



FEDERAL ACTIONS



Federal Trade Commission

FOUR SALMON PACKERS DENY CHARGES OF ILLEGAL BROKERAGE PAYMENTS:

Four Seattle, Wash., packers of canned salmon have denied Federal Trade Commission charges of making illegal brokerage payments to some customers.

The packers deny they have granted large grocery chains discounts or allowances in lieu of brokerage in violation of Sec. 2 (c) of the Clayton Act, as amended by the Robinson-Patman Act. Each of the packers filed a separate answer (Answers 6904-6907 incl., canned salmon) to the Commission's complaints.

The packers deny that on direct sales which do not involve brokers the market price to the chains is reduced by 5 percent--the amount of the normal brokerage fee. They also deny giving a 2.5-percent reduction when only one broker is used, either a primary or field broker, and taking the price differential out of the broker's commission.

The complaints had said the packers generally sell through both types of brokers. Primary brokers are the selling agents for the Seattle area while field brokers are those employed by the primaries to handle transactions in other market areas.

One of the four companies denies it gave the chains illegal discounts by (1) reducing prices on direct sales by the 5 percent which normally would be paid for brokerage, (2) granting a reduction of 2.5-percent where only one broker is used, and (3) allowing a 2.5-percent discount on sales made through the buyers' own purchasing agents. For example, the company admits that in 1955 it agreed to sell a lot of 5,000 cases of pink salmon directly to the buying organization of a large chain at a price reduction of 50 cents a case under the price originally set. Denying this was an illegal brokerage payment, the company asserts, among other things, that it and other small packers cannot command the higher prices charged by larger, more successful packers "who have built up a label acceptance over the years . . ."

Retailers will not buy unknown and unadvertised brands without price concessions. These concessions, the answer continues, "cannot be made by the small packer without selling at an actual loss and would be, in defendants' opinion, much more than the 5 percent which is the normal brokerage paid . . ."

The second of the four companies denies it grants unlawful brokerage to the chains by (1) reducing prices about 2.5 percent where either a primary or field broker was not used, (2) selling through primaries at a net price below that shown by the broker, with the difference being absorbed by the broker out of commissions, and (3) granting direct or indirect price reductions by cutting brokerage earnings of the primary or field brokers.

The third company denies it has made sales to a large grocery chain through the chain's buying agent at prices which are reduced by approximately the 5-percent commissions usually paid on sales made through brokers.

The fourth firm consists of three affiliated companies. The group denies it sells direct to large grocery chains at prices reduced by the 5 percent which is usually paid for brokerage. They also deny that "any difference in the net selling price to various customers is due to any factor other than factors arising from differences in the time of sales or commitments for sale."

All the parties ask that the complaints be dismissed, a December 4, 1957, news release from the Federal Trade Commission points out.

NOTE: ALSO SEE COMMERCIAL FISHERIES REVIEW, DECEMBER 1957, P. 79.

* * * * *

SIX CANNED SALMON PRIMARY BROKERS CHARGED WITH MAKING ILLEGAL BROKERAGE PAYMENTS TO SOME BUYERS:

The Federal Trade Commission on January 6 charged six primary brokers of canned salmon and other seafood, all of Seattle, Wash. (Complaints 6977-6982 incl., Canned Seafood) with making illegal brokerage payments to some buyers.

The six were named in separate complaints. Each is charged with granting certain buyers discounts or allowances in lieu of brokerage in violation of Sec. 2(c) of the Robinson-Patman Amendment to the Clayton Act. In addition, two are charged with receiving brokerage fees on purchases made for their own accounts, while another of the six is charged with granting allowances to field brokers purchasing for their own accounts.

According to the complaints, primary brokers are the selling agents for the Seattle area while field brokers are those employed by the primaries to handle transactions in other market areas. A primary broker usually is paid 5 percent commission, except where a field broker is employed. In the latter instance, each usually receives a 2.5-percent split.

