PART I

FEDERAL REGISTER

VOLUME 13 NUMBER 246

Washington, Saturday, December 18, 1948

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 30—ANNUAL AND SICK LEAVE REGULATIONS

MISCELLANEOUS AMENDMENTS

1. Paragraph (i) is added to § 30.101 as follows:

§ 30.101 *Definitions.* * * *

(i) "Calendar year" means 260 basic work days (inclusive of holidays within the basic work weeks) during the period from January 1 through December 31.

2. Section 30.201 is amended to read as follows:

§ 30.201 *Accrual of annual leave.* Annual leave shall accrue and be credited to employees as follows:

(a) Permanent employees shall earn and be credited with twenty-six days of annual leave for each calendar year.

(b) For permanent employees, the total credit for a calendar year may be given at the beginning of the calendar year in which it accrues, or it may be given at the rate of one day per bi-weekly pay period: *Provided,* That the credit equals twenty-six days for a full calendar year of service. In computing annual leave accruals for less than a complete bi-weekly pay period, the table given below will govern in determining leave accruals for basic eight-hour work days in five-day work weeks. Fractions of work days shall be disregarded.

Basic work days:	*Hours credit*
1	1
2	2
3	2
4	3
5	4

(c) Permanent employees who are paid on a "when-actually-employed" basis, and who serve any continuous period of one month or more, shall earn and be credited with annual leave during the entire period of such continuous service in accordance with the provisions of paragraph (b) of this section.

(d) Temporary employees, including temporary employees paid on a "when-actually-employed" basis, shall earn and be credited with annual leave of two and one-half days for each full continuous month of service.

3. Section 30.301 is amended to read as follows:

§ 30.301 *Accrual of sick leave.* (a) Permanent employees shall earn and be credited with sick leave at the rate of 1¼ days per calendar month, which may be credited at the beginning of the month, or at the beginning of the first pay period following the first day of the month. The minimum accrual and credit for sick leave shall be one hour, and additional accruals and credits shall be in multiples thereof.

(b) Employees, other than temporary employees, who are paid on a "when-actually-employed" basis, and who serve any continuous period of one month or more, shall earn and be credited with sick leave on the same basis as other permanent employees, at the rate of 1¼ days per month during the entire period of continuous service. Accruals and credits for such employees shall be in multiples of one hour.

(c) Temporary employees, including temporary employees paid on a "when-actually-employed" basis, shall earn and be credited with 1¼ days of sick leave for each full continuous month of service.

(d) Sick leave accruing during any month of service shall be available at any time during that or any subsequent month.

(e) Because of the difference in crediting sick leave to temporary and permanent employees the following method shall be followed in crediting sick leave when a temporary appointment is converted to a permanent appointment prior to the end of the service month: Service as a permanent employee shall be counted as temporary service for the purpose of completing the month of service. Sick leave shall thereafter be credited as a permanent employee.

(Continued on p. 7816)

This issue is in two parts, the second of which consists of Title 19, Chapter I, Bureau of Customs, Department of the Treasury.

CONTENTS

	Page
Agriculture Department	
See also Commodity Exchange Authority.	
Proposed rule making:	
Rice, national marketing quota for 1948	7367
Rules and regulations:	
Limitation of shipments:	
California and Arizona:	
Lemons	7817
Oranges	7819
Grapefruit in Arizona; Imperial County, Calif., and part of Riverside County, Calif., south and east of San Gorgonio Pass	7818
Oranges, grapefruit and tangerines in Florida (3 documents)	7816, 7817
Office of Experiment Stations; discontinuance of codification	7819
Alien Property, Office of	
Notices:	
Vesting orders, etc.:	
Chambre, Siegmund, and Max Chambre	7880
Hollweg, Louis	7877
Japan Cotton Co	7880
Klein, Hugo	7879
Mand, Agnes F	7878
Maurer, Peter	7878
Niecke, Pauline	7879
Plum, Erna	7877
Ruoff, Mrs. Madeleine	7880
Stark, Philip	7878
Stumpp, Alfred	7879
Civil Aeronautics Board	
Rules and regulations:	
Editorial changes incident to preparation of 1949 Code of Federal Regulations	7861
Civil Service Commission	
Rules and regulations:	
Annual and sick leave; miscellaneous amendments	7813
Commodity Exchange Authority	
Rules and regulations:	
Reissuance of regulations:	
General regulations under Commodity Exchange Act	7834
Orders of the Commodity Exchange Commission	7860
Orders of the Secretary of Agriculture	7860
Rules of practice	7820

FEDERAL REGISTER

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CONTENTS—Continued

Commodity Exchange Authority—Continued Page
Rules and regulations—Continued
Reissuance of regulations—Con.
Special provisions:
Butter 7845
Cotton 7843
Cottonseed meal and soybean meal 7858
Eggs 7847
Fats 7854
Grains, flaxseed, and soybeans 7840
Millfeeds 7851
Oils 7856
Potatoes 7849
Wool tops 7852

Customs Bureau
Notices:
"No-consul list" addition of St. Pierre-Miquelon, and Cartagena, Colombia, and removal of Tripoli, Libya 7868

CONTENTS—Continued

Customs Bureau—Continued Page
Rules and regulations:
Air commerce regulations 7950
Appraisement 8034
Articles conditionally free; subject to reduced rate, etc 7978
Cartage and lighterage 8077
Customs and navigation laws, enforcement 8094
Customs bonds 8111
Customs districts and ports 7881
Customs financial and accounting procedure 8105
Customs requirements, changes in procedure due to war 8121
Customs relations:
Foreign territory, contiguous 7945
Insular possessions and Guantanamo Bay Naval Station 7957
Customs warehouses and control of merchandise therein 8063
Drawback 8079
Duties, liability for; entry of imported merchandise 7958
Duties, liquidation 8045
Duties of merchandise lost, stolen, destroyed, injured, abandoned, or short-shipped; relief 8043
Importation free of duty
Certain, during war 8120
Food, clothing, and medical, surgical, and other supplies under emergency proclamations of the President 8119
Importation of surplus Government property 8122
Importations by mail 7975
Imports and exports subject to the provisions of E. O. 8389, as amended and Proc. 2497, regarding "Blocked Nationals" 8117
Information, disclosure 8116
Merchandise:
Special classes 8017
Unclaimed and abandoned, disposition 8075
Packing and stamping; marking; trade-marks and trade names; copyrights 8010
Protests and reappraisements 8052
Sugars, sirups, and molasses; petroleum products; wool and hair 8030
Time, extension, pursuant to proclamation of President under section 318, Tariff Act of 1930 8121
"Trading With the Enemy Act," regulations under 8117
Transportation in bond and merchandise in transit 8057
Vessels:
Documentation 7909
Foreign and domestic trades 7925
Measurement 7887

Federal Communications Commission
Notices:
Frequency and modulation monitors, approved; use in standard broadcast stations 7870
Hearings, etc.:
Bay State Broadcasting Corp. and Whaling City Broadcasting Corp 7871

CONTENTS—Continued

Federal Communications Commission—Continued Page
Notices—Continued
Hearings, etc.—Continued
Block, William H., Co. (WUTV) 7870
Michigan Bell Telephone Co. 7870
Transmitters, high power VHF State police; Commission policy on consideration of applications 7869
Rules and regulations:
Radio broadcast services; time of operation of stations 7867

Federal Deposit Insurance Corporation
Notices:
Committee on Administrative Procedure, Regulations and Forms; abolishment 7872

Federal Mediation and Conciliation Service
Rules and regulations:
Revision of chapter and statement of organization and delegation of final authority 7862

Federal Power Commission
Notices:
Southern California Edison Co., hearing 7872

Federal Trade Commission
Rules and regulations:
Cease and desist order: Morton Salt Co 7861

Housing and Home Finance Agency
Rules and regulations:
Veteran's emergency housing program, and rules of practice and procedure, including forms and instructions; revocation 7862

Housing Expediter, Office of
Rules and regulations:
Rent regulations, controlled:
Housing 7862
Rooms in rooming houses and other establishments 7862

Industry Cooperation, Office of
Notices:
Steel products; proposed voluntary plan for allocation for construction of pipe line to supply natural gas to plant of Atomic Energy Commission at Oak Ridge, Tenn 7868

Interdepartmental Committee on Trade Agreements
Notices:
Trade-agreement negotiations with Colombia, Denmark, Dominican Republic, El Salvador, Finland, Greece, Haiti, Italy, Liberia, Nicaragua, Peru, Sweden, and Uruguay; possible adjustments in preferential rates on Cuban products 7872

Land Management Bureau
Notices:
Alaska; withdrawal of public lands in aid of proposed legislation 7868

CONTENTS—Continued

Land Management Bureau—Continued Page
Notices—Continued
California; restoration of land to location and entry under mining laws 7868
Rules and regulations:
Alaska:
Survey of public lands 7865
Withdrawal of public lands in aid of proposed legislation 7866
California; revocation of land withdrawal pending resurvey 7866

Maritime Commission
Rules and regulations:
Editorial changes incident to publication of 1949 Code of Federal Regulations 7866

National Park Service
Rules and regulations:
Alaska; areas administered by National Park Service 7865

Reciprocity Information, Committee for
Notices:
Trade-agreement negotiations with Colombia, Denmark, Dominican Republic, El Salvador, Finland, Greece, Haiti, Italy, Liberia, Nicaragua, Peru, Sweden, and Uruguay; submission of information 7875

Securities and Exchange Commission
Notices:
Hearings, etc.:
Kings County Lighting Co 7877
New Bedford Gas and Edison Light Co 7876
Public Service Corp. of New Jersey and South Jersey Gas Co 7876
United Light and Railways Co. and Continental Gas & Electric Corp 7876

Selective Service System
Rules and regulations:
Records administration in Federal records depots; supplying information from records 7864

State Department
Rules and regulations:
Surplus property located in foreign areas; importation into United States 7864

Tariff Commission
Notices:
Trade agreement; investigation and public hearing 7875

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Title 3—The President Page
Chapter II—Executive Orders:
5585 (revoked by PLO 536) 7866

Title 5—Administrative Personnel
Chapter I—Civil Service Commission:
Part 30—Annual and sick leave regulations 7813

CODIFICATION GUIDE—Con.

