



FEDERAL ACTIONS



Department of Health, Education, and Welfare

PUBLIC HEALTH SERVICE

AMENDMENTS PROPOSED TO REGULATIONS FOR MEDICAL CARE OF COMMERCIAL FISHING VESSEL OWNER OPERATORS:

A notice to amend regulations on eligibility for medical care of owner-operators of commercial fishing vessels (5 gross tons and over) under Part 32 Title 42, Code of Federal Regulations (Medical Care for Seamen and Certain Other Persons), was issued by the U. S. Public Health Service, Department of Health, Edu-

cation, and Welfare, and published in the Federal Register, November 10, 1964.

The proposed amendments to Part 32 are on sections covering meaning of terms, persons eligible, and conditions and extent of treatment.

It is proposed to make any amendments that are adopted finally effective immediately upon publication in the Federal Register.

Interested persons were given until December 10, 1964, in which to present data, views, and arguments in writing regarding the proposal.

The proposed regulations as they appeared in the Federal Register follow:

DEPARTMENT OF HEALTH, EDU- CATION, AND WELFARE

Public Health Service

[42 CFR Part 32]

MEDICAL CARE FOR SEAMEN AND CERTAIN OTHER PERSONS

Notice of Proposed Rule Making

Notice is hereby given that the Surgeon General of the Public Health Service, with the approval of the Secretary, proposes to amend Part 32 of Title 42, Code of Federal Regulations. As set out below, the amendments relate to eligibility for medical care of owner-operators of commercial fishing vessels.

Notice is also given that it is proposed to make any amendments that are adopted effective immediately upon publication in the FEDERAL REGISTER.

Interested persons may present data, views, and arguments in writing, in duplicate, to the Surgeon General, Public Health Service, Washington, D.C., 20201.

All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

Part 32 would be amended as follows:

1. Section 32.1 would be amended by

adding a new paragraph (1), to read as follows:

§ 32.1 Meaning of terms.

(1) "Commercial fishing operations" means the gathering of any form of either fresh water or marine animal life for sale on a commercial basis through available markets.

2. Section 32.6(a) would be amended by adding a new subparagraph (12), to read as follows:

§ 32.6 Persons eligible.

(a) Under this part the following persons are entitled to care and treatment by the Service as hereinafter prescribed:

(12) Persons who own vessels registered, enrolled, or licensed under the maritime laws of the United States, who are engaged in commercial fishing operations, and who accompany such vessels on such fishing operations, and a substantial part of whose services in connection with such fishing operations are comparable to services performed by seamen employed on such vessel or on vessels engaged in similar operations.

3. A new center heading and a new § 32.57 would be added, to read as follows:

OWNER-OPERATORS OF COMMERCIAL FISHING VESSELS

§ 32.57 Conditions and extent of treatment.

Persons who own vessels registered, enrolled, or licensed under the maritime laws of the United States, who are engaged in commercial fishing operations, and who accompany such vessels on such fishing operations, and a substantial part of whose services in connection with such fishing operations are comparable to services performed by seamen employed on such vessel or on vessels engaged in similar operations shall be entitled to care and treatment by the Service under the same conditions, where applicable, and to the same extent as is provided for American seamen.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 322, 58 Stat. 696, as amended by 78 Stat. 398; 42 U.S.C. 249)

Dated: October 21, 1964.

[SEAL]

LUTHER L. TEARY,
Surgeon General.

Approved: November 3, 1964.

ANTHONY J. CELEBREZZE,
Secretary.



Department of the Interior

BUREAU OF COMMERCIAL FISHERIES

FISHING VESSEL CONSTRUCTION SUBSIDY REGULATIONS ADOPTED:

Regulations governing the payment of subsidies under the United States Fishing Fleet Improvement Act (P. L. 88-498) have been adopted as a revision of Part 256, Subchapter F, Chapter II, Title 50, Code of Federal Regulations, and published in the Federal Register of December 2, 1964, and were to become effective December 22, 1964. Rules and regulations governing the Notice and Hearing provisions of the Act were adopted as Part 257 of the above Subchapter and published in the Federal Register of December 11, 1964, and were to become effective December 31, 1964.

Part 256 of the regulations says a commercial fisherman can, under certain conditions, be reimbursed by the U. S. Government for the difference between the cost of building a vessel in U. S. shipyards and in less expensive foreign shipyards. The amount of reimbursement cannot exceed one-half of the U. S. cost.

