 $\frac{1}{2}$ "')
Single strand					4.125 inches (41 $\frac{1}{2}$ "')
No. 550 Single Braid	Linear density, 71.00 yards/lb. Average circumference of outside braid, 0.5". Outside braid construction, 32 ends. 225 denier/68 filaments/3 ply/5 ply continuous filament nylon. Ply twist, 5.1 T. P. I. of "Z" twist. Single twist, 0.85 T. P. I. of "S" twist. Picks/inch, 25.8. Core yarn, 8 ends. 3 ply twist 6.4 T. P. I. of "Z" twist. 5 ply twist 1.1 T. P. I. of "S" twist.				
Double strand					4.375 inches (43 $\frac{1}{2}$ "')
Single strand					4.125 inches (41 $\frac{1}{2}$ "')
Flat Tubular Braid, single strand.	Linear density, 36.33 yards/lb. 16 ends consisting of 13 ends nylon, 3 ends dacon—percentage composition of braid: 77.12% bright nylon filament. 22.88% bright dacon filament. 12 ends 840 denier/140 filaments/2 ply/3 ply nylon. 3 ply 7.0 T. P. I. "Z" twist. 2 ply 5 T. P. I. "Z" twist. 1 end 210 denier/34 filaments/8 ply/3 ply nylon/bright. 8 ply 5 "Z" twist. 3 ply 6.5 "S" twist. 3 ends 250 denier/34 filaments/10 ply/3 ply dacon bright. 10 ply 1.0 T. P. I. "Z" twist. 3 ply 6.0 T. P. I. "S" twist. Picks/inch, 10.7.				
					4.500 inches (44 $\frac{1}{2}$ "')

thorized officer of the State of Maine or the State of Massachusetts or by an authorized officer of any one of the following agencies: Bureau of Commercial Fisheries, Coast Guard, Bureau of Customs, Post Office Department. Such officer shall make appropriate endorsement on the certificate evidencing the duration of its suspension.

§ 155.5 *Certain persons and vessels exempted.* Except as otherwise provided in this section, nothing contained in §§ 155.2 to 155.4 shall apply to:

(a) Any person or vessel authorized by the Secretary of the Interior to engage in haddock fishing or cod fishing for scientific purposes.

(b) Any vessel documented as a common carrier by the Government of the United States and engaged exclusively in the carriage of freight and passengers.

(c) Any person who in the course of taking fish other than haddock or cod, takes and possesses a quantity of haddock or cod not exceeding five thousand pounds for each, or ten percent by weight for each, of all fish on board the vessel from which the fishing is conducted whichever is the greater.

(d) Any person who, while engaged in fishing within Sub-area 5 of the regulatory area, does not take in any period of twelve months haddock or cod in quantities in excess of ten percent by weight for each of said species, of all the trawl-caught fish taken by such person within such period of twelve months. Any person desiring to avail himself of the exemption provided in this paragraph shall first obtain a certificate of exemption and shall comply with the following conditions:

(1) The owner or operator of a fishing vessel proposed to be operated under the exemption authorized in this paragraph may obtain without charge a certificate of exemption by furnishing, on a form to be supplied by the Bureau of Commercial Fisheries, information specifying the name and address of the owner and operator of the vessel and the name, official number, and the home port of the vessel. Each such application must be accompanied by a written statement, certified by the applicant to be correct, listing by weight, species, and catch by month, the total quantities of all fish taken within Sub-area 5 of the regulatory area by means of the vessel to be exempted during a period of twelve months immediately preceding the date

of application. The application form and the certified statement shall be submitted, in duplicate, to the Regional Director, Bureau of Commercial Fisheries, Gloucester, Massachusetts, who shall grant a certificate of exemption valid for a period of twelve months from the date of issue and authorizing during such period the use of the vessel for which issued in the taking of haddock or cod within Sub-area 5 of the regulatory area without regard to the registration requirements and restrictions on fishing gear imposed, respectively, by §§ 155.2 and 155.3, so long as the vessel and its fishing gear are not used to take haddock or cod within Sub-area 5 in quantities in excess of ten percent by weight for each species of all the trawl-caught fish taken by means of such vessel during the 12-month period covered by the certificate. Duplicate certificates of exemption shall be issued to replace lost or mutilated certificates. An application for renewal of an expired certificate of exemption shall be made in like manner as the original application not later than 15 days prior to the expiration date of the expiring certificate, but no renewal shall be granted if it is determined by said Regional Director that the vessel for which a renewal is sought was used to take quantities of haddock or cod in excess of the allowable percentages during the 12-month period covered by the expiring certificate of exemption.

(2) The certificate of exemption issued by the Bureau of Commercial Fisheries shall be carried at all times on board the vessel for which it is issued, and such certificate, the vessel, its gear and equipment, and records pertaining to the catches of fish made by means of such vessel shall at all times be subject to inspection for the purposes of this part by any officer authorized to enforce the provisions of this part.