Title 7—Agriculture
Chapter VII—Production and Marketing Administration (Agricultural Adjustment)
Part 730—Rice (proposed) 7867
Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)
Part 933—Oranges, grapefruit, and tangerines grown in Florida (3 documents) 7816, 7817
Part 953—Lemons grown in California and Arizona 7817
Part 955—Grapefruit grown in Arizona; in Imperial County, Calif., and in that part of Riverside, Calif., situated south and east of the San Gorgonio Pass 7818
Part 966—Oranges grown in California and Arizona 7819
Chapter XXI—Organization, Functions, and Procedure:
Part 2407—Office of Experiment Stations 7819

Title 14—Civil Aviation
Chapter I—Civil Aeronautics Board:
Part 301—Organization, delegations of authority, and public information 7861
Part 302—Description of functions; course and method by which functions are channeled, scope and contents of documents 7861
Part 303—Substantive rules 7861

Title 16—Commercial Practices
Chapter I—Federal Trade Commission:
Part 3—Digest of cease and desist orders 7861

Title 17—Commodity and Securities Exchanges
Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission) Department of Agriculture:
Reissuance 7820
Part 0—Rules of practice 7820
Part 1—General regulations under the Commodity Exchange Act 7834
Part 2—Special provisions applicable to grains, flaxseed, and soybeans 7840
Part 3—Special provisions applicable to cotton 7843
Part 4—Special provisions applicable to butter 7845
Part 5—Special provisions applicable to eggs 7847
Part 6—Special provisions applicable to potatoes 7849
Part 7—Special provisions applicable to millfeeds 7851
Part 8—Special provisions applicable to wool tops 7852
Part 9—Special provisions applicable to fats 7854
Part 10—Special provisions applicable to oils 7856
Part 11—Special provisions applicable to cottonseed meal and soybean meal 7858

CODIFICATION GUIDE—Con.

Title 17—Commodity and Securities Exchanges—Con. Page
Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission) Department of Agriculture—Continued
Part 100—Orders of the Secretary of Agriculture 7860
Part 150—Orders of the Commodity Exchange Commission 7860

Title 19—Customs Duties
Chapter I—Bureau of Customs, Department of the Treasury:
Parts 1–59. See Part II of this issue.

Title 24—Housing Credit
Chapter VII—Housing and Home Finance Agency:
Part 707—Veterans' emergency housing program 7862
Part 753—Rules of practice and procedure, including forms and instructions 7862
Chapter VIII—Office of Housing Expediter:
Part 825—Rent regulations under the Housing and Rent Act of 1947, as amended (2 documents) 7862

Title 29—Labor
Chapter XII—Federal Mediation and Conciliation Service:
Revision of chapter 7862

Title 32—National Defense
Chapter VI—Selective Service System:
Part 670—Records administration in Federal record depots 7864
Chapter XXIV—Department of State, Disposal of Surplus Property:
Part 8508—Disposal of surplus property located in foreign areas 7864

Title 36—Parks, Forests, and Memorials
Chapter I—National Park Service, Department of the Interior:
Part 1—Areas administered by the National Park Service 7865

Title 43—Public Lands: Interior
Chapter I—Bureau of Land Management, Department of the Interior:
Part 78—Surveys 7865
Appendix—Public land orders:
536 7866
538 7866

Title 46—Shipping
Chapter II—United States Maritime Commission:
Part 200—Organization, functions, and delegations of final authority 7866
Part 201—Rules of procedure before the Commission 7866
Part 204—Records available for inspection 7866
Part 205—Rule making 7866
Part 206—Ancillary matters 7866
Part 211—Adoption of existing regulations 7866

CODIFICATION GUIDE—Con.

Title 46—Shipping—Continued	Page
Chapter II—United States Maritime Commission—Continued	
Part 243—Commercial forwarding of certain exports for foreign relief and rehabilitation	7866
Part 300—General provisions	7866
Part 301—General regulations	7866
Part 302—Contracts with vessel owners and rates of compensation relating thereto	7866
Part 303—Contracts for carriage on vessels owned or chartered by the War Shipping Administration	7866
Part 304—Labor	7866
Part 305—Insurance	7866
Part 306—General agents and agents	7866
Part 307—War Shipping Administration Price Adjustment Board	7866
Part 321—Directives	7866
Part 343—Freight forwarders forwarding of foreign relief cargoes	7866
Appendix A—Maritime War Emergency Board	7866
Title 47—Telecommunication	
Chapter I—Federal Communications Commission:	
Part 3—Radio broadcast services	7867

4. Section 30.408 is amended to read as follows:

§ 30.408 *Disposition of sick leave account on transfer* When an employee is appointed, reappointed, or transferred to another position with no break in service, or a break of less than 90 days, or within one year after notice of proposed separation by reduction in force or displacement order of the Civil Service Commission, his sick leave account shall be disposed of as follows:

(a) If the position is within the purview of the leave acts of March 14, 1936, the sick leave account shall be certified to the employing agency for credit or charge to the employee.

(b) If the position to which he is appointed, reappointed, or transferred is not within the purview of the leave acts of March 14, 1936, the employee shall be furnished with a statement of his sick leave account and if he is subsequently appointed, reappointed, or transferred to a position within the purview of such acts, with no break in service or a break of less than 90 days, or within one year after the notice of proposed separation from the former position within the purview of the leave acts, the leave shown to be due shall be credited to his account.

5. Section 30.410 is amended to read as follows:

§ 30.410 *Transfer from position not within purview of leave acts to position within purview of leave acts.* (a) Any employee who is or has been appointed, reappointed, or transferred from a position under the Sick Leave Act of March 14, 1936, to a position not under the act, shall be recredited upon reappointment to a position under the act with the sick leave he had to his credit at the time of his leaving the position under the act of March 14, 1936: *Provided,* That upon such reappointment, he has had no break in service, or a break or breaks of less than:

30 days immediately preceding any reappointment which occurred during the period from January 1, 1944, to March 1, 1946; or

90 days immediately preceding any reappointment which occurred on or after March 1, 1946; or

One year following a reduction-in-force notice, when the reappointment occurred on or after March 21, 1947.

(b) Any employee who meets the above conditions and whose reappointment has already occurred shall be recredited currently with the sick leave, or such part of the sick leave he had to his credit as will bring the amount of accumulated sick leave to his credit to not in excess of 90 days.

(c) Any employee who, before the lump sum leave payment act of December 21, 1944, was appointed, reappointed, or transferred without a break in service from a position under the Annual Leave Act of March 14, 1936 to a position not under the act, shall be recredited upon reappointment to a position under the act with the annual leave he had to his credit at the time of leaving the position under the act: *Provided,* That, upon such reappointment, he has had no break in service, or a break of less than 90 days.

6. These amendments shall be effective upon publication in the FEDERAL REGISTER.

(E. O. 9414, Jan. 13, 1944, 3 CFR 1944 Supp.)

NOTE: The above amendments are designed to make it unnecessary to carry forward fractions into 1949 leave records. In order to accomplish this purpose the Commission finds that good cause exists for making the amendments effective upon publication in the FEDERAL REGISTER.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 48-11015; Filed, Dec. 17, 1948; 8:49 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

[Orange Reg. 155]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.414 *Orange Regulation 155*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR and Supps. Part 933) regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. and Supp. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for such effective date.

(b) *Order* Except as otherwise provided in subparagraph (2) of this paragraph:

(1) During the period beginning at 12:01 a. m., e. s. t., December 20, 1948, and ending at 12:01 a. m., e. s. t., January 17, 1949, no handler shall ship:

(i) Any oranges, except Temple oranges, grown in Regulation Area I which grade U. S. No. 2 Bright, U. S. No. 2, U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade;

(ii) Any oranges, except Temple oranges, grown in Regulation Area II which grade U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade;

(iii) Any oranges, except Temple oranges, grown in Regulation Area II which grade U. S. No. 2 or U. S. No. 2 Bright unless such oranges (*a*) are in the same container with oranges which grade at least U. S. No. 1 Russet and (*b*) are not in excess of 50 percent, by count, of the number of all oranges in such container;

(iv) Any oranges, except Temple oranges, grown in Regulation Area I or Regulation Area II which are of a size smaller than a size that will pack 250 oranges, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(v) Any Temple oranges, grown in Regulation Area I or Regulation Area II, which grade U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade.

(2) During the period beginning at 12:01 a. m., e. s. t., December 24, 1948, and ending at 12:01 a. m., e. s. t., January 3, 1949, no handler shall ship any oranges, including Temple oranges, grown in Regulation Area I or Regulation Area II.

(3) As used in this section, the terms "handler," "ship," "Regulation Area I," and "Regulation Area II" shall each have the same meaning as when used in said amended marketing agreement and order; and the terms "U. S. No. 1 Russet," "U. S. No. 2 Bright," "U. S. No. 2," "U. S. No. 2 Russet," "U. S. No. 3," "standard pack," "container," and "standard nailed box" shall each have the same meaning as when used in the United States Standards for Oranges (13 F. R. 5174, 5306)

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 16th day of December 1948.

[SEAL] C. F. KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 48-11082; Filed, Dec. 17, 1948; 9:02 a. m.]

[Tangerine Reg. 79]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.415 *Tangerine Regulation 79*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR and Supps. Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* Except as otherwise provided in subparagraph (2) of this paragraph:

(1) During the period beginning at 12:01 a. m., e. s. t., December 20, 1948, and ending at 12:01 a. m., e. s. t., January 17, 1949, no handler shall ship:

(i) Any tangerines, grown in the State of Florida, which grade U. S. No. 2, U. S. No. 2 Russet, U S. No. 3, or lower than U. S. No. 3 grade; or

(ii) Any tangerines, grown in the State of Florida, which are of a size smaller than the size that will pack 210 tangerines, packed in accordance with the requirements of a standard pack, in a half-standard box (inside dimensions 9½ x 9½ x 19⅛ inches; capacity 1,726 cubic inches)

(2) During the period beginning at 12:01 a m., e. s. t., December 24, 1948, and ending at 12:01 a. m., e. s. t., January 3, 1949, no handler shall ship any tangerines grown in the State of Florida.

(3) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order; and "U. S. No. 2," "U. S. No. 2 Russet," "U. S. No. 3," and "standard pack" shall each have the same meaning as is given to the respective term in the United States Standards for Tangerines (13 F R. 4790). (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 16th day of December 1948.

[SEAL] C. F. KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 48-11079; Filed, Dec. 17, 1948; 9:02 a. m.]

[Grapefruit Reg. 106]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.416 *Grapefruit Regulation 106*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR and Supps., Part 933) regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. and Sup. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* Except as otherwise provided in subparagraph (2) of this paragraph:

(1) During the period beginning at 12:01 a. m., e. s. t., December 20, 1948, and ending at 12:01 a. m., e. s. t., January 17, 1949, no handler shall ship:

(i) Any grapefruit of any variety, grown in the State of Florida, which grade U. S. No. 2 Russet, or lower than U. S. No. 2 Russet;

(ii) Any seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(iii) Any seedless grapefruit of any variety, grown in the State of Florida, which are of a size smaller than a size that will pack 96 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(2) During the period beginning at 12:01 a. m., e. s. t., December 24, 1948, and ending at 12:01 a. m., e. s. t., January 3, 1949, no handler shall ship any grapefruit of any variety grown in the State of Florida.

(3) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order and the terms "U. S. No. 2 Russet," "standard pack," and "standard nailed box" shall each have the same meaning as when used in the United States Standards for Grapefruit (13 F. R. 4787). (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 16th day of December 1948.