FISHING VESSEL

CONSTRUCTION

DIFFERENTIAL

SUBSIDY



UNITED STATES DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
Bureau of Commercial Fisheries
Branch of Loans and Grants
Washington, D. C. 20240

Eligibility for the subsidy is restricted to vessels of advanced design, capable of fishing in expanded areas (fishing grounds not usually fished by the majority of vessels working in a particular fishery), equipped with newly developed gear, and scheduled for operation in a fishery where such use will not cause economic hardship to other operators in that fishery. ("Newly developed gear" is defined as the most modern gear available that is suitable for use in the fishery for which the proposed vessel is designed.)

The regulations provide for hearings on each contract under the new law. Such hearings will allow any person who feels he will be economically injured by the construction of the proposed vessel an opportunity to present evidence of potential economic losses.

The United States Fishing Fleet Improvement Act authorized the appropriation of \$10 million annually for the construction subsidy program. Congress has appropriated \$2½ million to start the program during the current fiscal year (ending June 30, 1965).

Information regarding the program and application forms may be obtained from the Branch of Loans and Grants, Bureau of Commercial Fisheries, U. S. Department of the Interior, Washington, D. C. 20240; or from any of the Bureau's Regional Offices.

Following are the revised Fishing Vessel Construction Differential Subsidy Procedures (50 CFR Part 256 and Part 257) as published in the Federal Register, December 2 and 11, 1964:

Title 50—WILDLIFE AND FISHERIES

Chapter II—Bureau of Commercial
Fisheries, Fish and Wildlife Service,
Department of the Interior

SUBCHAPTER F—AID TO FISHERIES

PART 256—FISHING VESSEL CON-
STRUCTION DIFFERENTIAL SUBSIDY
PROCEDURES

On page 13902 of the FEDERAL REGISTER of October 8, 1964, there was published a notice and text of a proposed revision of Part 258. The purpose of the revision is to incorporate those changes necessitated by the enactment of the United States Fishing Fleet Improvement Act (P.L. 88-498) which was approved August 30, 1964. Due to the numerous changes being proposed, the procedures will be more readily understood if the entire part is published in revised form.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed revision. Several comments and suggestions were received and all have been considered. The proposed revision is hereby adopted so as to include applicable suggested changes.

These regulations shall become effective at the beginning of the 20th calendar day following the date of publication in the FEDERAL REGISTER.

Part 256 is revised to read as follows:

Sec.	
256.1	Basis and purpose.
256.2	Definitions.
256.3	Eligibility requirements.
256.4	Applications.
256.5	Notice and hearing.
256.6	Subsidy contract.
256.7	Vessel operations.
256.8	Penalties.
256.9	Inspection of vessels.
256.10	Payment of subsidy.

AUTHORITY: The provisions of this Part 256 issued under sec. 10, Public Law 86-516, as amended.

§ 256.1 Basis and purpose.

(a) The Act of June 12, 1960 (Public Law 86-516), as amended and hereinafter referred to as the Act, authorizes the Secretary of the Interior to pay a subsidy for the construction of fishing vessels in shipyards of the United States.

(b) The purpose of this part is to prescribe rules and regulations governing the payment of these subsidies.

§ 256.2 Definitions.

(a) Secretary. The Secretary of the Interior or his authorized representative.

(b) Administrator. The Maritime Administrator in the Department of Commerce or his authorized representative.

(c) Director. The Director, Bureau of Commercial Fisheries, Department of the Interior, or his authorized representative.

(d) Person. Individual, association, partnership or corporation, or any one or all as the context requires.

(e) Fishery. A segment of the commercial fishing industry engaged in the catching of a single species or a group of species of fish and shellfish. Any other species taken must be caught incidentally while fishing for and using gear designed for the capture of the species comprising the fishery.

(f) Expanded areas. Fishing grounds not usually fished by the majority of the vessels operating in the fishery for which the proposed vessel is designed.

(g) Newly developed gear. The most modern gear available that is suitable for use in the fishery for which the proposed vessel is designed.

§ 256.3 Eligibility requirements.

(a) Vessel will be of advance design: In order to be considered to be of advance design, the vessel must be designed to have significant advantages in utility and efficiency over a significant number of vessels engaged in the fishery in which the proposed vessel is designed to operate.