The complaints allege that the respondent brokers give some buyers illegal price concessions and rebates in lieu of brokerage, and absorb these allowances out of brokerage earnings. Examples cited include selling at lower prices than those accounted for to packers, and granting rebates but not charging them back to their packer-principals.

The specific charges for each firm involved are as follows:

The complaint charges one of the six firms with making illegal price concessions by (1) selling at net prices which were less than those accounted for to the packers, and (2) granting price deductions which were not charged back to the packers in whole or in part.

The second brokerage concern, the complaint alleges, used the following methods in making unlawful allowances: (1) sold at net prices which were less than those accounted for to the packers, (2) granted price deductions, a part or all of which were not charged back to the packers, and (3) took reduced brokerage on sales which involved price concessions.

The third company, the complaint charges, gave large chains illegal grants in transactions not involving field brokers by the following means: (1) granted rebates which were not charged back to the packers but were taken from its commission, and (2) granted discounts which ostensibly were charged back to the packers but were actually borne by itself through taking a 2.5-percent brokerage fee instead of the customary 5 percent.

The individual trading as the fourth firm, in transactions where he acted as a primary broker, the complaint says he (1) granted rebates (such as freight payments, "trade discounts," and "promotional allowances") to certain buyers which were not charged back to his principals but were taken from his fees, and (2) sold at net prices lower than those accounted for to the packers. He also sells canned seafood for his own account. The complaint further charges that he unlawfully has accepted brokerage commissions on purchases of seafood which he resells at a profit.

The fifth firm is charged with affording price differentials to certain buyers by (1) selling at net prices which were less than those accounted for to the packers, (2) granting price deductions, a part

or all of which were not charged back to the packers, and (3) taking reduced brokerage on sales which involved price concessions. This firm, the complaint further charges, has made substantial allowances in lieu of brokerage to certain field brokers who were purchasing for their own account for resale.

The individual trading as the sixth firm is charged with using these means to make unlawful price concessions: (1) selling at net prices which were less than those accounted for to the packers, (2) granting rebates which were not charged back to the packers but absorbed out of his brokerage earnings, and (3) taking reduced brokerage on large sales which involved price concessions. He also received the customary 5 percent brokerage fee on purchases of canned salmon for his own account, the complaint alleges, and has paid buyers 2.5 percent brokerage on the resale of these products.

The parties are granted 30 days in which to file answers to the complaints. Hearings before a Federal Trade Commission hearing examiner are scheduled in Seattle, Wash., on separate dates for each of the six brokers late in March and early in April 1958.



Interstate Commerce Commission

RAILWAY EXPRESS REQUESTS 15-PERCENT INCREASE IN RATES AND CHARGES:

The Interstate Commerce Commission (docket Ex Parte 210) is considering a petition of the Railway Express Agency for a 15-percent increase in its rates and charges. Hearings in this case were reconvened in Washington, D. C., on December 16, 1957. Testimony prepared in the U. S. Bureau of Commercial Fisheries was presented on December 17 and indicated that the increase in rates and charges requested by the petitioner would be damaging to the domestic fisheries.



U. S. Court of Customs and Patent Appeals

FOOD PROCESSORS WHOSE PRODUCTS DIFFER IN CUSTOM CLASSIFICATION FROM COMPETITIVE IMPORTS NOT BARRED FROM TARIFF RATE PROTESTS:

A domestic food processor whose products differ in custom classification from competitive imports is not barred for that reason from legal action protesting tariff rates assessed such imports, the U. S. Court of Customs and Patent Appeals in Washington, D. C., ruled in December 1958.

The Washington court decision involved an appeal filed by Star-Kist Foods after the U. S. Customs Court, New York City, threw out its suit attacking the duty rate set for imported Japanese tuna packed in brine. Star-Kist sued under section 516 (b) of the 1930 Tariff Act which gives American producers, manufacturers or wholesalers the right to protest rates assessed imported merchandise of the same class or kind sold by them. The New York court held that Star-Kist did not have a right of action because its tuna fish products came under a different customs classification and, therefore, were not of the same class or kind.