[SEAL] C. F. KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 48-11080; Filed, Dec. 17, 1948; 9:02 a. m.]

[Lemon Reg. 305]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.412 *Lemon Regulation 305*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR, Cum. Supp., 953.1 et seq., 13 F. R. 766), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interests to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be

handled during the period beginning at 12:01 a. m., P. s. t., December 19, 1948; and ending at 12:01 a. m., P. s. t., December 26, 1948; is hereby fixed as follows:

(i) District 1. 219 carloads;

(ii) District 2: 6 carloads.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," and "District 2" shall have the same meaning as is given to each such term in the said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 16th day of December 1948.

[SEAL] C. F KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

DISTRICT NO. 1

Storage date: December 12, 1948

[12:01 a. m. Dec. 19, 1948, to 12:01 a. m. Jan. 2, 1949]

Handler	Prorate base (percent)
Total	100.000
American Fruit Growers, Inc., Corona	.238
American Fruit Growers, Inc., Fullerton	407
American Fruit Growers, Inc., Lindsay	.000
American Fruit Growers, Inc., Upland	477
Hazeltine Packing Co	751
Ventura Coastal Lemon Co	3.786
Ventura Pacific Co	1.456
Total A. F. G	7.115
Klink Citrus Association	.874
Lemon Cove Association	.835
Glendora Lemon Growers Association	3.445
La Verne Lemon Association	.844
La Habra Citrus Association, The	1.962
Yorba Linda Citrus Association, The	.959
Alta Loma Heights Citrus Association	.835
Etiwanda Citrus Fruit Association	1.063
Mountain View Fruit Association	.393
Old Baldy Citrus Association	1.675
Upland Lemon Growers Association	8.694
Central Lemon Association	.802
Irvine Citrus Association, The	729
Placentia Mutual Orange Association	1.113
Corona Citrus Association	490
Corona Foothill Lemon Co	2.461
Jameson Co	1.123
Arlington Heights Citrus Co	.361
College Heights Orange & Lemon Association	5.376
Chula Vista Citrus Association, The	401
El Cajon Valley Citrus Association	.152
Escondido Lemon Association	1.495
Fallbrook Citrus Association	1.842
Lemon Grove Citrus Association	493
San Dimas Lemon Association	2.842
Carpinteria Lemon Association	1.978
Carpinteria Mutual Citrus Association	2.447
Goleta Lemon Association	2.103
Johnston Fruit Co	3.189
North Whittier Heights Citrus Association	.586
San Fernando Heights Lemon Association	2.085
San Fernando Lemon Association	.032
Sierra Madre-Lamanda Citrus Association	2.392
Tulare Co. Lemon & Grapefruit Association	.933
Briggs Lemon Association	1.332
Culbertson Investment Co	.872
Culbertson Lemon Association	746
Fillmore Lemon Association	1.910
Oxnard Citrus Association	4.569
Rancho Sespe	.591
Santa Paula Citrus Fruit Association	2.118
Saticoy Lemon Association	3.538
Seaboard Lemon Association	2.115
Somis Lemon Association	2.384
Ventura Citrus Association	1.262
Limoneira Co	1.299
Teague-McKevett Association	.357
East Whittier Citrus Association	.813
Leffingwell Rancho Lemon Association	406
Murphy Ranch Co	2.009
Whittier Citrus Association	.638
Whittier Select Citrus Association	170
Total C. F. G. E	84.138
Chula Vista Mutual Lemon Association	645
Escondido Co-op. Citrus Association	.206
Index Mutual Association	.237
La Verne Co-op. Citrus Association	3.055
Orange Co-op. Citrus Association	.054
Ventura Co. Orange & Lemon Association	2.175
Whittier Mutual Orange & Lemon Association	.173
Total M. O. D	6.545
California Citrus Groves, Inc., Ltd	.130
Dunning, William A	055
El Rio Lemon Co	.083
Evans Brothers Packing Co	.074
Flint, Arthur E	.000
Harding & Leggett	.267
Johnson, Fred	.028
Lorbeer, Carroll W. C	084
MacDonald, Hugh J	.025
Orange Belt Fruit Distributors	.926
Reimers, Don H	.111
San Antonio Orchard Company	.201
Sentinel Butte Corporation	.065
Zaninovich Brothers, Inc	.153
Total independents	2.202

DISTRICT NO. 2

Total	100.000
Consolidated Citrus Growers	14.193
Phoenix Citrus Packing Co	7.253
Total A. F. G	21.446
Arizona Citrus Growers	15.518
Desert Citrus Growers Co	11.330
Mesa Citrus Growers	7.780
Tempe Citrus Co	4.299
Total C. F. G. E	38.927
Leppla Henry Produce Co	15.899
Pioneer Fruit Co	12.488
Total M. O. D	28.387
Morris Bros	11.240
Total Independents	11.240

[F. R. Doc. 48-11081; Filed, Dec. 17, 1948; 9:02 a. m.]

[Grapefruit Reg. 60]

PART 955—GRAPEFRUIT GROWN IN ARIZ., IMPERIAL COUNTY, CALIF., AND THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF THE SAN GORGONIO PASS

LIMITATION OF SHIPMENTS

§ 955.321 *Grapefruit Regulation 60*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 55 (7 CFR, Cum. Supp., 955.1 et seq.) regulating the handling of grapefruit grown in the State of Arizona; in Imperial County California; and in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation of the Administrative Committee established under the said marketing agreement and the said order, and upon other available information, it is hereby found that the limitation of shipments of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. and Sup. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order* (1) During the period beginning at 12:01 a. m., P. s. t., December 19, 1948, and ending at 12:01 a. m., P. s. t., January 16, 1949, no handler shall ship:

(i) Any grapefruit grown in the State of Arizona; in Imperial County, California, or in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, unless such grapefruit are well colored and graded at least U. S. No. 2 grade (as such grades are defined in the revised United States Standards for Grapefruit (California and Arizona) 12 F R. 1975) or

(ii) From the State of California or the State of Arizona to any point outside thereof in the United States or in Canada, any grapefruit, grown as aforesaid, which are of a size smaller than $3\frac{11}{16}$ inches in diameter ("diameter" to be measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit), except that a tolerance of 5 percent, by count, of grapefruit smaller than such minimum size shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the said revised United States Standards for Grapefruit (California and Arizona) *Provided*, That in determining the percentage of

grapefruit in any lot which are smaller than $3\frac{11}{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size $4\frac{7}{16}$ inches in diameter and smaller.

(2) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said marketing agreement and order; and the term "well colored" shall have the same meaning as is given to such term in the aforesaid revised United States Standards for Grapefruit (California and Arizona) (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 955.1)

Done at Washington, D. C., this 14th day of December 1948.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 48-11029; Filed, Dec. 17, 1948; 8:51 a. m.]

[Orange Reg. 259]

PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 966.405 *Orange Regulation 259*—(a) *Findings.* (1) Pursuant to the provisions of Order No. 66 (7 CFR, Cum. Supp., 966.1 et seq.) regulating the handling of oranges grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of oranges grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., December 19, 1948; and ending at 12:01 a. m., P. s. t., December 26, 1948; is hereby fixed as follows:

(i) *Valencia oranges.* (*a*) Prorate District No. 1. no movement;

(*b*) Prorate District No. 2: unlimited movement;

(*c*) Prorate District No. 3: no movement.

(ii) *Oranges other than Valencia oranges.* (*a*) Prorate District No. 1: 450 carloads;

(*b*) Prorate District No. 2: unlimited movement;

(*c*) Prorate District No. 3: unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," and "prorate base" shall have the same meaning as is given to each such term in the said order; and "Prorate District No. 1," "Prorate District No. 2," and "Prorate District No. 3" shall have the same meaning as is given to each such term in § 966.107 (11 F. R. 10258) of the rules and regulations contained in this part. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 17th day of December 1948.

C. F. KUNKEL,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

[12:01 a. m. Dec. 19, 1948, to 12:01 a. m. Dec. 26, 1948]

ALL ORANGES OTHER THAN VALENCIA ORANGES

Prorate District No. 1

Handler	Prorate base (percent)
Total	100.0000
A. F. G. Lindsay	1.3687
A. F. G. Porterville	2.1161
A. F. G. Sides	.5158
Ivanhoe Cooperative Association	.5360
Dollemyer & Sons, W. Todd	.6550
Earlibest Orange Association	1.2972
Elderwood Citrus Association	.2413
Exeter Citrus Association	2.5095
Exeter Orange Growers Association	1.2138
Exeter Orchards Association	1.0590
Hillside Packing Association	1.0499
Ivanhoe Mutual Orange Association	1.0406
Klink Citrus Association	4.5131
Lemon Cove Association	1.8721
Lindsay Citrus Growers Association	2.5347
Lindsay Coop. Citrus Association	1.5450
Lindsay District Orange Co	1.1166
Lindsay Fruit Association	1.0597
Lindsay Orange Growers Association	.2698
Naranjo Packing House Co	.9749
Orange Cove Citrus Association	3.1658
Orange Cove Orange Growers	1.9275
Orange Packing Co	1.2907
Orosi Foothill Citrus Association	1.2544
Paloma Citrus Fruit Association	1.0300
Rocky Hill Citrus Association	1.7430
Sanger Citrus Association	3.6376
Sequoia Citrus Association	1.0300
Stark Packing Corp	2.1093
Visalia Citrus Association	1.0548

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 1—Continued

Handler	Prorate base (percent)
Waddell & Son	1.2220
Butte County Citrus Association, Inc	1.3214
James Mills Orchards Co	.5244
Orland Orange Growers Association, Inc	1.2173
Andrews Bro. of Calif	.0000
Baird-Neece Corp	1.7328
Beattie Association, Agnes M	.6616
Grand View Heights Citrus Association	2.3939
Magnolia Citrus Association	2.3520
Porterville Citrus Association, The	1.5262
Richgrove-Jasmine Citrus Association	1.3166
Sandilands Fruit Co	1.6323
Strathmore Coop. Association	1.7036
Strathmore District Orange Association	1.5203
Strathmore Fruit Growers Association	1.1618
Strathmore Packing House Co	1.5392
Sunflower Packing Association, Inc	2.3195
Sunland Packing House Co	2.7143
Terra Bella Citrus Association	1.1664
Tule River Citrus Association	1.1683
Kroells Bros., Ltd	1.0226
Lindsay Mutual Groves	1.5639
Martin Ranch	1.2893
Woodlake Packing House	2.6252
Anderson Packing Co., R. M	.4055
Baker Bros	.1352
Batkin Jr., Fred A	.0370
California Citrus Groves, Inc., Ltd	1.6542
Chess Co., Meyer W	.3283
Edison Groves, Inc	7351
Evans Bros. Packing Co	.0316
Exeter Groves Packing Co	.2651
Furr, N. C	.5634
Ghianda Ranch	.0346
Harding & Leggett	1.4603
Justman-Frankenthal Co	.1832
Lo Bue Bros	1.0051
Marks, W. & M	4078
Panno Fruit Co., Carlo	.2160
Randolph Marketing Co	2.0359
Reimers, Don H	.3577
Rooke Packing Co., B. G	1.0973
Webb Packing Co., Inc	.5418
Wollenman Packing Co	1.1139
Woodlake Heights Packing Corp	.5514
Zaninovich Bros	7412

[F. R. Doc. 48-11110; Filed, Dec. 17, 1948; 11:23 a. m.]