(b) No economic hardship to efficient vessel operators: The determination that operation of a proposed vessel will not cause economic hardship to efficient

vessel operators already operating in that fishery shall be made by the Secretary after notice and hearing, taking into consideration the condition of the resource, the efficiency of the vessels and gear being operated in that fishery compared with the proposed vessel, the prospects of the market for the species caught, and the degree and duration of any anticipated economic hardship.

(c) Aid in the development of the United States fisheries: For the vessel to aid in the development of the United States fisheries under conditions that the Secretary considers to be in the public interest, the vessel must be a modern vessel which will upgrade the fleet. Special consideration will be given to vessels which will provide a significant contribution in helping the domestic fishery meet foreign competition.

(d) The applicant possesses the ability, experience, resources and other qualifications necessary to enable him to operate and maintain the proposed new fishing vessel. In making this determination, the Secretary will inquire into the economic feasibility of the fishing venture and will require reasonable assurance that the applicant can operate the vessel profitably.

§ 256.4 Applications.

Applications for a subsidy shall be made on forms prescribed by the Secretary and shall be filed with the Director, Bureau of Commercial Fisheries, Washington, D.C. The applications must be accompanied by three copies of the cross section, deck arrangement, outboard profile, and specifications of the proposed vessel. The Secretary may require such additional complete detailed construction plans as may be necessary after a review of the application and accompanying plans and specifications.

§ 256.5 Notice and hearing.

After receipt of an application eligible on its face for a construction differential subsidy the Director will publish a Notice of Hearing on a Subsidy Application in the FEDERAL REGISTER and hold hearings in accordance therewith. The purpose of the hearing will be to provide any person who feels he will be economically injured by the construction of the proposed vessel to cross-examine witnesses and/or present evidence that the operation of such vessel will cause economic hardship to efficient vessel operators already operating in the fishery for which the vessel is designed. Hearing procedures will be held in accordance with Part 257 of this subchapter.

§ 256.6 Subsidy contract.

(a) A contract for the payment of the subsidy will take effect when all contracts for the construction of such vessel, have been approved by the Administrator and the subsidy contract has been signed by the Secretary and the applicant; and

(b) The contract shall contain a finding of the useful life of the vessel as determined by the Secretary to be used in computing the amount of the total depreciated construction subsidy to be repaid to the Secretary in accordance with section 9 of the Act.

§ 256.7 Vessel operations.

(a) If the owner of a fishing vessel constructed with the aid of a subsidy desires to operate it in a different fishery

than the one for which it was designed because of an actual decline in that particular fishery, he shall submit an application to the Secretary for permission to transfer the operations of the vessel to a different fishery. The application shall contain data showing the decline in the fishery for which the vessel was designed, how this decline is making the operation of the vessel uneconomical or less economical, and why the transfer will not cause economic hardship or injury to efficient vessel operators already operating in the fishery to which he wishes to transfer operations.

(b) Upon receipt of such an application the Secretary will publish a Notice of Hearing on an Application to Change Fishery in the FEDERAL REGISTER and hold hearings in accordance therewith. The purpose of the hearings will be to provide any person who feels he will be economically injured by said transfer of fishing operations an opportunity to cross-examine witnesses and/or present evidence that such a transfer of operations will cause economic hardship or injury to efficient vessel operators already operating in the fishery to which the vessel's operations would be transferred. Hearing procedures will be held in accordance with Part 257 of this subchapter.

§ 256.8 Penalties.

In case the Secretary shall find that a vessel has operated contrary to the provisions of the Act or of regulations issued thereunder, he shall immediately notify the owner in writing of the specific acts involved and the amount of the penalty. The vessel owner may appeal such a finding to the Secretary in writing within 30 days of the date of mailing such finding to the last known address of the vessel owner. The amount of penalty assessed in any one year shall be equal to the total subsidy paid multiplied by the ratio that one year bears to the total number of years determined, by the Secretary, as the useful life of the vessel: *Provided, however*, That if the amount is not paid within 60 days after receipt of notice then the amount due shall be the total amount of the subsidy paid depreciated to the beginning of the year in which the vessel operated unlawfully. Any amount due hereunder shall constitute a maritime lien against the vessel effective at the time the Secretary determines that the vessel has operated in violation of the Act or regulations.

