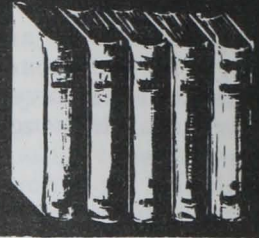




# FEDERAL ACTIONS



## Department of Commerce

### AREA REDEVELOPMENT ADMINISTRATION

#### "CLAMCHIP" FIRM TO GET LOAN:

An industrial loan of \$213,200 for producing a new fishery product--"clamchip"--has been approved by the Area Redevelopment Administration (ARA). The ARA loan was made to the Chesapeake Clamchip Corporation of Cambridge, Md. Total cost of the new project to establish facilities for the manufacture of "clamchips" will be \$328,000. In addition to the 4-percent 15-year ARA loan, the National Bank of Cambridge will make a loan of \$60,000, the State will provide \$16,400, and the applicant \$22,000 as equity. The funds will be used to buy and improve land, construct a building, and purchase machinery and equipment for producing "clamchips." Twenty-seven workers will be employed at the new plant.



## Department of Commerce and Department of the Interior

#### POLICY DEVELOPED TO PREVENT HIGHWAY CONSTRUCTION DAMAGE TO FISH AND WILDLIFE:

A joint policy of coordinated planning designed to protect and enhance fish and wildlife habitat at Federal-aid highway projects, was announced on August 26, 1963, by Secretary of Commerce, Luther H. Hodges and Secretary of the Interior, Stewart L. Udall. Methods for implementing the policy were worked out by the U. S. Bureau of Public Roads and the U. S. Fish and Wildlife Service.

Secretaries Hodges and Udall said the joint policy recognizes that in order to achieve maximum effectiveness in the expenditure of public funds and at the same time protect wild-

life, close coordination and cooperation are required in the planning and construction of highways which have an effect upon fish and wildlife preservation programs. In addition to national cooperation, the success of the joint policy also will require mutual cooperation of State highway departments and State fish and wildlife agencies, the Secretaries said. The joint policy requires that State highway departments supply to State fish and wildlife agencies advance plans for Federal-aid highway development programs. It will be the responsibility of the State fish and wildlife agencies to review the highway programs and make recommendations on ways to develop highway projects which will be compatible with fish and wildlife habitat.

The policy is implemented through a U. S. Bureau of Public Roads Regulation which requires that by January 1, 1964, each State, in requesting Department of Commerce approval for the use of Federal-aid highway funds, must certify that it has given consideration to the effects of the proposed highway project on fish and wildlife resources. The certification from the State also will specify what actions it proposes to take in a highway construction project to protect fish and wildlife habitat. In the event a State highway department declines to accept State fish and wildlife recommendations on any projects, the recommendations--along with the reasons for declining acceptance--must be sent to the U. S. Bureau of Public Roads for consideration.

The joint policy was worked out after meetings with members of Congress who were seeking coordination of the Federal-aid highway and fish and wildlife preservation programs.



## Department of the Interior

FISH AND WILDLIFE SERVICE

BUREAU OF COMMERCIAL FISHERIES

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

Voluntary standards for grades of (a) frozen fried fish sticks, (2) frozen fried fish portions, and (3) frozen raw breaded fish sticks were announced in the August 31, 1963, Federal Register and became effective 30 days from this date. The latter two standards are the first issued by the Department of the Interior prescribing Government standards for those specific commodities. The proposed standard for frozen fried fish sticks is an amendment to the standard previously promulgated in the Federal Register, September 1, 1960. The voluntary standards were unchanged from the proposed voluntary standards published in the May 22, 1963, Federal Register. (See Commercial Fisheries Review, July 1963 p. 100.)

All of the 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  $\frac{3}{8}$ -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. All 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.

Currently there are 14 fishery products standards. Promulgation of the two new standards (frozen fried fish portions and frozen raw breaded fish sticks) completes the standardization of 95 percent of the products produced from fish fillet blocks.

A proposed revision of the standard for raw breaded fish portions was published in the Federal Register, August 16, 1963.