The Customs Appeal Court overruled the lower court and remanded the case for further proceedings. It held unanimously that while customs classification is a material factor in determining "class or kind," it is not per se sufficient to preclude a cause of action under section 516 (b). Star-Kist's tuna products, the court concluded, are of the same class or kind as those imported from Japan. (Food Field Reporter, December 9, 1957.)



Department of Agriculture

AGRICULTURAL MARKETING SERVICE

PROPOSED VOLUNTARY STANDARDS FOR FROZEN FISH BLOCKS:

Proposed voluntary United States standards for frozen fish blocks, de-

veloped through the cooperative efforts of the U. S. Bureau of Commercial Fisheries, the fishing industry, and the National Fisheries Institute, were published on December 21, 1957, by the U. S. Department of Agriculture under the terms of its agreement with the U. S. Department of the Interior in the Federal Register of that date as a Notice of Proposed Rule Making. A 30-day period (until January 21, 1958) was given during which the industry could make known its views or exceptions on the proposed standards for fish blocks (skinless fish fillets used in the manufacture of frozen fried fish sticks and other prepared fish products).

The proposed standards apply to blocks prepared from wholesome skinless fillets or portions of wholesome skinless fillets which conform to the industry-accepted definition of the product. The most important elements of the definition require that the raw material be wholesome and that the block itself be of uniform rectangular shape and be unglazed. The grades, designated "U. S. Grade A" and "U. S. Grade B," are determined primarily by rating on scoring system the appearance, uniformity of size and symmetry, freedom from defects, and character of blocks. Standards also recommend weights and dimensions.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

U. S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS¹

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the issuance of the United States Standards for Grades of Frozen Fish Blocks pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.). These proposed grade standards are recommended by the Fish and Wildlife Service, U. S. Department of the Interior, based on data developed by that agency. These standards, if made effective, will be the first issue by the Department of grade standards for this product.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed standards should file the same with the

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.

Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington 25, D. C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed standards are as follows:

PRODUCT DESCRIPTION AND GRADES
 Sec. 52.3681 Product description.
 52.3682 Grades of frozen fish blocks.

WEIGHTS AND DIMENSIONS
 52.3683 Recommended weights and dimensions.

FACTORS OF QUALITY
 52.3684 Ascertaining the grade.
 52.3685 Evaluation of the unscored factor of flavor and odor.
 52.3686 Ascertaining the rating for the factors which are scored.
 52.3687 Appearance.
 52.3688 Uniformity of size and shape.
 52.3689 Defects.
 52.3690 Character.

DEFINITIONS
 52.3691. Definitions.

LOT CERTIFICATION TOLERANCES
 52.3692 Tolerances for certification of officially drawn samples.

SCORE SHEET
 52.3693 Score sheet for frozen fish blocks.

AUTHORITY: §§ 52.3681 to 52.3693 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

PRODUCT DESCRIPTION AND GRADES
 § 52.3681 *Product description.* Frozen fish blocks are rectangular-shaped masses of cohering frozen fish flesh of a single species consisting of adequately drained whole, wholesome, skinless fillets or pieces of whole, wholesome, skinless fillets cut into small portions but not ground or comminuted. They are frozen, but not glazed, and maintained at temperatures necessary for the preservation of the product.

§ 52.3682 *Grades of frozen fish blocks.* (a) "U. S. Grade A" is the quality of frozen fish blocks that possess a good flavor and odor; and for those factors which are rated in accordance with the scoring system outlined in these standards have a total score of 85 to 100 points.

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

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

WEIGHTS AND DIMENSIONS
 § 52.3683 *Recommended weights and dimensions.* (a) The recommendations as to weights and dimensions of frozen fish blocks are not incorporated in the

grades of the finished product since weights and dimensions, as such, are not factors of quality for the purpose of the grades. The degree of uniformity of size and shape among units of the finished product is rated since it is a definite factor affecting the quality of the end product prepared from the blocks.