§ 256.9 Inspection of vessels.

The Secretary or the Administrator shall have access at all times to all vessels which are being constructed under a contract providing for a construction subsidy provided for by the Act.

§ 256.10 Payment of subsidy.

Subsidy payments will be paid in accordance with the terms of the subsidy contract. No subsidy payments shall be made until the entire amount of the applicant's share of the subsidized construction cost has been paid. If the amount of subsidy exceeds 30 percent of the subsidized construction cost, an amount equal to at least 30 percent of the subsidized construction cost shall be withheld until (a) the Maritime Administrator has certified that the vessel has been completed in accordance with the approved plans and specifications, and (b) all amounts due by the applicant

on account of the construction of the vessel, including designing, equipping, and outfitting costs, have been paid. Any interim subsidy payments due pursuant to the subsidy contract shall be paid only after the Secretary has determined that such amount is properly due. If the amount of subsidy does not exceed 30 percent of the subsidized construction cost, none of the subsidy shall be paid until (a) the Maritime Administrator has certified that the vessel has been completed in accordance with the approved plans and specifications, and (b) all amounts due by the applicant on account of the construction of the vessel, including designing, equipping, and outfitting costs, have been paid. Subsidy payments may be made to the applicant or jointly to the applicant and construction contractor or others, as may be appropriate, pursuant to the terms of the construction contract or otherwise.

STEWART L. UDALL,
Secretary of the Interior.

NOVEMBER 25, 1964.

PART 257—NOTICE AND HEARING ON SUBSIDIES

On pages 14744 to 14746 of the FEDERAL REGISTER of October 29, 1964, there was published a notice of proposed rule making to issue regulations governing the procedures for the notice and hearing requirements of the United States Fishing Fleet Improvement Act (Public Law 88-498). Interested persons were given 20 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

No objections have been received and the only suggestion submitted does not require a revision of the proposal.

The proposed regulations are hereby adopted without change and are set forth below. This part shall become effective at the beginning of the 20th calendar day following the date of this publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 8, 1964.

Sec.	
257.1	Basis and purpose.
257.2	Definitions.
257.3	Scope of rules.
257.4	Mailing address.
257.5	Authentication.
257.6	Inspection of records.
257.7	Appearance and practice.
257.8	Parties.
257.9	Form, execution and service of documents.
257.10	Notice, pleadings and replies.
257.11	Duties of Presiding Officer.
257.12	Hearing procedure.
257.13	Evidence.
257.14	The record.
257.15	Decisions.

AUTHORITY: The provisions of this Part 257 issued under the Act of June 12, 1960 (Public Law 86-516), as amended.

§ 257.1 Basis and purpose.

(a) The Act of June 12, 1960 (Public Law 86-516), as amended by the United States Fishing Fleet Improvement Act (Public Law 88-498) authorizes the Secretary of the Interior to pay a subsidy for the construction of fishing vessels in shipyards of the United States and requires that this be done only after Notice and Hearing.

(b) The purpose of this part is to establish rules of practice and procedure for the notice and hearing.

§ 257.2 Definitions.

Definitions shall be the same as in Part 256 of this subchapter.

§ 257.3 Scope of rules.

The regulations in this part govern the procedure in hearings subject to Part 256 of this subchapter. These hearings are subject to the Administrative Procedure Act (5 U.S.C. 1003, et seq.) and Practice Before The Department of the Interior (43 CFR Part 1). The regulations shall be construed to secure the just, speedy, and inexpensive determination of every proceeding with full protection for the rights of all parties therein.

§ 257.4 Mailing address.

Documents required to be filed in, and correspondence relating to, proceedings governed by the regulations in this part shall be addressed to the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C., 20240.

§ 257.5 Authentication.

All rules, orders, determinations, and decisions of the Secretary shall be signed by the Secretary.

§ 257.6 Inspection of records.

The files and records of these hearings, except those held by the Secretary for good/cause to be confidential, shall be open to inspection and copying as follows:

(a) All pleadings, motions, depositions, correspondence, exhibits, transcripts of testimony, exceptions, briefs, and decisions in any formal proceeding under this part may be inspected and copied in the office of the Chief, Branch of Loans and Grants, Bureau of Commercial Fisheries, Department of the Interior, Washington, D.C., 20240.