Chapter XXI—Organization, Functions, and Procedure

PART 2407—OFFICE OF EXPERIMENT STATIONS

DISCONTINUANCE OF CODIFICATION

The codification of Part 2407 is discontinued. Future amendments to descriptions of organization and functions will appear in the Notices section of the FEDERAL REGISTER.

December 15, 1948.

[SEAL] E. C. ELTING,
Associate Chief, Office of Experiment Stations.

[F. R. Doc. 48-11028; Filed, Dec. 17, 1948; 8:51 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

REISSUANCE OF REGULATIONS

Because of amendments and additions which have been made since the original codification of Title 17, Chapter I, of the Code of Federal Regulations, the chapter is reprinted in its entirety in this issue of the FEDERAL REGISTER. All amendments and additions made since June 1, 1938, the effective date of the original codification, through November 8, 1948, and which are currently effective, have been incorporated in this reprint. The purpose of this reprint is to provide a convenient reference to material appearing in this chapter and no changes in substance have been made.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture and Chairman, Commodity Exchange Commission.

DECEMBER 15, 1948.

Part
0 Rules of practice.
1 General regulations under the Commodity Exchange Act.
2 Special provisions applicable to grains, flaxseed, and soybeans.
3 Special provisions applicable to cotton.
4 Special provisions applicable to butter.
5 Special provisions applicable to eggs.
6 Special provisions applicable to potatoes.
7 Special provisions applicable to millfeeds.
8 Special provisions applicable to wool tops.
9 Special provisions applicable to fats.
10 Special provisions applicable to oils.
11 Special provisions applicable to cottonseed meal and soybean meal.
100 Orders of the Secretary of Agriculture.
150 Orders of the Commodity Exchange Commission.

PART 0—RULES OF PRACTICE

SUBPART A—RULES APPLICABLE TO PROCEEDINGS BEFORE THE SECRETARY OF AGRICULTURE

Sec.
0.0 Scope and applicability of rules of practice.
0.1 Meaning of words.
0.2 Definitions.

RULES APPLICABLE TO DISCIPLINARY PROCEEDINGS

0.3 Institution of proceedings.
0.4 Stipulations and consent orders.
0.5 Complaints.
0.6 Docket number.
0.7 Referees.
0.8 Intervention.
0.9 The answer.
0.10 Motions and requests.
0.11 Oral hearing before referee.
0.12 Depositions.
0.13 Subpenas.
0.14 Fees of witnesses.
0.15 Prehearing conferences.
0.16 Referee's report.
0.17 Shortened procedure.
0.18 Transmittal of record.
0.19 Argument before Secretary.
0.20 Preparation and issuance of order.
0.21 Applications for reopening hearings; for rehearings or reargument of proceedings; or for reconsideration of orders.
0.22 Filing; service; extensions of time; additional time for filing; and computation of time.

RULES OF PRACTICE APPLICABLE TO RULE-MAKING PROCEEDINGS

0.23 Requests for promulgation, amendment, or rescission of regulations.
0.24 Status of persons requesting promulgation, amendment, or rescission of regulations.
0.25 Notice of hearing.
0.26 Conduct of hearing.
0.27 Preparation and issuance of order.

RULES APPLICABLE TO ALL PROCEEDINGS

0.28 Hearings before the Secretary.

SUBPART B—RULES APPLICABLE TO PROCEEDINGS BEFORE THE COMMODITY EXCHANGE COMMISSION

Sec.
0.50 Scope and applicability of rules of practice.
0.51 Meaning of words.
0.52 Definitions.

RULES APPLICABLE TO DISCIPLINARY PROCEEDINGS

0.53 Institution of proceedings.
0.54 Stipulations and consent orders.
0.55 Complaints.
0.56 Docket number.
0.57 Referees.
0.58 Intervention.
0.59 The answer.
0.60 Motions and requests.
0.61 Oral hearing before referee.
0.62 Depositions.
0.63 Subpenas.
0.64 Fees of witnesses.
0.65 Prehearing conferences
0.66 Referee's report.
0.67 Shortened procedure.
0.68 Transmittal of record.
0.69 Argument before Commission.
0.70 Preparation and issuance of order.
0.71 Applications for reopening hearings; for rehearings or reargument of proceedings; or for reconsideration of orders.
0.72 Filing; service; extensions of time; additional time for filing; and computation of time.

RULES OF PRACTICE APPLICABLE TO RULE-MAKING PROCEEDINGS

0.73 Requests for promulgation, amendment, or rescission of regulations.
0.74 Status of persons requesting promulgation, amendment, or rescission of regulations.
0.75 Notice of hearing.
0.76 Conduct of hearing.
0.77 Preparation and issuance of order.

RULES APPLICABLE IN 6A PROCEEDINGS

0.78 Complaints.
0.79 Docket number.
0.80 Referees.
0.81 Intervention.
0.82 The answer.
0.83 Motions and requests.
0.84 Oral hearing before referee.
0.85 Depositions.
0.86 Subpenas.
0.87 Fees of witnesses.
0.88 Prehearing conferences.
0.89 Referee's report.
0.90 Shortened procedure.
0.91 Transmittal of record.
0.92 Argument before the Commission.
0.93 Preparation and issuance of order.
0.94 Applications for reopening hearings, for rehearings or reargument of proceedings, or for reconsideration of orders.
0.95 Filing; service; extensions of time; additional time for filing; and computation of time.

RULES APPLICABLE TO ALL PROCEEDINGS

0.96 Hearings before the Commission.

SUBPART A—RULES APPLICABLE TO PROCEEDINGS BEFORE THE SECRETARY OF AGRICULTURE

AUTHORITY: §§ 0.0 to 0.28 issued under sec. 8a, as added by sec. 10, 49 Stat. 1501; 7 U. S. C. 12a.

§ 0.0 *Scope and applicability of rules of practice.* Sections 0.1–0.22, inclusive, shall apply to the conduct of all disciplinary proceedings as hereinafter defined in § 0.2 (j)

Sections 0.1, 0.2 and 0.23–0.27, inclusive, shall apply to the conduct of all rule-making proceedings as hereinafter defined in § 0.2 (k)

§ 0.1 *Meaning of words.* Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 0.2 *Definitions.* As used in this subpart, the terms as defined in section 2 of the act shall apply with equal force and effect. In addition, and except as may be provided otherwise herein:

(a) The term "act" means the Commodity Exchange Act, approved September 21, 1922 (42 Stat. 998), as amended June 15, 1936 (49 Stat. 1491, 7 U. S. C. 1–17a) and other legislation supplementary thereto and amendatory thereof;

(b) The term "Department" means the United States Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture or any person to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead;

(d) The term "Commodity Exchange Authority" means the Commodity Exchange Authority, United States Department of Agriculture;

(e) The term "FEDERAL REGISTER" means the publication provided for by the act of July 26, 1935, as amended (49 Stat. 500, as amended; 44 U. S. C., and Sup., ch. 8B)

(f) The term "hearing" means that part of the proceeding which involves the submission of evidence and means either an oral or a written hearing;

(g) The term "party" includes the Secretary in those instances where he is named as a party of record in the proceeding;

(h) The term "complainant" means the party upon whose complaint the proceeding is instituted;

(i) The term "respondent" means the party proceeded against;

(j) The term "disciplinary proceeding" means any proceeding before the Secretary arising under the act, in which proceeding it is required by law that the order or other determination of the Secretary shall be made only after an opportunity for a hearing, and, if a hear-

ing be held, only upon the basis of a record made in the course of such hearing;

(k) The term "rule-making proceeding" means any proceeding before the Secretary arising under section 5a (4) and (5) of the act;

(l) The term "hearing clerk" means the hearing clerk, United States Department of Agriculture, Washington 25, D. C.,

(m) The term "referee" means an examiner conducting a proceeding under the act;

(n) The term "referee's report" (presiding officer's report) means the referee's report to the Secretary, and includes the referee's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and orders submitted by the parties;

(o) The term "Act Administrator" means the Administrator of the Commodity Exchange Authority, United States Department of Agriculture, in his capacity as Administrator of the Commodity Exchange Act, or any officer or employee of the Commodity Exchange Authority to whom he has heretofore lawfully delegated or may hereafter lawfully delegate the authority to act in his stead;

(p) The term "examiner" means any examiner in the Office of Hearing Examiners, United States Department of Agriculture.

RULES APPLICABLE TO DISCIPLINARY PROCEEDINGS

§ 0.3 *Institution of proceedings*—(a) *Application to institute proceeding.* Any interested person having any information of any violation of the act, or of any of the regulations promulgated thereunder, by any person (other than a contract market) may file with the Act Administrator an application requesting the institution of such proceeding as is authorized under the act. Such application shall be in writing, signed by or on behalf of the applicant, and shall include a short and simple statement of the facts constituting the alleged violation and the name and address of the applicant and the name and address of the person against whom the applicant complains.

(b) *Status of applicant.* The person filing an application as described in paragraph (a) of this section shall have no legal status in the proceeding which may be instituted as a result of the application, except where the applicant may be permitted to intervene therein, in the manner hereinafter provided, or may be called as a witness, and the applicant's identity shall not be divulged by any employee of the Department, except with the applicant's prior consent or upon court order.

(c) *Who may institute.* If, after investigation of the matters complained of in the application described in paragraph (a) of this section, or after investigation made on his own motion, the Secretary "has reason to believe that any person (other than a contract market) is violating or has violated any of the provisions of the act, or any of the rules and regulations made pursuant to its requirements, or has manipulated or is attempting to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any board of trade,"[1] he will institute a proceeding: *Provided,* That in any case, except one of wilfulness or one in which the public health, interest or safety otherwise requires, prior to the institution of a proceeding for the suspension or revocation of a registration or license, facts or conditions which may warrant such action shall be called, in writing, to the attention of the person complained against, and such person shall be accorded opportunity to demonstrate or achieve compliance with all lawful requirements. Proceedings will be instituted only upon complaints issued by the Secretary and will not be instituted upon pleadings filed by private persons.

§ 0.4 *Stipulations and consent orders*—(a) *Stipulation of compliance.* At any time prior to the issuance of the complaint in any proceeding, the Secretary, in his discretion, may enter into a stipulation with the prospective respondent, whereby the latter admits the material facts and agrees to discontinue the acts or practices which are intended to be set up as violative of the act. Such stipulations shall be admissible as evidence of such acts and practices in any subsequent proceeding against such person before the Secretary.