## United States District Courts

### COURT RULINGS DIFFER ON EMPLOYMENT STATUS OF FISHERMEN FOR FEDERAL TAX PURPOSES:

The employment status of fishermen on a "lay or share" basis for employment tax purposes has been the subject of a number of litigation cases which are to be determined by the Federal courts. Varying interpretations of the law have led to confusion in the fishing industry. In an attempt at uniformity, several fishing industry members have challenged the Internal Revenue Service in Federal courts throughout the country. For the most part, the courts have held that fishermen are not employees, but independent contractors for employment tax purposes. The meaning of that court ruling is that the boat owner is not required to withhold income taxes or Federal payroll taxes from the earnings of the captains and deckhands. In some cases, the States also have agreed that unemployment insurance taxes are not due from the boat owners. In one litigation, a Texas court ruled ("Crawford Packing Co. v. United States") that the captains and deckhands were not employees for employment tax purposes. The United States Government has appealed that decision to the Fifth Circuit Court of Appeals. The case has been argued and the decision was pending.

In a Florida Federal Court, it was held that the captains and deckhands of a shrimp boat owner and two other affiliated corporations were not their employees, but were independent contractors under the Federal employment tax statutes. The Federal Government did not appeal those cases. In another case, a Mississippi Federal Court held that

the captains and deckhands were independent contractors ("Gulf Boats, Inc. v. United States") and again there was no appeal by the Federal Government. All of the vessels and fishermen involved in those cases were connected with the shrimp industry.

In a more recent case ("Capital Trawlers, et al v. United States"), according to a ruling handed down on April 9, 1963, by a judge of the United States District Court in Portland, Me., fishing vessel crews and captains who operate under the "share" system, are considered employees for Federal tax purposes. In that case the court held that fishermen performing their services on vessels fishing for ocean perch and groundfish were employees. The court specifically ruled that the relationship between the Maine fishermen and the boat owners was not comparable to the working relationship between the owners and fishermen on the shrimp boats. The Portland case indicated that there was a considerable degree of control by the owners over the fishermen in that they were guaranteed certain earnings in the event of a "broker," that the owners had a good deal to say about who should comprise the crew, and in all instances the owners put their own engineer aboard to oversee the safety of the vessel. None of those factors were evident with respect to the shrimp boats. (National Fisheries Institute Flashes, August 16, 1963.)

Note: See Commercial Fisheries Review, July 1963 p. 107, August 1963 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.

COLLISION AT SEA, REGULATIONS FOR PREVENTING: S. Rept. 477, Authorizing the President to Proclaim Regulations for Preventing Collisions at Sea (Aug. 30, 1963, report from the Committee on Commerce, U. S. Senate, 88th Congress, 1st Session, to accompany H. R. 6012), 12 pp., printed. The Committee reported the bill with an amendment (a typographical change) and recommended passage. Contains purpose and discussion of the bill, Federal Agency comments, and Committee amendment.

The Senate, on Sept. 5, 1963, passed with committee amendment H. R. 6012, to authorize the President to proclaim regulations for preventing collisions at sea. Would authorize the President, on behalf of the United States, to proclaim the international regulations for preventing collisions at sea, 1960, on or after a date fixed by the Intergovernmental Maritime Consultative Organization for application of such regulations by Governments which have agreed to accept them. Such regulations shall thereafter have effect as if enacted by statute, and be followed by all public and private vessels of the United States and by all aircraft of United States registry. However, they shall not apply to inland waters or any territorial waters of the United States. Would repeal the existing international rules for preventing collisions at sea, 1948. Regulations were formulated at the Fourth International Conference on Safety of Life at Sea, 1960 (annex E to the final act of the International Conference on Safety of Life at Sea). Parts of the rules of the International Regulations for preventing collisions at sea were rewritten. Those applying directly to fishing vessels are covered under Rules 9 and 13.

The House, on Sept. 11, 1963, concurred in the Senate amendment to H. R. 6012. The action cleared the bill for the President's signature.

CONSERVATION OF MARINE FISHERIES RESOURCES: H. R. 8296 (Keith) introduced in House, Aug. 28, 1963, to prohibit fishing in the territorial waters of the United States and in certain other areas by persons other than nationals or inhabitants of the United States; referred to Committee on Merchant Marine and Fisheries.