§ 257.7 Appearance and practice.

(a) A party may appear in person or by an officer, partner or regular employee of the party; by or with counsel or as otherwise permitted by 43 CFR Part 1 in any proceeding under the regulations in this part. A party may offer testimony, produce and examine witnesses, and be heard upon brief and at oral argument if oral argument is granted by the Presiding Officer. Attorneys-at-law who are admitted to practice before the Federal Courts or before the courts of any State or possession of the United States, may represent a party as counsel.

(b) Persons who appear at any hearing shall deliver a written notice of appearance to the official reporter, stating for whom the appearance is being made. The Presiding Officer may require a person making an appearance in a representative capacity to show his authority to act in such capacity. The written appearance shall be made a part of the record.

§ 257.8 Parties.

(a) The term "party" shall include any natural person, corporation, association, firm, partnership, trustee, receiver, cooperative or governmental agency determined by the Presiding Officer as having an interest in the proceedings. A party making an application shall be

designated as "applicant." A party whose petition for leave to intervene is granted shall be designated an "intervenor." Only a party as designated in this section may introduce evidence or examine witnesses at hearings.

(b) For an intervenor to prove an interest in the hearings he must show that there is a reason for belief that the operation of the vessel described in the application will cause economic injury or hardship to efficient vessel operators already operating in the fishery in which it is proposed that the vessel be operated.

§ 257.9 Form, execution and service of documents.

(a) All papers to be filed under the regulations in this part shall be clear and legible; and shall be dated, signed in ink, contain the docket description and title of the proceeding and the title, if any, and the address of the signatory. Five copies of all papers are required to be filed. Documents filed shall be executed by (1) the person or persons filing same, (2) by an authorized officer thereof if it be a corporation or, (3) by an attorney or other person having authority with respect thereto.

(b) All documents, when filed, shall show that service has been made upon all parties to the proceeding. Such service shall be made by delivering one copy to each party in person or by mailing by first class mail, properly addressed with postage prepaid. When a party has appeared by attorney or other representative, service on such attorney or other representative will be deemed service upon the party. The date of service of document shall be the day when the matter served is deposited in the United States mail, shown by the postmark thereon, or is delivered in person, as the case may be.

(c) The original of every document filed under this part and required to be served upon all parties to a proceeding shall be accompanied by a certificate of service signed by the party making service, stating that such service has been made upon each party to the proceeding. Certificates of service may be in substantially the following form:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by: (1) Mailing postage prepaid, (2) delivering in person, a copy to each party.

Dated at _____ this _____ day of _____ 19____
Signature _____

§ 257.10 Notice, pleadings and replies.

(a) After acceptance of an application eligible on its face for construction subsidy or for the transfer of a vessel to a different fishery, the Director, Bureau of Commercial Fisheries, shall publish a notice of hearing in the FEDERAL REGISTER advising that a hearing will be held not less than 30 days after date of such publication and setting the time and place and providing details with respect to such hearing. Any person desiring to intervene and present evidence that the approval of the application will cause economic injury or hardship to efficient vessel operators must file, at least 10 days prior to the date set for the hearing (unless otherwise consented to by the Presiding Officer), a Petition of Intervention setting forth his interest. The hearing will be held in Washington, D.C.,

unless such a petition is received. If such a petition is received, the Presiding Officer may designate a different hearing site by telegraphic notice to the parties in the proceedings. If no petition to intervene is received, it will not be necessary for the applicant to appear at the hearing if he files all information in writing as required by the Presiding Officer.

(b) All petitions shall be in writing and shall state the petitioner's grounds of interest in the subject matter; the facts relied upon, the relief sought; and shall cite the authority upon which the petition rests. The petition shall be served upon all parties named therein or affected thereby. Answers to petitions must be filed within 5 days of the hearing date, unless otherwise consented to by the Presiding Officer.

(c) Amendments or supplements to pleadings may be allowed or refused in the discretion of the Presiding Officer. The Presiding Officer may direct a party to state its case more fully and in more detail by way of amendment. If a response to an amended pleading is necessary, it may be filed and served within the time set by the Presiding Officer. Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading.