(b) *Consent order.* At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.

§ 0.5 *Complaints*—(a) *Filing and service.* All complaints shall be filed with the hearing clerk. The provisions of § 0.22 shall govern the filing, number of copies, and service of complaints.

(b) *Contents.* A complaint shall state briefly and clearly the allegations of fact which constitute a basis for the proceeding and shall specify with particularity the matters or things in issue. Complaints shall not include charges, implied charges, or requirements phrased generally in the words of the act, but the words of the act may be identified and quoted or used in preliminary recitals.

(c) *Amendments.* At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, at the request of the respondent, be adjourned for a period not exceeding 15 days. Amendments subsequent to the first amendment or subsequent to the filing of an answer by the respondent may be made only with leave of the referee or with the written consent of the adverse party.

§ 0.6 *Docket number.* Each proceeding, immediately following its institution, shall be assigned a docket number by the hearing clerk, and thereafter the proceeding shall be referred to by such number.

§ 0.7 *Referees*—(a) *Assignment.* No referee shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or marriage to any party to the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the complaint or in the development of the evidence to be introduced therein.

(b) *Disqualification of referee.* Any party may file with the hearing clerk a timely affidavit of disqualification of the referee which shall set forth with particularity the grounds of alleged disqualification. After such investigation or hearing as the Secretary may deem necessary, he may find the affidavit without merit or may direct that another referee be assigned to the proceeding. Where the affidavit is found without merit, the affidavit, any record made thereon, and the finding and order of the Secretary shall be made a part of the record.

A referee shall ask to be withdrawn from any proceeding in which he deems himself disqualified for any reason.

(c) *Conduct.* The referee shall conduct the proceeding in a fair and impartial manner and, save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(d) *Powers of referee.* Subject to review by the Secretary as provided elsewhere in this subpart, the referee, in any proceeding assigned to him, shall have power to:

(1) Rule upon motions and requests;

(2) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;

(3) Administer oaths and affirmations and take affidavits;

(4) Issue subpenas requiring the attendance and testimony of witnesses and the production of books, records, contracts, papers, and other documentary evidence;

(5) Summon and examine witnesses and receive evidence;

(6) Take or order the taking of depositions;

(7) Admit or exclude evidence;

(8) Hear oral argument on facts or law;

(9) Do all acts and take all measures necessary for the maintenance of order and efficient conduct of the proceeding.

[1] Words in quotation marks from sec. 6 (b), 42 Stat. 1001, as amended; 7 U. S. C. 15.

(e) *Who may act in the absence of the referee.* In case of the absence of the referee, or his inability to act, the powers and duties to be performed by him under this subpart in connection with a proceeding may, without abatement of the proceeding unless otherwise ordered by the Secretary, be assigned to any other referee.

§ 0.8 *Intervention.* At any time after the institution of a proceeding, and before it has been submitted to the Secretary for final consideration, the Secretary or the referee may, upon petition in writing and for good cause shown, permit any person to intervene therein. The petition shall state with preciseness and particularity (a) The petitioner's relationship to the matters involved in the proceeding, (b) the nature of the material he intends to present in evidence, (c) the nature of the argument he intends to make, (d) any other reason that he should be allowed to intervene.

§ 0.9 *The answer*—(a) *Filing and service.* Within 20 days after service of the complaint, the respondent shall file, in triplicate, with the hearing clerk, an answer, signed by the respondent or his attorney: *Provided,* That the Secretary may order that the hearing be held without answer or other pleading. The answer shall be served upon the complainant, and any other party of record, in the manner provided in § 0.22.

(b) *Contents; failure to file.* Such answer shall (1) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) state that the respondent admits all of the allegations of the complaint. The answer may contain a waiver of hearing.

Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission of facts, the referee, without further investigation or hearing, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. Unless the parties have waived service of the referee's report, it shall be served upon them in the manner provided in § 0.22. The parties shall be given an opportunity to file exceptions to the report, to file briefs in support of such exceptions, and to make oral argument thereon before the Secretary. Any request to make oral argument before the Secretary must be filed in the manner and within the time provided in § 0.16 (d)

§ 0.10 *Motions and requests*—(a) *General.* All motions and requests shall be filed with the hearing clerk, except that those made during the course of an oral hearing may be filed with the referee or may be stated orally and made a part of the transcript.

The referee is authorized to rule upon all motions and requests filed or made prior to the filing of his report with the hearing clerk, as hereinafter provided. The Secretary will rule upon all motions and requests filed after that time.

(b) *Motions entertained.* Any motion will be entertained except a motion to dismiss on the pleadings.

The submission or certification of any motion, request, objection, or other question to the Secretary prior to the time when the referee's report is filed with the hearing clerk shall be in the discretion of the referee.

§ 0.11 *Oral hearing before referee*—(a) *Request for oral hearing.* Any party may request an oral hearing on the facts by including such request in the complaint or answer or by a separate request in writing filed with the hearing clerk. Failure by the respondent to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing, and any respondent so failing to request an oral hearing will be deemed to have agreed that the proceeding may be decided upon a record formed under the shortened procedure provided for in § 0.17.

Waiver of oral hearing shall not be deemed to be a waiver of the right to make oral argument before the Secretary upon exceptions to the referee's report. Such argument will be allowed in accordance with the provisions of § 0.19.

(b) *Time and place.* If and when the proceeding has reached the stage where an oral hearing is to be held, the referee, giving careful consideration to the convenience of the parties, shall set a time and place for hearing and shall file with the hearing clerk a notice stating the time and place. If any change in the time or place of the hearing is made, the referee shall file with the hearing clerk a notice of such change, which notice shall be served upon the parties, unless it is made during an oral hearing and made a part of the transcript.

(c) *Appearances*—(1) *Representation.* In any proceeding, the parties may appear in person or by counsel or other representative. The Secretary, if represented by counsel, shall be represented by an attorney assigned by the Solicitor of the Department.

Persons who appear as counsel or in a representative capacity at a hearing must conform to the standards of ethical conduct required of practitioners before the courts of the United States. Whenever the Secretary finds, after notice and opportunity for hearing, that a person, who is acting or has acted as counsel or representative for another person in any proceeding before the Secretary, is unfit to act as such representative or counsel, he will order that such person be precluded from acting as counsel or representative in any proceeding under the act. The procedure in such case will be governed by the applicable provisions of this subpart.

(2) *Failure to appear* If any party to the proceeding, after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the referee.

Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the referee's report and to file exceptions and make oral argument before the Secretary with respect thereto, in the manner provided hereinafter.

(d) *Order of proceeding.* Except as may be determined otherwise by the referee, the complainant shall proceed first at the hearing.

(e) *Evidence*—(1) *In general.* The testimony of witnesses at a hearing shall be upon oath or affirmation administered by the referee and shall be subject to cross-examination.

Any witness may, in the discretion of the referee, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.

The referee shall exclude evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the referee. The transcript shall not include argument or debate thereon except as ordered by the referee. The ruling of the referee on any objection shall be a part of the transcript.

Only objections made before the referee may subsequently be relied upon in the proceeding.

(3) *Depositions.* The deposition of any witness shall be admitted, in the manner provided in and subject to the provisions of § 0.12.

(4) *Affidavits.* Except as is otherwise provided in this subpart, affidavits may be admitted only if the evidence is otherwise admissible and the parties agree that affidavits may be used.

(5) *Proof of documents.* A true copy of every written entry in the records of the Department, made by an officer or employee thereof in the course of his official duty, and relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(6) *Exhibits.* Except where the referee finds that the furnishing of copies is impracticable, a copy of each exhibit, in addition to the original, shall be filed with the referee for the use of each other party to the proceeding. The referee shall advise the parties as to the exact number of copies which will be required to be filed and shall make and have noted on the record the proper distribution of the copies.

(7) *Official notice.* Official notice will be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical or scientific fact of established character

Provided, That the parties shall be given adequate notice, at the hearing or by reference in the referee's report or tentative order or otherwise, of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(8) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript *in toto*. In such event, it shall be considered a part of the transcript if the Secretary decides that the referee's ruling in excluding the evidence was erroneous. The referee shall not allow the insertion of such evidence *in toto* if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Secretary decides that the referee's ruling in excluding the evidence was erroneous, the hearing shall be reopened to permit the taking of such evidence.

(f) *Oral argument before referee.* In disciplinary proceedings, oral argument before the referee shall be allowed unless the referee finds that the denial of such argument will not deprive the parties of an adequate opportunity for oral argument subsequently in the proceeding. Such argument may be limited by the referee to any extent that he finds necessary for the expeditious disposition of the proceeding.

(g) *Transcript.* Copies of the transcript may be obtained upon written application filed with the reporter, and upon payment of fees at the rate provided in the contract between the reporter and the Secretary.

§ 0.12 *Depositions* — (a) *Application for taking deposition.* Upon the application of a party to the proceeding, the referee may, at any time after the filing of the complaint, order the taking of testimony by deposition. The application shall be in writing and shall be filed with the hearing clerk and shall set forth: (1) The name and address of the proposed deponent; (2) the name and address of the person (referred to hereinafter in this section as the "officer") qualified under in this subpart to take depositions, before whom the proposed examination is to be made; (3) the proposed time and place of the examination, which should be at least 15 days after the date of the mailing of the application; and (4) the reasons why such deposition should be taken.

(b) *Referee's order for taking deposition.* If the referee is satisfied that good cause for taking the deposition is present, he may order its taking. The order shall be filed with the hearing clerk and shall be served upon the parties and shall state: (1) The time and place of the examination (which shall not be less than 10 days after the filing of the order) (2) the name of the officer before whom the examination is to be made; (3) the name of the deponent. The officer and the time and place need not be the same as those suggested in the application.

(c) *Qualifications of officer.* The deposition "may be taken before any judge of any court of the United States, or any United States commissioner, or any clerk of a district court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceedings" [1]

(d) *Procedure on examination.* The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or by some person under his direction and in his presence. In lieu of oral cross-examination, parties may transmit written cross-interrogatories to the officer prior to the examination and the officer shall propound such cross-interrogatories to the deponent.

The applicant must arrange for the examination of the witness either by oral examination or by written interrogatories. If it is found by the referee, upon the protest of a party to the proceeding, that such party has his residence and his place of business more than 100 miles from the place of the examination and that it would constitute an undue hardship upon such party to be represented at the examination, the applicant will be required to conduct the examination by means of interrogatories. When the examination is conducted by means of interrogatories, copies of the interrogatories shall be served upon the other parties to the proceeding at least five days prior to the date set for the examination, and the other parties shall be afforded an opportunity to file with the officer cross-interrogatories at any time prior to the time of the examination.