(b) It is recommended that the thickness or depth (smallest dimension) of the frozen fish block be not greater than 10 centimeters (4.0 inches) and that the

average weight be not less than 2.3 kilograms (5.0 pounds) and not greater than 22.7 kilograms (50.0 pounds).

FACTORS OF QUALITY

§ 52.3684 *Ascertaining the grade—(a) General.* In addition to considering other requirements outlined in the standards, the following factors are evaluated in ascertaining the grade of the product:
 (1) *Factors not rated by score points.* Flavor and odor.

TABLE I—SCORE DEDUCTIONS FOR COLOR SUBFACTOR

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

¹ "Light" portion refers to fish fillet flesh comprising the main portion of the fillet.
² "Dark" portion refers to the dark-colored portion of the fillet appearing under the skin, the main part of which occurs along the lateral line.
³ Fish blocks which receive 25 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

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

TABLE II—SCORE DEDUCTIONS FOR "DEHYDRATION" SUBFACTOR

Condition of surface of block		Deduction points
Surface area affected	Degree of dehydration	
<i>Percent</i>	Up to 50	0
	Greater than 50 and up to 100	
Greater than 0 and up to 25	Slight	1
	Slight	
Greater than 25 and up to 50	Moderate	2
	Moderate	
Greater than 0 and up to 25	Marked	4
	Marked	
Greater than 25 and up to 50	Excessive	7
	Excessive	
Greater than 0 and up to 25	Marked	16
	Marked	
Greater than 25 and up to 50	Excessive	25
	Excessive	

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

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

TABLE III—SCORE DEDUCTIONS FOR DIMENSIONS SUBFACTOR

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

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

² Fish blocks which receive 25 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

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

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

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

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

§ 52.3685 *Evaluation of the unscored factor of flavor and odor—(a) Good flavor and odor.* "Good flavor and odor" (essential requirement for a Grade A product) means that the product has the good flavor and odor characteristic of the species of fish; and that the product is free from staleness, and from off-flavors and off-odors of any kind.

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

§ 52.3686* *Ascertaining the score for those factors which are rated.* The essential variations within each factor which is rated are so described that the value may be ascertained for each factor and expressed numerically. Point deductions are allotted for each degree or amount of variation within each factor. The value for each factor is the maximum points allotted for the factor less the sum of the deviation deduction-points within the factor.

§ 52.3687 *Appearance—(a) General.* The factor of appearance refers to the color of the fish flesh, and to the degree of surface dehydration of the product.

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

§ 52.3688 *Uniformity of size and shape—(a) General.* The factor of uniformity of size and shape refers to the degree of conformity to declared dimensions and to rectangular shape.

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

(b) For the purpose of rating the factor of uniformity of size and shape, the

schedule of deviation deduction-points in Tables III and IV apply.

TABLE IV—SCORE DEDUCTIONS FOR "ANGLES" SUBFACTOR

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

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

An "acceptable" edge angle is one in which the two surfaces forming the angles are within 1.0 cm. (3/8 inch) of the apex of a carpenter's square placed along the surfaces (use 3 readings for each edge angle measurement, 2 or 3 must meet the requirement). An "unacceptable" edge angle is one showing greater deviation than the 1.0 cm. (3/8 inch). An "acceptable" corner angle is one in which at least one edge surface is within 1.3 cm. (1/2 inch) of the apex of a carpenter's square placed on the edge surfaces (use 1 reading for each corner angle). An "unacceptable" corner angle is one showing greater deviation than the 1.3 cm. (1/2 inch).

§ 52.3689 *Defects—(a) General.* The factor of defects refers to the degree of freedom from damage, blemishes, improper fill, and bones.

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

(2) *"Blemish."* Blemish means a piece of skin, scales, blood spot, a bruise, a black belly lining, a fin, or harmless extraneous material. One "piece of skin" consists of one piece 3.3 square centimeters (1/2 square inch) in area; except that skin patches larger than 9.9 square centimeters shall be considered as two pieces of skin. "Blood spot" is one of such size and degree as to be considered objectionable. "Black belly lining" is any piece longer than 1.3 centimeters (1/2-inch). "Fin" is one fin or one identifiable part of a fin. "Scales" are aggregates of one or more scales of such degree as to be considered objectionable.