(d) All motions and requests for rulings shall state the relief sought, the authority relied upon and the facts alleged. If made before or after the hearing, such motions shall be in writing. If made at the hearing, motions may be stated orally: *Provided, however*, that the Presiding Officer may require such motion to be reduced to writing and filed and served in the same manner as a formal motion. Oral argument upon a written motion, in which an answer has been filed, may be granted within the discretion of the Presiding Officer. Answers to a formal motion or pleading shall be filed and served in the same manner as the motion or pleading.

§ 257.11 Duties of Presiding Officer.

The Presiding Officer shall have the authority and duty to:

- (a) Take or cause depositions to be taken.
- (b) Rule upon proposed amendments or supplements to motions and pleadings.
- (c) Regulate the course of the hearings.
- (d) Prescribe the order in which evidence shall be presented.
- (e) Dispose of procedural requests or similar matters.
- (f) Hear and initially rule upon all motions and petitions before him.
- (g) Administer oaths and affirmations.
- (h) Examine witnesses.
- (i) Rule upon offers of proof and receive competent, relevant, material, reliable, and probative evidence.
- (j) Exclude irrelevant, immaterial, incompetent, unreliable, repetitious or cumulative evidence.
- (k) Exclude cross-examination which is primarily intended to elicit self-serving declarations in favor of the witness.
- (l) Limit cross-examination to interrogatories which are required for a full and true disclosure of the facts in issue.
- (m) Act upon petitions to intervene.
- (n) Act upon submissions of facts or arguments.
- (o) Hear arguments at the close of testimony.

(p) Fix the time for filing briefs, motions and other documents to be filed in connection with hearings.

(q) Issue the initial decisions and dispose of any other pertinent matter that normally and properly arises in the course of proceedings.

§ 257.12 Hearing procedure.

(a) Unless authorized by the Presiding Officer, witnesses will not be permitted to read prepared testimony into the record. The evidentiary record shall be limited to factual and expert opinion testimony. Arguments will not be received in evidence but should be presented in opening and/or closing statements or in briefs to the Presiding Officer. All exhibits and responses to requests for evidence shall be numbered consecutively by the party submitting same and shall be filed with the Presiding Officer if filed during the hearing. If filed at some other time they should be filed in accordance with § 257.4 with one copy also being sent to each party to the hearing.

(b) Normally, the order of presentation at the hearing will be alphabetical in each of the following categories:

- (1) Applicant,
- (2) Intervenors.

Rebuttal should be presented without any adjournment in the proceedings.

(c) Cross-examination shall be limited, subject to § 257.13(b), to the scope of the direct examination and to witnesses whose testimony is adverse to the party desiring to cross-examine. Only cross-examination which is necessary to test the truth and completeness of the direct testimony and exhibits will be permitted.

(d) A request for oral argument at the close of testimony will be granted or denied by the Presiding Officer in his discretion.

(e) Rulings of the Presiding Officer may not be appealed prior to, or during, the course of the hearings, except in extraordinary circumstances where prompt decision by the Secretary is necessary to prevent unusual delay or expense, in which instance the matter shall be referred forthwith to the Secretary by the Presiding Officer. Any appeal shall be filed within 10 days from the date of the close of the hearing.

§ 257.13 Evidence.

(a) In any proceedings under this part, all evidence which is relevant, material, reliable and probative, and not unduly repetitious or cumulative, shall be admissible. Irrelevant and immaterial or unduly repetitious evidence shall be excluded.

(b) Each party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence; and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(c) At any time during the hearing the Presiding Officer may call for the production of further relevant and material evidence, reports, studies and analyses upon any issue, and require such evidence to be presented by the party or parties concerned, either at the hearing or adjournment thereof. Such material shall be received subject to appropriate motions, cross-examination and/or rebuttal. If a witness refuses to testify or produce the evidence as requested, the Presiding Officer shall forthwith report such refusal to the Secretary.

§ 257.14 The record.

(a) The Director, Bureau of Commercial Fisheries, will designate an official reporter for all hearings. The official transcript of testimony taken, together with any exhibits and briefs filed therewith, shall be filed with the Director, Bureau of Commercial Fisheries. Transcripts of testimony will be available in any proceeding under the regulations of this part, and will be supplied by the official reporter to the parties and to the public, except when required for good cause to be held confidential, at rates fixed by the contract between the United States of America and the reporter. If the reporter is an employee of the Department of the Interior, the rate will be fixed by the Director, Bureau of Commercial Fisheries.