(e) *Signature by witness.* The transcript of the deposition shall be read to or by the deponent, unless such reading is waived by the parties and the deponent. Any changes which the deponent wishes to make shall be entered upon the deposition by the officer, with a statement of the reasons given by the deponent for such changes. The deposition shall be signed by the deponent unless the parties by stipulation waive such signing, or unless the deponent is ill or cannot be found or refuses to sign. If the deponent does not sign, the officer shall sign and shall state on the record the reason why the deponent did not sign. In such case the deposition shall be as valid as though signed by the deponent, unless the referee finds that the reason given by the deponent for his refusal to sign requires rejection of the deposition in whole or in part.

(f) *Certification by officer.* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the deposition, together with two copies thereof, in an envelope and mail the same by registered mail to the hearing clerk.

(g) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section may be used in a proceeding if the referee finds that the evidence is otherwise admissible and (1) that the witness is dead; or (2) that the witness is at a greater distance than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has endeavored but has been unable to procure the attendance of the witness by subpena; or (5) in any event, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interests of justice and with due regard to the importance of presenting the testimony orally before the referee, to allow the deposition to be used. If any part of a deposition is put in evidence by a party, any other party may require the production of the remainder, or any other portion, of the deposition.

§ 0.13 *Subpenas* — (a) *Issuance of subpenas.* The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpena, be required at any designated place of hearing. Subpenas may be issued by the Secretary or by the referee, upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof.

(b) *Application for subpena duces tecum.* Subpenas for the production of documentary evidence, unless issued by the referee upon his own motion, shall be issued only upon a verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality and the necessity of their production.

(c) *Service of subpenas.* Subpenas may be served (1) by a United States Marshal or his deputy, or (2) by any other person who is not less than 18 years of age, or (3) by registering and mailing a copy of the subpena addressed to the person to be served at his or its last known principal place of business or residence. Proof of service may be made by the return of service on the subpena by the United States Marshal or his deputy or, if served by an individual other than a United States Marshal or his deputy, by an affidavit of such person, stating that he personally served a copy of the subpena upon the person named therein; or, if service was by registered mail, by an affidavit made by the person mailing the subpena that it was mailed as provided herein and by the signed return post-office receipt: *Provided*, That where the subpena is issued on behalf of the Secretary, the return receipt without an affidavit of mailing shall be sufficient proof of service. In making personal service, the person mak-

[1] Words in quotation marks are from 24 Stat. 383; 49 U. S. C. 12, which is made applicable to proceedings under the Commodity Exchange Act by sec. 6 (b), 42 Stat. 1001, as amended; 7 U. S. C. 15.

ing service shall leave a copy of the subpena with the person subpenaed; the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the same.

§ 0.14 *Fees of witnesses.* Witnesses summoned before the referee or before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears or the deposition is taken.

§ 0.15 *Prehearing conferences.* In any proceeding in which it appears that such procedure will expedite the proceeding, the referee, at any time prior to the commencement of the oral hearing, may request the parties or their counsel to appear at a conference before him to consider (a) the simplification of issues; (b) the necessity or desirability of amendments to pleadings; (c) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (d) the limitation of the number of expert or other witnesses; and (e) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but the referee shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference. If the circumstances are such that a conference is impracticable, the referee may request the parties to correspond with him for the purpose of accomplishing any of the objects set forth in this section. The referee shall forward copies of letters and documents to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the referee shall submit a written summary for the record if any action is taken.

§ 0.16 *Referee's report*—(a) *Filing the transcript of evidence.* As soon as practicable after the close of the hearing, the reporter shall transmit to the hearing clerk the transcript of the testimony and the exhibits introduced in evidence at the hearing, except such portions of the transcript and exhibits as shall have been delivered to the referee. The hearing clerk will advise each party to the proceeding as to the date on which the transcript was filed.

(b) *Proposed findings of fact, conclusions, and orders.* Within 10 days after receipt of notice that the transcript has been filed, each party may file with the hearing clerk proposed findings of fact, conclusions, and orders, based solely upon the record, and a brief in support thereof.

(c) *Referee's report.* The referee, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare, upon the basis of the record, and shall file with the hearing clerk, his report, a copy of which shall be served upon each of the parties.

(d) *Exceptions.* Within 20 days after receipt of the referee's report, the parties may file exceptions to the report. Any party who desires to take exception to any matter set out in the report shall transmit his exceptions in writing to the hearing clerk, referring to the relevant pages of the transcript, and suggesting a corrected finding of fact, conclusion, or order. Within the same period of time, each party shall transmit to the hearing clerk a brief statement in writing concerning each of the objections taken to the action of the referee at the hearing, as set out in § 0.11, upon which the party wishes to rely, referring, where relevant, to the pages of the transcript. A party, if he files exceptions or a statement of objections, shall state in writing whether he desires to make an oral argument thereon before the Secretary; otherwise, he shall be deemed to have waived such oral argument.

§ 0.17 *Shortened procedure — (a) Consent of parties.* Whenever it appears to the referee who is assigned to a proceeding that the proceeding can be more expeditiously handled under the informal procedure provided for in this section, he shall suggest to the parties that they consent to the use of such procedure. Except where oral hearing has been waived by failure to request it in proper time or otherwise, parties are free to consent to such procedure if they choose; declination of consent will not affect or prejudice the rights or interests of any party. A party, if he has not waived oral hearing, may consent to the use of the shortened procedure on the condition that the statements of fact be submitted in the form of depositions rather than affidavits. In such case, if the other parties agree, depositions shall be required to be filed in lieu of affidavits. If any party who has not waived oral hearing does not consent to the use of the shortened procedure, the proceeding will be set for oral hearing. The request that the shortened procedure be used need not originate with the referee; any party may address a request to the referee asking that the shortened procedure be used. The referee, in his suggestion to the parties, will set a short period of time in which the parties may indicate their consent to the shortened procedure; at the end of that period, the referee will notify the parties that the shortened procedure will or will not be used. All requests, suggestions, and notices mentioned in this section shall be filed with the hearing clerk.

(b) *Complainant's opening statement.* Within 20 days after receipt of notice that the shortened procedure will be used, the complainant shall file with the hearing clerk, in triplicate, in support of the complaint, an opening statement of the facts. A copy of such document shall be served promptly by the hearing clerk upon the respondent.

(c) *Respondent's answering statement.* Within 20 days after receipt of the complainant's opening statement, the respondent may file with the hearing clerk, in triplicate, in support of his answer, an answering statement of the facts. A copy of the answering statement shall be served promptly by the hearing clerk upon the complainant.

(d) *Complainant's statement in reply.* Within 10 days after receipt of the answering statement, the complainant may file with the hearing clerk, in triplicate, a statement in reply, which shall be confined strictly to replying to the facts and arguments set forth in the answering statement.

(e) *Contents of statements.* As used in this section, the term "statement" includes (1) statements of fact signed and sworn to by persons having knowledge of those facts; (2) documents filed as a part of the proof of the alleged facts (which documents shall be properly identified by verified statements in the statement filed or otherwise authenticated in such a manner that they would be admissible in evidence at an oral hearing under the rules in this subpart), and (3) briefs containing argument to sustain the contentions of the party submitting the statement. When practicable, the documents which constitute the record of any transaction in dispute should be made a part of the statement.

(f) *Verification.* Any facts stated in the statement must be sworn to (before a person legally authorized to administer oaths or before a person designated by the Secretary for the purpose) by a person who states in the affidavit that he has actual knowledge of the facts. Except under unusual circumstances, which shall be set forth in the affidavit, any such person shall be one who would appear as a witness if an oral hearing were held. The original of each document must show the signature, capacity, and impression seal (if the officer is required by law to have a seal) of the officer administering the oath and the date thereof. Copies must bear a notation that the original shows the data required in this respect. If a party elects to do so, he may file his statement of facts in the form of depositions rather than affidavits. Depositions filed under the shortened procedure, whether filed as a result of a requirement in the consent to the shortened procedure or voluntarily, shall conform to the provisions set forth in § 0.12.

(g) *Stipulations.* In addition to or in lieu of such statements, the parties may file with the hearing clerk stipulations of fact signed by the parties or their representatives. Such stipulations shall become a part of the record. The stipulations must be filed with the hearing clerk within 20 days after notice that the shortened procedure will be used; or, if the complainant's opening statement is filed, within 20 days after the filing of such statement; or, if an answering statement is filed, within 15 days after the filing thereof; or, if a statement in reply is filed, within 15 days after the filing thereof.

(h) *Waiver of right to file.* Failure to file, within the time prescribed, any statement or stipulation required or authorized under this section shall constitute a waiver of the right to file such statement or stipulation. In such case, the referee may prepare his report and

the Secretary may make the final determination upon the evidence contained in the record at the time of such failure to file, except that no determination, other than dismissal of the proceeding, shall be made if the complainant fails to file an opening statement of the facts.

(i) *Referee's report under the shortened procedure.* Except as otherwise may be directed by the referee, the filing of the complainant's statement in reply will conclude the presentation of evidence. The referee will thereupon file with the hearing clerk a notice that the parties may file proposed findings of fact, conclusions, and orders within 10 days after service of such notice. Upon the expiration of the period set for the filing of proposed findings, conclusions, and orders, the referee will prepare his report, and the same procedure shall be followed thereafter as in proceedings where an oral hearing has been held.

(j) *Assignment for oral hearing.* At the request of any party or upon the referee's own motion, the proceeding shall be set for oral hearing at any stage of the proceeding prior to the filing of the referee's report: *Provided,* That, where the party making such request has waived oral hearing by failure to request it in proper time, as provided in § 0.11 (a) the assignment for oral hearing shall be in the discretion of the referee.

§ 0.18 *Transmittal of record.* The hearing clerk, immediately following the period allowed for the filing of exceptions, shall transmit to the Secretary the record of the proceeding. Such record shall include: the pleadings; motions and requests filed, and rulings thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed therein; any statements filed under the shortened procedure; any documents or papers filed in connection with prehearing conferences; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the hearing; the referee's report; and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

§ 0.19 *Argument before Secretary—*(a) *Oral argument.* Unless a party has included in his exceptions a request for oral argument or has filed a separate request for oral argument prior to the expiration of the last date for filing such exceptions, he shall be deemed to have waived his right to such oral argument.

(b) *Briefs.* The parties may file written briefs either in addition to oral argument or in lieu thereof.

(c) *Scope of argument.* Except where the Secretary determines that argument on additional issues would be helpful, argument, whether oral or on brief, shall be limited to the issues raised by the exceptions and statement of objections. If the Secretary determines that additional issues should be argued, counsel for the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues to be argued.