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

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

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

TABLE V—SCORE DEDUCTIONS FOR "DAMAGE" SUBFACTOR

Amount of damage to block	Deduction points
0 to 0.30 percent-----	0
For each 0.20 percent above 0.30 percent and up to 8.10 percent-----	1
8.11 percent and over-----	140

¹ Fish blocks which receive 40 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

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

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

TABLE VI—SCORE DEDUCTIONS FOR "BLEMISH" SUBFACTOR

Number of blemishes per 2.3 kg. (5 lbs.) of block	Deduction points
0 to 1.0-----	0
1.1 to 2.0-----	1
2.1 to 3.0-----	2
3.1 to 4.0-----	3
4.1 to 5.0-----	5
5.1 to 6.0-----	8
6.1 to 7.0-----	12
7.1 to 8.0-----	17
8.1 to 9.0-----	23
9.1 to 10.0-----	30
10.1 or more-----	140

¹ Fish blocks which receive 40 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

TABLE VII—SCORE DEDUCTIONS FOR "IMPROPER FILL" SUBFACTOR

Amount of "improper fill" in block ¹	Deduction points
0 to 0.30 percent-----	0
For each 0.20 percent above 0.30 percent and up to 8.10 percent-----	1
8.11 percent and over ² -----	140

¹ Air spaces, ice spaces, depressions, and ragged edges. ² Fish blocks which receive 40 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

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

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

TABLE VIII—SCORE DEDUCTIONS FOR BONES SUBFACTOR

Instances of bone per 2.3 kg. (5.0 lb.) of fish	Deduction points
0-----	0
0.1 to 1.0-----	1
1.1 to 2.0-----	3
2.1 to 3.0-----	6
3.1 to 4.0-----	10
4.1 to 5.0-----	18
5.1 to 6.0-----	25
6.1 and more-----	140

¹ Fish blocks which receive 40 deduction points for this subfactor shall not be graded above Substandard regardless of the total score for the product. This is a limiting rule.

§ 52.3690 *Character—(a) General.* The factor of character refers to the

tenderness and to the moistness of the properly heated fish flesh, and to the tendency of the pieces of fish or fillets in the block to remain as a unit when the block or portions of the block are heated.

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

TABLE IX—SCORE DEDUCTIONS FOR TEXTURE SUBFACTOR

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

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

DEFINITIONS

§ 52.3691 Definitions—(a) "Heating in a suitable manner." Heating in a suitable manner means heating the product as follows:

(1) Cut three or more portions about four by three by one-half inches from a

TABLE X—SCORE DEDUCTIONS FOR COHESION SUBFACTOR

Cohesion condition of the cooked fish	Degree	Points
The pieces comprising the cooked sample cohere very tightly. They can be separated only by significant tearing of the flesh.....	0	0
The pieces comprising the cooked sample cohere fairly tightly and they can be separated only by moderate tearing of the flesh.....	1	1
The pieces comprising the cooked sample cohere slightly. They can be separated easily with slight or no tearing of the flesh.....	3	3
The pieces comprising the cooked sample show no tendency to cohere. They can be separated very easily.....	6	6

frozen block. Wrap individually or in single layer in aluminum foil. Place packaged portions on a wire rack suspended over boiling water in a covered container. Steam the packaged portions until the product is thoroughly heated, or

(2) Cut and package the portions as described in subparagraph (1) of this paragraph. Place the packaged portions on a flat cookie sheet or shallow flat-bottom pan of sufficient size so that the packages can be spread evenly on the sheet or pan. Place pan and frozen contents in a properly ventilated oven heated to 400 degrees Fahrenheit and remove when the product is thoroughly heated.

LOT CERTIFICATION TOLERANCES

§ 52.3692 Tolerances for certification of officially drawn samples. The sample rate and grades of specific lots shall be

certified on the basis of the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products" SRA-AMS 155, revised May 1957, effective July 1, 1957.