(3) The owner or operator of a fishing vessel for which a certificate of exemption is in force shall furnish on a form supplied by the Bureau of Commercial Fisheries, immediately following the delivery or sale of a catch of fish made by means of such vessel, a report, certified to be correct by the owner or operator, listing separately by species and weight the total quantities of all fish so sold or delivered. Such reports shall be delivered or mailed, in duplicate, to the said Regional Director.

(4) The owner or operator of a fishing vessel for which a certificate of exemp-

*The word expired should read expiring and the word fishing should read in fishing.

tion is in force, who proposes to use such vessel in fishing primarily for haddock or cod during any period of time within the 12-month period covered by the certificate, may obtain a temporary suspension of such certificate in like manner as provided in § 155.4 and may make application to engage finishing* for haddock or cod under a registration certificate as provided in § 155.2. Any haddock or cod taken by means of a vessel for which a registration certificate is in force and by means of haddock fishing or cod fishing conducted in conformity with the restrictions on fishing gear prescribed by § 155.3 shall be excluded from the total of all trawl-caught fish taken during the applicable 12-month period when computing the ratio of haddock or cod to the trawl-caught fish taken during such period. For the purposes of computing the quantities of haddock or cod so to be excluded, the owner or operator of a fishing vessel covered by a suspended certificate of exemption and taking haddock or cod while operating under a registration certificate shall submit catch reports in like manner as provided in subparagraph (3) of this paragraph.

The following correction to the proposed Revision of the Northwest Atlantic Haddock and Cod regulations was published in the Federal Register of September 25, 1958.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 155]

NORTHWEST ATLANTIC COMMERCIAL FISHERIES; HADDOCK AND COD PROVISIONS

NOTICE OF PROPOSED RULE MAKING

Correction

In F. R. Doc. 58-7652, appearing at page 7323 of the issue for Friday, September 19, 1958, the following changes should be made:

1. In the second paragraph of paragraph (4) on page 7323, the word "not" in the 4th line should read "net".

2. In the table on page 7325, the average mesh size figure for No. 400 Single Braid—Single strand should read "4.125 inches (4 1/8)".

Note: Also see Commercial Fisheries Review, November 1957, p. 61; October 1957, p. 37.



Department of Labor

NEW SCHEDULE OF HEARINGS FOR AMERICAN SAMOA, VIRGIN ISLANDS, AND PUERTO RICO MINIMUM WAGE REVISIONS:

A revised wage-order review program for industries in the island territories of American Samoa, Puerto Rico, and the Virgin Islands provides for wage-rate review on a biennial rather than an annual

basis. This revision was announced by the U. S. Department of Labor on September 13, 1958, news release to conform with a recent amendment to the Fair Labor Standards Act.

The Act authorizes special industry committees to recommend minimum hourly wage rates for industries in the above territories now operating at or below the \$1.00 statutory minimum that

applies for continental United States. The committees are appointed by the Secretary of Labor to include representation of employers, employees, and the public from both the mainland and the island concerned. The committees, following hearings, file a report of their findings and recommendations with the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor. Committee recommendations usually become effective 15 days after publication in the Federal Register.

The new schedule of hearings for the biennial period ending June 30, 1960, was announced to give interested parties ample time to prepare for hearings in which they may be interested. It replaces the schedule announced on March 13, 1958.

Hearings for American Samoa (Committee No. 3), including fish canning and

processing, are scheduled for July 1959. For the Virgin Islands (Committee No. 6), hearings are to be held in May 1960.

The Puerto Rican Industry Committee No. 41-B, Food and Related Products, concluded its hearings in Puerto Rico about September 15, 1958. Minimum rates recommended by that Committee for the fish canning and processing industry were 85 cents an hour, an increase from the present rate of 65 cents an hour. The published findings and recommendations of the Committee will be available from the Department of Labor early in October. Under the revised schedule, no further review of the Puerto Rico wage-order program is scheduled during the biennial period ending June 30, 1960. Hearings for Puerto Rico are to be scheduled at some time during the following biennial period.



FISHING FACTORYSHIPS

In designing a fishing factoryship, it is necessary to consider the amounts and quantities of fish to be processed, the flexibility of production methods, and the state of the market in order to make a profit. Thus, the basic production of such a ship should consist of fillets and whole fish frozen by air-blast and contact freezing.

How to cool fish before freezing, the advantages and disadvantages of each system, the characteristics of filleting plants and some data on machinery used in current factoryships are discussed in some detail. ("Freezing in the Fish Industry" -- "La Congelacion en el Negocio Pesquero," Rev. Frio, Spanish, July-Sept. 1957, vol. 2, no. 3.)

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