§ 0.20 *Preparation and issuance of order—*(a) *Preparation of order.* As soon as practicable after the receipt of the record from the hearing clerk, or, in case oral argument was had, as soon as practicable thereafter, the Secretary, upon the basis of and after due consideration of the record, shall prepare his order in the proceeding which shall include findings, conclusions, order, and rulings on motions, exceptions, statements of objections, and proposed findings, conclusions, and orders submitted by the parties, not theretofore ruled upon. If an oral argument was held, the order shall be prepared by and shall be issued over the signature of the official who heard such oral argument, unless the parties shall consent to a different arrangement. At no stage of the proceeding between its institution and the issuance of the order shall the Secretary discuss *ex parte* the merits of the proceeding with any person who is connected with the proceeding in an advocative or an investigative capacity, or with any representative of such person: *Provided, however,* That the Secretary may discuss the merits of the case with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Secretary, during the pendency of the proceeding, and relating to the merits thereof, by, or on behalf of, any party shall be regarded as argument made in the proceeding and shall be filed with the hearing clerk, who shall serve a copy thereof upon the opposite party to the proceeding, and opportunity shall be given the opposite party to file a reply thereto.

(b) *Issuance of order.* The order, prepared as described in paragraph (a) of this section, shall be issued and served upon the parties and upon all contract markets as the final order in the proceeding without further procedure: *Provided,* That, if the terms of the order differ substantially from those proposed in the report of the referee, the Secretary may, if he deems it advisable to do so, direct that a copy of the order be served upon the parties as a tentative order; and, in such event, opportunity shall be given the parties to file exceptions thereto and written arguments or briefs in support of such exceptions. In such case, if no exceptions are filed within 20 days following the service of the tentative order, it shall be issued and served as the final order in the proceeding.

§ 0.21 *Applications for reopening hearings; for rehearings or reargruments of proceedings; or for reconsideration of orders* — (a) *Petition requisite* — (1) *Filing; service.* An application for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the order must be made by petition to the Secretary filed with the hearing clerk, who immediately shall notify and serve a copy thereof upon the other party to the proceeding. Every such petition must state specifically the grounds relied upon.

(2) *Petitions to reopen hearings.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing. Every such petition shall be served by the hearing clerk on the other parties to the proceeding.

(3) *Petitions to rehear or reargue proceedings, or to reconsider orders.* A petition to rehear or reargue the proceeding or to reconsider the order must be filed within 15 days after the date of the service of the order. Every such petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

(b) *Procedure for disposition of petitions.* Within 20 days following the service of any petition provided for in this section, the other party to the proceeding shall file with the hearing clerk an answer thereto. As soon as practicable thereafter, the Secretary shall announce the decision whether to grant or to deny the petition. Unless the Secretary shall determine otherwise, operation of the order shall not be stayed pending the decision whether to grant or to deny the petition. In the event that any such petition is granted by the Secretary, the applicable rules of practice, as set out elsewhere herein, shall be followed. A person filing a petition under this section shall be regarded as the complainant, although he shall be referred to as the complainant or respondent, depending upon his designation in the original proceeding.

§ 0.22 *Filing; service; extensions of time; additional time for filing; and computation of time—*(a) *Filing; number of copies.* Except as is provided otherwise in this section, all documents or papers required or authorized by this subpart to be filed with the hearing clerk shall be filed in triplicate: *Provided,* That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide for service upon all the parties to the proceeding. Any document or paper, required or authorized under the rules in this subpart to be filed with the hearing clerk, shall, during the course of an oral hearing, be filed with the referee.

(b) *Service; proof of service.* Copies of all such papers shall be served upon the parties by the hearing clerk, by the referee, or by some other employee of the Department or by a United States Marshal or his deputy. Service shall be made either (1) by delivering a copy of the document or paper to the individual to be served or to a member of the partnership to be served or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association; or (2) by leaving a copy of the document or paper at the principal office or place of business of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (3) by registering and mailing a copy of the document or paper, addressed to such individual, partnership,

corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known principal office, place of business, or residence. Proof of service under this section shall be made by the affidavit of the person who actually made the service, provided that, if the service be made by registered mail, as outlined in subparagraph (3) of this paragraph, proof of service shall be made by the return post-office receipt. The affidavit or post-office receipt contemplated herein shall be filed with the hearing clerk, and the fact of filing thereof shall be noted on the docket of the proceeding.

(c) *Extensions of time.* The time for the filing of any document or paper required or authorized under this subpart to be filed may be extended by the referee (before the referee's report is filed) or by the Secretary (after the referee's report is filed) if request for such extension of time is made prior to or on the final date allowed for such filing, and if, in the judgment of the referee or the Secretary, as the case may be, after notice to and consideration of the views of the other party, there is good reason for the extension.

(d) *Effective date of filing.* Any document or paper required or authorized under this subpart to be filed, shall be deemed to be filed at the time when it reaches the Department of Agriculture in Washington, D. C., or, if authorized to be filed with any officer or employee of the Department at any place outside the District of Columbia, it shall be deemed to be filed at the time when it reaches the office of such officer or employee.

(e) *Additional time for filing.* The time for the filing of any document or paper required or authorized under this subpart to be filed shall be five days longer when the party resides or has his or its principal place of business at any place west of 104° west longitude.

(f) *Computation of time.* Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided,* That, when such time expires on a Sunday or legal holiday, such period shall be extended to include the next following business day.

RULES OF PRACTICE APPLICABLE TO RULE-MAKING PROCEEDINGS

§ 0.23 *Requests for promulgation, amendment, or rescission of regulations.* Any interested person may file with the Act Administrator a request that an order of the Secretary, promulgating a regulation under section 5a (4) or (5) of the act, should be promulgated, amended, or rescinded. Such request shall be in writing, signed by or on behalf of the person making the request, and shall contain the alleged reasons for the promulgation, amendment, or rescission of the order. No right to a hearing shall accrue by virtue of the filing of such a request: *Provided,* That notice shall be given of the denial in whole or in part of any such request and, except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of procedural or other grounds for denial.

§ 0.24 *Status of persons requesting promulgation, amendment, or rescission of regulations.* No person who requests the promulgation, amendment, or rescission of any regulation, as provided in § 0.23, shall have a legal status in any proceeding growing out of such request except that he may appear and testify and may file statements in any such proceeding in accordance with the provisions of this subpart.

§ 0.25 *Notice of hearing.* At least 10 days prior to any public hearing held in a rule-making proceeding, unless the Secretary shall determine that an emergency exists which requires a shorter period of notice, notice of such hearing shall be published in the FEDERAL REGISTER and shall be sent to all persons known to be interested in the proposed regulation. The notice shall state the time and place of hearing and shall contain one or more of the following:

(a) The exact text or a summary thereof of proposed findings, conclusions, and order;

(b) A summary of the results of any investigation made, or conference held in anticipation of the hearing;

(c) A statement of the issues to be considered at the hearing, insofar as such issues may be known at the time of issuance of the notice.

§ 0.26 *Conduct of hearing*—(a) *Presiding officer* Each such hearing shall be presided over by the Act Administrator, or by an employee of the Commodity Exchange Authority whom he shall designate, or by such other official or employee of the Department as the Secretary may designate for the purpose. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and so as to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) *Continuance of hearing.* Each such hearing shall be held at the time and place set forth in the notice of hearing, but may at such time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(c) *Order of proceeding.* At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) *Submission of evidence.* All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, be sworn, after which he shall state his name, address, and whom he represents at the hearing and shall give such other information respecting his appearance as the presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the technical rules of evidence. Affidavits as to relevant facts may be admitted in evidence at the hearing. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Department, but cross-examination by private persons shall not be permitted, except when the presiding officer expressly permits it.

(e) *Transcript of the evidence.* Testimony given at the hearing shall be reported verbatim. All supporting written statements, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be numbered as exhibits and received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impracticable, two copies of the exhibits shall be submitted and in typewritten, printed, or mimeographed form. If sufficient copies are not available, the presiding officer may have any exhibit read in evidence or may require additional copies to be furnished within a specified time.

(f) *Written arguments.* The presiding officer shall announce at the hearing a reasonable period within which interested persons may file with him written arguments based on the evidence received at the hearing. Written arguments will not be accepted unless an original and two copies are filed. The period for filing written arguments may be extended by the presiding officer for good cause.

(g) *Copies of the record.* Any person desiring a copy of the transcript of testimony or of any written exhibit or written argument shall be entitled thereto upon written application filed with the reporter, and upon payment of fees at the rate provided in the contract between the reporter and the Secretary.

§ 0.27 *Preparation and issuance of order*—(a) *Preparation of proposed final order* Within a reasonable period of time after the hearing, the presiding officer, assisted by such employees of the Commodity Exchange Authority and of the Office of the Solicitor as the Act Administrator and the Solicitor, respectively, may direct, shall prepare such proposed final order as is appropriate and practicable. Such order shall include findings of fact and conclusions based thereon, but the findings of fact need not be based solely upon the testimony or exhibits received in evidence at the hearing.

(b) *Submission of proposed final order to the Secretary.* Immediately upon completion of its preparation, the proposed final order shall be submitted by the presiding officer to the Secretary for approval and signature. The proposed final order shall be accompanied by a copy of the transcript and of any exhibits that may have been introduced, and by a memorandum containing a summary of the evidence contained in the record and of such other factual data upon which the findings of fact in the proposed final order were based.

(c) *Tentative issuance of proposed final order* The Secretary may, if he deems it advisable to do so, issue the proposed final order as a tentative order. In such event, the tentative order shall be published in the FEDERAL REGISTER, and interested persons who appeared at the hearing shall be given a reasonable opportunity to file exceptions to the tentative order and to file briefs in support of such exceptions.

(d) *Publication of the final order.* The full text of the final order in any rule-making proceeding shall be published in the FEDERAL REGISTER, and a copy of the order shall be sent to each contract market.

RULES APPLICABLE TO ALL PROCEEDINGS

§ 0.28 *Hearings before the Secretary.* The Secretary may act in the place and stead of a referee or presiding officer in any proceeding under this subpart. When he so acts, the hearing clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions and orders, and the Secretary shall thereupon, after due consideration of the record, issue his final order in the proceeding: *Provided,* That he may issue a tentative order, in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final order.

SUBPART B—RULES APPLICABLE TO PROCEEDINGS BEFORE THE COMMODITY EXCHANGE COMMISSION

AUTHORITY: §§ 0.50 to 0.96 issued under 42 Stat. 998, as amended; 7 U. S. C. 1–17a.

§ 0.50 *Scope and applicability of rules of practice.* Sections 0.51–0.72, inclusive, shall apply to the conduct of all disciplinary proceedings as hereinafter defined in § 0.52. Sections 0.51, 0.52, and 0.73–0.77, inclusive, shall apply to the conduct of all rule-making proceedings as hereinafter defined in § 0.52. Sections 0.51, 0.52, and 0.78–0.95, inclusive, shall apply to the conduct of all 6a proceedings as hereinafter defined in § 0.52.