SCORE SHEET

§ 52.3693 Score sheet for frozen fish blocks.

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

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

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

Dated: December 16, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.



Department of Health,
Education, and Welfare

FOOD AND DRUG ADMINISTRATION

CANNED TUNA DEFINITION AND
STANDARD OF IDENTITY HEARING
ON USE OF WORDING "IN WATER"
AND "DARK TUNA" ON LABELS:

A public hearing was held by the U. S. Food and Drug Administration (FDA), on a portion of its order establishing a definition and standard of identity for canned tuna.

The hearing, announced in the Federal Register of December 28, 1957, was held for the purpose of receiving evidence relevant and material to the objections to the requirement in the identity standard that the words "in water" are to be included in the name of the food when water is used as the packing medium and to the requirement for label declaration of tuna darker than Munsell value 5.3 as "dark tuna."

The effective date of the entire section of the standard of identity embodying the labeling requirements was suspended pending an order ruling on the objections. Except for this provision (section 37.1 (h)), the identity standard was scheduled to become effective February 13, 1958.

A notice of proposed rule making was published in the Federal Register of August 28, 1956, setting forth a proposed definition and standard of identity and a proposed standard of fill of container for canned tuna. An order acting on the proposals was published in the Federal Register of February 13, 1957. No objections were filed protesting the provisions of the standard of fill of container and accordingly that standard became fully effective August 13, 1957.

The notice of the hearing as it appeared in the December 28, 1957, Federal Register follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 37]

[Docket No. FDC 64]

CANNED TUNA; DEFINITION AND STANDARD OF IDENTITY; LABEL STATEMENT OF OPTIONAL INGREDIENTS

NOTICE OF HEARING

A notice of proposed rule making was published in the FEDERAL REGISTER of August 28, 1956 (21 F. R. 6492), setting forth a proposed definition and standard of identity and a proposed standard of fill of container for canned tuna. An order acting on the proposals was published in the FEDERAL REGISTER of February 13, 1957 (22 F. R. 892). No objections were filed protesting the provisions of the standard of fill of container and accordingly that standard became fully effective August 13, 1957.

Objections were filed protesting those labeling provisions in the identity standard requiring the words "in water" to be included in the name of the food when water is used as the packing medium and requiring tuna darker than Munsell value 5.3 to be declared on the label as "dark tuna". Notice of these objections and of the stay of the provisions to which the objections were directed until final action

after a public hearing was published in the FEDERAL REGISTER of August 29, 1957 (22 F. R. 6961). Except for the provisions stayed, the identity standard is scheduled to become effective February 13, 1958. Since publication of the notice of objections, the National Cannery Association, representing a substantial portion of the tuna-canning industry, has requested postponement of the effective date of the identity standard for 1 year. The need for the requested postponement was supported only with respect to the design and procurement of new labels. The labeling requirements of the identity standard are set out in § 37.1 (h). Postponement of those provisions of § 37.1 (h) that were not stayed, until final action is taken disposing of the objections to be taken up at the public hearing, will meet the needs set out in the request of the National Cannery Association.

Now, therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U. S. C. 341, 371) and in accordance with the authority delegated to him by the Secretary (22 F. R. 1045), the Commissioner of Food and Drugs hereby extends the effective date of § 37.1 (h) of the definition and standard of identity for canned tuna until the effective date of the order ruling on the objections to be heard. Notice is hereby

given that a public hearing will be held for the purpose of receiving evidence relevant and material to the objections to the requirement in the identity standard for canned tuna that the words "in water" are to be included in the name of the food when water is used as the packing medium and to the requirement for label declaration of tuna darker than Munsell value 5.3 as "dark tuna".

The hearing will begin at 10 o'clock in the morning of January 29, 1958, in Room 3046, South Agriculture Building, 12th and Independence Avenue SW., Washington, D. C. All interested persons are invited to attend this hearing and present evidence. The hearing will be conducted in accordance with the rules of practice therefor.