The Subcommittee on Merchant Marine and Fisheries of the Senate Committee on Commerce, on Sept. 5, 1963, held hearings on S. 1988, to prohibit fishing in the territorial waters of the United States and in certain other areas by persons other than nationals or inhabitants of the United States. Testimony was received from Congressmen, United States Coast Guard officers, a representative of the Alaska State Department of Fish and Game, and the President of the Atlantic Fishermen's Union, Boston, Mass. The hearings were concluded on Sept. 6, 1963, when testimony was received from other Federal Agency officials and representatives of the Gloucester (Mass.) Fisheries Commission, National Cannery Association, Boston Fisheries Association, Inc., American Tunaboat Association, and the New Bedford Fishermen's Union.

S. Rept. 500, Prohibition of Foreign Fishing Vessels Within the Territorial Waters of the United States (Sept. 13, 1963, report from the Committee on Commerce, U. S. Senate, 88th Congress, 1st Session, to accompany S. 1988), 13 pp., printed. The Committee recommended passage of the bill with amendments. In addition to technical amendments and amendments for clarity, the Committee amendments would authorize the Secretary of the Treasury to license a foreign vessel to engage in fishing within the territorial waters of the United States or for resources of the Continental

Shelf which appertain to the United States, and to land its catch in a United States port, upon certification by the Secretary of the Interior that such permission would be in the national interest and upon concurrence of any State, Commonwealth, or Territory directly affected.

S. 1988 as amended, declares that it is unlawful for foreign vessels to engage in the fisheries within the territorial waters of the United States and its territories and possessions and the Commonwealth of Puerto Rico or to engage in the taking of any fishery resource of the Continental Shelf which appertains to the United States, except as provided by an international agreement to which the United States is a party. Violators would be subject to a fine of not more than \$10,000, or imprisonment not more than 1 year, or both. The bill declares that every vessel employed in any manner in connection with a violation of the act shall be subject to forfeiture and all fish taken or retained in violation of the act or the monetary value thereof shall be forfeited. The responsibility for enforcement is to be shared by the Coast Guard, the Department of the Interior, the Bureau of Customs, and such State and territorial officers as the Secretary of the Interior may designate. Federal district courts are empowered to issue such warrants as may be required for the enforcement of the act. Persons authorized to carry out enforcement activities are given the power to execute those warrants; to arrest, with or without a warrant, any person committing in their presence a violation of the act; and, if as a result of such search they have reason to believe that such vessel or any person on board is in violation of the act, then to arrest such person; to seize any vessel which has been used or which reasonably appears to have been used contrary to the provisions of the act; and to seize, whenever and wherever lawfully found all fish taken or retained in violation of the act. Provides for the seizure and disposal of fish taken in violation of the act, and establishes procedures for setting of a bond by alleged violators. The Secretary of the Treasury would be authorized to issue such regulations as he determines necessary to carry out the provisions of the act.

Report also contains purpose of the bill, general discussion, reasons for legislation, attitude of other nations, section-by-section analysis, and agency reports.

The Senate on Sept. 18, 1963, and the House on Sept. 19, 1963, received a resolution adopted by the Senate of the Commonwealth of Massachusetts memorializing the Congress of the United States to enact legislation providing for a 200-mile offshore limit for taking fish off the New England coast by fishing vessels of foreign countries.

**FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT:** Senator Ribicoff, on Sept. 6, 1963, inserted in the Congressional Record (pages 15582-15586), Notice of Proposed Rule Making by the Department of Agriculture as published in the Federal Register Sept. 6, 1963, to revise the regulations for the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act. The revision, in general, would strengthen the regulations with respect to labeling requirements, conform the regulations with interpretations and policies followed in administration of the act, and clarify certain provisions of the regulations. The principal specific changes that would be made concern labeling, registration, guarantees, coloration of economic poisons, adulteration and misbranding, enforce-

ment, permits for experimental use, and declaration of pests.

The Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture and Forestry, on Sept. 10, 1963, held and concluded hearings on S. 1605, to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to provide for labeling of economic poisons with registration numbers, and to eliminate registration under protest. Testimony was received from representatives of the National Agricultural Chemical Association, the American Farm Bureau Federation, and Federal Agency officials.

**PRICE-QUALITY STABILIZATION:** The Special subcommittee of the Senate Committee on Commerce, on Sept. 9, 1963, resumed hearings on S. 774, to promote quality and price stabilization, to define and restrain certain unfair methods of distribution, and to confirm, define, and equalize the rights of producers and resellers in the distribution of goods identified by distinguishing brands, names, or trademarks, and for other purposes. Testimony was received from various public witnesses. The hearings were recessed subject to call.

**RESEARCH PROGRAMS:** H. Res. 504 (Elliott) introduced in House Aug. 27, 1963, to create a select committee to investigate research programs conducted by or sponsored by the departments and agencies of the Federal Government; referred to Committee on Rules. The House on Aug. 28, 1963, received the report (H. Rept. 718) on H. Res. 504, and on Sept. 11, 1963, by a unanimous record vote of 336 yeas, the House adopted H. Res. 504. The Speaker of the House subsequently appointed the following to membership on the select committee: Representatives Elliott, chairman, Fogarty, Miller of California, Price, Landrum, Brown of Ohio, Anderson, Cleveland, and Martin of California.

**VESSEL COLLISION LIABILITY AND VESSEL OWNERS LIABILITY:** Vessel and Shipowner Liability in Collisions or other Maritime Casualties (Hearings before the Merchant Marine and Fisheries Subcommittee of the Committee on Commerce, United States Senate, 88th Congress, 1st Session), 173 pp., printed. Contains hearings held on May 20 and 22, 1963, on S. 555, to unify apportionment of liability in cases of collision between vessels, and in other maritime casualties; and on S. 556, to limit the liability of vessel owners, and for other purposes. The hearings included statements by Federal agencies and industry personnel; the text of S. 555 and S. 556; and written statements and letters submitted to the Subcommittee.

**VESSEL CONSTRUCTION SUBSIDY AMENDMENT:** The Senate Committee on Commerce, in executive session, Aug. 27, 1963, ordered favorably reported (amended) S. 1006, to amend the Act of June 12, 1960, for the correction of inequities in the construction of fishing vessels, and for other purposes.

S. Rept. 481, Fishing Vessel Construction Bill (Sept. 9, 1963, report from the Committee on Commerce, U. S. Senate, 88th Congress, 1st Session, to accompany S. 1006), 37 pp., printed. The Committee recommended passage of the bill with amendments. The Committee amendments would provide for a \$10 million annual appropriation instead of \$12.5 million, and would extend the Program for a 5-year period instead of 9 years. (S. 1006 would provide a subsidy up to 55 percent of the

cost of construction of a fishing vessel in a domestic shipyard, and delete Section 4 from the recently expired Program which limited construction of such vessels to fisheries injured by foreign imports.) Report also contains: purpose of the bill, need for the bill, general discussion including financial aids available to fishing vessel owners in certain other countries, section-by-section explanation, agency reports, changes in existing law, appendix, and the minority view.

**WATER POLLUTION CONTROL ADMINISTRATION:** The Special Subcommittee on Air and Water Pollution of the Senate Committee on Public Works, on Sept. 5, 1963, resumed its executive consideration of S. 649, to amend the Federal Water Pollution Control Act, as amended, to establish the Federal Water Pollution Con-

trol Administration within the Department of Health, Education, and Welfare.

**WATER RESOURCES COUNCIL:** The Subcommittee on Irrigation and Reclamation of the Senate Committee on Interior and Insular Affairs, on Sept. 12 and 13, 1963, held hearings on S. 1111, to provide for the optimum development of the nation's natural resources through the coordinated planning of water and related land resources, through the establishment of Water Resources Council and river basin commissions, and providing financial assistance to the States in order to increase State participation in such planning. Testimony was received from Congressmen, officials of Federal and State Agencies, and public witnesses. On Sept. 13, 1963, the hearings were adjourned subject to call.