(b) The transcript of testimony and exhibits, together with all papers and requests, including rulings and the initial decision filed in the proceeding, shall constitute the exclusive record for decision. The initial decision will be predicated on this same record, as will the final decision.

§ 257.15 Decisions.

(a) The Presiding Officer is delegated the authority to render initial decisions in all proceedings before him. The same officer who presides at the reception of evidence shall render the initial decision except when such officer becomes unavailable to the Department of the Interior. In such case, another Presiding Officer will be designated by the Secretary to render the initial decision. Briefs, or other documents, to be submitted after the hearing must be received not later than ten (10) days after the hearing unless otherwise extended by the Presiding Officer upon motion by a party. The initial decision shall be made within twenty (20) days after the hearing or the receipt of all briefs, whichever is later. If no appeals from the initial decision are received within ten (10) days of the date of the initial decision, it will become the final decision on the twentieth day following the date of the initial decision. If an appeal is received, the appeal will be transmitted to the Secretary who will render the final decision after considering the record and the appeal.

(b) All initial and final decisions, shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon the material issues presented. A copy of each decision shall be served on the parties to the proceeding, and furnished to interested persons upon request.

(c) Official notice may be taken of such matters as might be judicially noticed by the courts; or of technical or scientific facts within the general or specialized knowledge of the Department of the Interior as an expert body; or of a document required to be filed with or published by a duly constituted Government body: *Provided*, That where a decision or part thereof rests on the official notice of a material fact not appearing in the evidence of the record, the fact of official notice shall be so stated in the decision and any party, on timely request, shall be afforded an opportunity to show the contrary.

BUREAU OF INDIAN AFFAIRS

CHANGE PROPOSED IN INDIAN
COMMERCIAL FISHING REGULATIONS IN
ALASKAN ANNETTE ISLANDS RESERVE:

Indian commercial fishing in the Annette Islands Reserve of southeastern Alaska was the subject of a "Notice of Proposed Rule Making" published in the Federal Register, November 28, 1964, by the U. S. Department of the Interior. The Secretary of the Interior proposes to amend Title 25 Code of Federal Regulations Part 88 (Indian Fishing in Alaska), Sec. 88.3 and Sec. 88.6. The proposed amendment to Sec. 88.3 concerns closed waters. The proposed amendment to Sec. 88.6 concerns enforcement and fish traps. Following are the proposed amendments as published in the Federal Register, November 28, 1964:

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 88]

INDIAN FISHING IN ALASKA

Notice of Proposed Rule Making

Basis and purpose. Notice is hereby given that pursuant to the obligation imposed upon, and the authority vested in the Secretary of the Interior by 25 U.S.C. sections 2 and 9; 5 U.S.C. section 485; section 15 of the Act of March 3, 1891 (26 Stat. 1101, 48 U.S.C. section 350); the Presidential Proclamation of April 28, 1916 (39 Stat. 1777); section 2 of the Act of May 1, 1936 (49 Stat. 1259, 48 U.S.C. section 358a); and section 4 of the Act of July 7, 1958 (72 Stat. 339), as amended (73 Stat. 141), it is proposed to amend Part 88 of Title 25, Code of Federal Regulations by adding paragraph (f) to § 88.3 and revising paragraph (b) of § 88.6 as set forth below. The purpose of the amendment is to regulate and govern Indian commercial fishing in Alaska.

It is the policy of the Department of the Interior wherever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Bureau of Indian Affairs, Washington, D.C., 20240, within thirty days of the date of publication of this notice in the Federal Register.

1. Section 88.3 is amended by the addition of a new subparagraph (f) to read as follows:

§ 88.3 Commercial fishing, Annette Islands Reserve.

(f) Closed waters; commercial salmon fishing is prohibited at all times in the following areas:

(1) Tamgas Harbor north of the latitude of Deer Point.

(2) Streams and rivers of Annette Island and within 500 yards of the terminus, as defined herein, of any salmon stream or within such greater or lesser

distances from such terminus as may be specified in regulations having particular application to designated streams or areas. For the purpose of the regulations, the word "terminus" shall mean a line drawn between seaward extremities of the exposed tideland banks of any salmon stream at mean low tide. The facts as to the location of any such line may be ascertained from time to time by the Secretary of the Interior or such other persons he may designate. In accordance therewith the mouth of such creek, stream, or river shall be appropriately marked.