Mr. Leonard D. Hardy is hereby designated as presiding officer to conduct the hearing, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearing. The presiding officer is required to certify the entire record of the proceeding to the Commissioner of Food and Drugs for action.

Dated: December 24, 1957.

[SEAL]

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

NOTE: ALSO SEE COMMERCIAL FISHERIES REVIEW, NOVEMBER 1957, P. 60.



Department of the Interior

FISH AND WILDLIFE SERVICE

APPOINTMENT OF DIVISION CHIEFS ANNOUNCED:

The filling of five top posts in the newly reorganized United States Fish and Wildlife Service was announced December 23, 1957 by Commissioner of Fish and Wildlife Arnie J. Suomela.

The appointment of division chiefs in the Service's Bureau of Commercial Fisheries and Bureau of Sport Fisheries and Wildlife carries out changes in functions and organization of the Service as authorized by the Fish and Wildlife Act of 1956. All of the positions have been filled by the promotion of career employees.

In the Bureau of Commercial Fisheries (headed by Director Donald L. Mc Kernan), Dr. Albert L. Tester, formerly director of the Service's Pacific Oceanic Fisheries Investigations at Ho-

nolulu, T. H., was selected as Chief of the new Division of Biological Research which will handle investigations pertaining to the anadromous fisheries, marine and inland fisheries, and the shellfish fisheries. Previously these activities were conducted by the Service's Branch of Fishery Biology.

Harold E. Crowther, formerly Coordinator of the Saltonstall-Kennedy Program work and in charge of setting up the Fisheries Loan Fund unit, becomes chief of the Division of Industrial Research and Services. This division has taken over the functions of the former Branch of Commercial Fisheries in the field of economics, exploratory fishing and gear research, dissemination of daily fishery market news, statistical canvasses and studies, market development activities, and technological research.

Ralph C. Baker, formerly assistant chief of the Service's Branch of Alaska Fisheries, is now head of the Division

of Resource Management. This organizational unit is responsible for the Alaska fishery and fur-seal programs, the Columbia River fishery development program, and the enforcement of laws and regulations relating to the management of commercial fisheries and marine mammals under international fishery conventions.

In the Bureau of Sport Fisheries and Wildlife (headed by Director Daniel H. Janzen), Robert M. Rutherford, formerly chief of the Branch of Federal Aid, is the new chief of the Division of Technical Services. This division is respon-

sible for the administration of the Pittman-Robertson wildlife and the Dingell-Johnson sport fish restoration programs, river basin activities, engineering, and realty services.

The Division of Sport Fisheries is headed by John S. Gottschalk, formerly assistant chief of the Federal Aid Branch of the Service. This division has charge of the operation of all the Service hatcheries and supervises the programs involving the management of the sport fish resources and the conduct of fundamental research on these species.



TIPS FOR RETAILING FROZEN SEA FOODS

A prominent trade publication featuring frozen foods recently carried a feature article entitled "10 Ways to Increase Sales and Profits with Frozen Sea Foods." These points are certainly directed to increase sales and they are of value to alert merchandisers.

1. Display sea food prominently.
2. Avoid risking flavor loss--promptly put items under zero refrigeration.
3. Keep a reserve supply of the fast-selling sea foods in a back-room storage box.
4. Don't wait for the packers to come around with promotions, but feature your own sea food "specials" every week, just as you would with meat, vegetables, or canned foods.
5. Take advantage of any special packers' or industrywide promotions during Lent, Fish Week, or other periods.
6. Keep constant check on space allocations for frozen sea foods as related to turnover and profit.
7. The quality of the frozen sea foods you sell is much your concern as the customers'.
8. Give serious consideration to the packaging effectiveness of the sea-food products you handle.
9. Use the point-of-sale material supplied by packers.
10. Suggest in point-of-sale advertisements, banded promotions, and by word-of-mouth, products associated with sea foods, such as sauces, french fries, potato chips, and other products to increase sales and profits.