2. Section 88.6(b) is amended to read as follows:

§ 88.6 Enforcement; violation of regulations; corrective action; penalties; closure of restrictions, Annette Island Reserve.

(b) Whenever any duly authorized enforcement representative of the Secretary of the Interior has evidence that any violation of the regulations of this part relating to fish traps has occurred, he shall direct immediate closure of the trap involved and shall affix an appropriate seal thereto to prevent further fishing. The matter shall be reported without delay to the Area Director, Bureau of Indian Affairs, who shall thereupon report and recommend to the Secretary of the Interior appropriate corrective action.

JOHN A. CARVER, Jr.,

Assistant Secretary of the Interior.

NOVEMBER 23, 1964.



Department of the Treasury

COAST GUARD

NEW INTERNATIONAL REGULATIONS
FOR PREVENTING COLLISIONS AT SEA:

The International Regulations for Preventing Collisions at Sea, 1960 (commonly called the 1960 International Rules of the Road), will become effective on September 1, 1965, replacing the 1948 International Rules of the Road which are now in effect. The new International Rules will not be effective, however, on United States waters governed by Inland, Great Lakes, or Western Rivers Rules of the Road. The new regulations were issued by the U. S. Coast Guard on September 1, 1964.

The revised rules were formulated by the maritime nations making up the Inter-Governmental Maritime Consultative Organization (IMCO), of which the United States is a member.

The pending 1960 International Rules of the Road make a number of changes, the most

significant of which concerns conduct in restricted visibility. Several important questions having to do with a vessel navigating with the aid of radar are resolved by the new Rules. Some of the new regulations are of interest and apply to fishing vessels.

In the United States, Congress through the Act of September 24, 1963 (P. L. 88-131),

authorized the President to proclaim the revised International Rules of the Road on or after the effective date announced by IMCO which is September 1, 1965. The revised Rules will apply to all public and private vessels and aircraft of United States registry covered by the legislation.

Note: Copies of the International Regulations for Preventing Collisions at Sea, 1960, are available from local Coast Guard Offices or from the U. S. Coast Guard, Washington, D. C.



TROUT FISHERY COOPERATIVE IN A DESERT

In one of the hottest, driest, and most savage deserts in the world, church workers are helping to build a fishery cooperative which aims at producing 100,000 rainbow trout a year. These will add badly needed protein to the diet of a depressed community and help to raise the people's standard of living.

The ponds where the trout are being raised are part of a cleft in an immense wasteland of rock-salt and volcanic ash at the foot of the Andes Mountains, Chile. Copper, iron, and other minerals are being mined on the flanks of those mountains.

It is a lunar landscape--fantastic, barren and menacing--and lit by a sunshine that is blinding and scorching. There is no rain. There are a few small, green oases where the presence of fresh water has enabled trees to grow and some sparse crops of maize, beans, and alfalfa to be raised.

The town of Calama, at an altitude of 7,400 feet, is the largest of the oases and is the capital of a territory as large as Switzerland.

But it is quite unable to feed itself. Within five years another 10,000 to 12,000 inhabitants have been added to Calama's population. Most of them live in shacks from cardboard, pieces of wood, sacking, and sheets of rusty tin. These shacks form 23 slum districts around the town.

Such a setting would seem to offer the fisherman no chance to pursue his profession, and an Argentinian agronomist and veterinarian was astonished, soon after he arrived in Calama, to meet two men walking across the desert carrying a 14-pound rainbow trout.

Recruited by the World Council of Churches to take part in a £36,000 (US\$100,000) community development project to help the churches deal with Calama's social situation, the Argentinian learned that the two men were, in fact, benefiting from the enthusiasm of an executive at the copper mine who had stocked a stream with trout but had then been recalled to the United States.

The trout had bred and multiplied.

The stream, springing out of the salt desert, provided exactly the right kind of water for trout to thrive in. Guided by the agronomist, 18 fishermen formed a cooperative and by March 1964 had made and stocked six ponds.

They plan to increase these to 100 by the end of the year. Each pond will contain 1,000 trout which the cooperative will sell in Calama at one-quarter the price of meat. (The Fishing News, June 26, 1964.)