§ 0.51 *Meaning of words.* Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 0.52 *Definitions.* As used in this subpart, the terms as defined in section 2 of the act shall apply with equal force and effect. In addition, and except as may be provided otherwise in this subpart:

(a) The term "act" means the Commodity Exchange Act, approved September 21, 1922 (42 Stat. 998) as amended June 15, 1936 (49 Stat. 1491, 7 U. S. C. 1–17a) and other legislation supplementary thereto and amendatory thereof;

(b) The term "Department" means the United States Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture or any person to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated to act in his stead;

(d) The term "Commission" means the Commodity Exchange Commission or any person to whom the Commission has heretofore lawfully delegated, or to whom the Commission may hereafter lawfully delegate, the authority to act in its stead;

(e) The term "Commodity Exchange Authority" means the Commodity Exchange Authority, United States Department of Agriculture;

(f) The term "Federal Register" means the publication provided for by the act of July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., 301–314) and acts supplementary thereto and amendatory thereof;

(g) The term "hearing" means that part of the proceeding which involves the submission of evidence and means either an oral or a written hearing;

(h) The term "party" includes the Commission in those instances in which it is named as a party of record in the proceeding;

(i) The term "complainant" means the party upon whose complaint the proceeding is instituted;

(j) The term "respondent" means the party proceeded against;

(k) The term "disciplinary proceeding" means any proceeding (other than a 6a proceeding) before the Commission arising under the act, in which proceeding it is required by law that the order or other determination of the Commission shall be made only after an opportunity for a hearing, and, if a hearing be held, only upon the basis of a record made in the course of such hearing;

(l) The term "rule-making proceeding" means any proceeding before the Commission arising under subsection (1) of section 4a of the act;

(m) The term "6a proceeding" means any proceeding arising under section 6a of the act;

(n) The term "Solicitor" means the Solicitor of the Department;

(o) The term "hearing clerk" means the hearing clerk, United States Department of Agriculture, Washington 25, D. C.,

(p) The term "referee" means an examiner conducting a proceeding under the act;

(q) The term "referee's report" (presiding officer's report) means the referees' report to the Commission, and includes the referee's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and orders submitted by the parties;

(r) The term "Act Administrator" means the Administrator of the Commodity Exchange Authority, United States Department of Agriculture, in his capacity as Administrator of the Commodity Exchange Act, or any officer or employee of the Commodity Exchange Authority to whom he has heretofore lawfully delegated or may hereafter lawfully delegate the authority to act in his stead;

(s) The term "examiner" means any examiner in the Office of Hearing Examiners, United States Department of Agriculture.

RULES APPLICABLE TO DISCIPLINARY PROCEEDINGS

§ 0.53 *Institution of proceedings*—(a) *Application to institute proceedings.* Any interested person having any information of any violation of the act, or of any of the orders or regulations promulgated thereunder, by any board of trade or by any director, officer, agent, or employee thereof may file with the Act Administrator an application requesting the institution of such proceeding as is authorized under the act. Such application shall be in writing, signed by or on behalf of the applicant, and shall include a short and simple statement of the facts constituting the alleged violation and the name and address of the applicant and the name and address of the person against whom the applicant complains.

(b) *Status of applicant.* The person filing an application as described in paragraph (a) of this section shall have no legal status in the proceeding which may be instituted as a result of the application, except where the applicant may be permitted to intervene therein, in the manner hereinafter provided, or may be called as a witness, and the applicant's identity shall not be divulged by any employee of the Department, except with the applicant's prior consent or upon court order.

(c) *Who may institute.* If, after investigation of the matters complained of in the application described in paragraph (a) of this section, or after investigation made on its own motion, the Commission has reason to believe that any board of trade or any director, officer, agent, or employee thereof has violated or is violating any of the provisions of the act, or of any of the regulations promulgated thereunder, the Commission will institute an appropriate proceeding: *Provided,* That in any case, except one of wilfulness or one in which the public health, interest or safety otherwise requires, prior to the institution of a proceeding for the suspension or revocation of any designation of a contract market, facts or conditions which may warrant such action shall be called to the attention of the market in writing and such market shall be accorded opportunity to demonstrate or achieve compliance with all lawful requirements. Proceedings will be instituted only upon complaints issued by the Commission and will not be instituted upon pleadings filed by private persons.

§ 0.54 *Stipulations and consent orders*—(a) *Stipulation of compliance.* At any time prior to the issuance of the complaint in any proceeding, the Commission, in its discretion, may enter into a stipulation with the prospective respondent, whereby the latter admits the material facts and agrees to discontinue the acts or practices which are intended to be set up as violative of the act. Such stipulations shall be admissible as evidence of such acts and practices in any subsequent proceeding against such person before the Commission.

(b) *Consent order.* At any time after the issuance of the complaint and prior to the hearing in any proceeding, the Commission, in its discretion, may allow the respondent to consent to an order. In so consenting, the respondent must

submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Commission's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Commission may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearing.

§ 0.55 *Complaints*—(a) *Filing and service.* All complaints shall be filed with the hearing clerk. The provisions of § 0.72 shall govern the filing, number of copies, and service of such papers.

(b) *Contents.* A complaint shall state briefly and clearly the allegations of fact which constitute a basis for the proceeding and shall specify with particularity the matters or things in issue. Complaints shall not include charges, implied charges, or requirements phrased generally in the words of the act, but the words of the act may be identified and quoted or used in preliminary recitals.

(c) *Amendments.* At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, at the request of the respondent, be adjourned for a period not exceeding 15 days. Amendments subsequent to the first amendment or subsequent to the filing of an answer by the respondent may be made only with leave of the referee or with the written consent of the adverse party.

§ 0.56 *Docket number* Each proceeding, immediately following its institution, shall be assigned a docket number by the hearing clerk, and thereafter the proceeding shall be referred to by such number.

§ 0.57 *Referees*—(a) *Assignment.* No referee shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or marriage to any party to the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the complaint or in the development of the evidence to be introduced therein.

(b) *Disqualification of referee.* Any party may file with the hearing clerk a timely affidavit of disqualification of the referee which shall set forth with particularity the grounds of alleged disqualification. After such investigation or hearing as the Commission may deem necessary, it may find the affidavit without merit or may direct that another referee be assigned to the proceeding. Where the affidavit is found without merit, the affidavit, any record made thereon, and the finding and order of the Commission shall be made a part of the record.

A referee shall ask to be withdrawn from any proceeding in which he deems himself disqualified for any reason.

(c) *Conduct.* The referee shall conduct the proceeding in a fair and impartial manner and, save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(d) *Powers of referee.* Subject to review by the Commission as provided elsewhere in this subpart, the referee, in any proceeding assigned to him, shall have power to:

(1) Rule upon motions and requests;

(2) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;

(3) Administer oaths and affirmations and take affidavits;

(4) Issue subpenas requiring the attendance and testimony of witnesses and the production of books, records, contracts, papers, and other documentary evidence;

(5) Summon and examine witnesses and receive evidence;

(6) Take or order the taking of depositions;

(7) Admit or exclude evidence;

(8) Hear oral argument on facts or law;

(9) Do all acts and take all measures necessary for the maintenance of order and efficient conduct of the proceeding.

(e) *Who may act in the absence of the referee.* In case of the absence of the referee, or his inability to act, the powers and duties to be performed by him under these rules of practice in connection with a proceeding assigned to him may, without abatement of the proceeding unless otherwise ordered by the Commission, be assigned to any other referee.

§ 0.58 *Intervention.* At any time after the institution of a proceeding, and before it has been submitted to the Commission for final consideration, the Commission or the referee may, upon petition in writing and for good cause shown, permit any person to intervene therein. The petition shall state with preciseness and particularity (a) The petitioner's relationship to the matters involved in the proceeding, (b) the nature of the material he intends to present in evidence, (c) the nature of the argument he intends to make, (d) any other reason that he should be allowed to intervene.

§ 0.59 *The answer*—(a) *Filing and service.* Within 20 days after service of the complaint, the respondent shall file, in quintuplicate, with the hearing clerk, an answer, signed by the respondent or his attorney: *Provided,* That the Commission may order that the hearing be held without answer or other pleading. The answer shall be served upon the complainant, and any other party of record, in the manner provided in § 0.72.

(b) *Contents; failure to file.* Such answer shall (1) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the allegations of the complaint unless respondent is without knowledge, in which case the answer shall so state; or (2) state that the respondent admits all of the allegations of the complaint. The answer may contain a waiver of hearing.

Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission of facts, the referee, without further investigation or hearing, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. Unless the parties have waived service of the referee's report, it shall be served upon them in the manner provided in § 0.72. The parties shall be given an opportunity to file exceptions to the report, to file briefs in support of such exceptions, and to make oral argument thereon before the Commission. Any request to make oral argument before the Commission must be filed in the manner and within the time provided in § 0.66 (d)

§ 0.60 *Motions and requests*—(a) *General.* All motions and requests shall be filed with the hearing clerk, except that those made during the course of an oral hearing may be filed with the referee or may be stated orally and made a part of the transcript.

The referee is authorized to rule upon all motions and requests filed or made prior to the filing of his report with the hearing clerk as hereinafter provided. The Commission will rule upon all motions and requests filed after that time.

(b) *Motions entertained.* Any motion will be entertained except a motion to dismiss on the pleadings.

The submission or certification of any motion, request, objection, or other question to the Commission prior to the time when the referee's report is filed with the hearing clerk shall be in the discretion of the referee.

§ 0.61 *Oral hearing before referee*—(a) *Request for oral hearing.* Any party may request an oral hearing on the facts by including such request in the complaint or answer or by a separate request in writing filed with the hearing clerk. Failure by the respondent to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing, and any respondent so failing to request an oral hearing will be deemed to have agreed that the proceeding may be decided upon a record formed under the shortened procedure provided for in § 0.77.

Waiver of oral hearing shall not be deemed to be a waiver of the right to make oral argument before the Commission upon exceptions to the referee's report. Such argument will be allowed in accordance with the provisions of § 0.69.

(b) *Time and place.* If and when the proceeding has reached the stage where an oral hearing is to be held, the referee, giving careful consideration to the convenience of the parties, shall set a time and place for hearing and shall file with the hearing clerk a notice stating the time and place. If any change in the time or place of the hearing is made, the referee shall file with the hearing clerk a notice of such change, which notice

shall be served upon the parties, unless it is made during an oral hearing and made a part of the transcript.

(c) *Appearances*—(1) *Representation.* In any proceeding, the parties may appear in person or by counsel or other representative. The Commission, if represented by counsel, shall be represented by an attorney assigned by the Solicitor of the Department.

Persons who appear as counsel or in a representative capacity at a hearing must conform to the standards of ethical conduct required of practitioners before the courts of the United States. Whenever the Commission finds, after notice and opportunity for hearing, that a person, who is acting or has acted as counsel or representative for another person in any proceeding before the Commission, is unfit to act as such representative or counsel, it will order that such person be precluded from acting as counsel or representative in any proceeding under the act. The procedure in such case will be governed by the applicable provisions of this subpart.

(2) *Failure to appear* If any party to the proceeding, after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the referee.

Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the referee's report and to file exceptions and make oral argument before the Commission with respect thereto, in the manner provided hereinafter.

(d) *Order of proceeding.* Except as may be determined otherwise by the referee, the complainant shall proceed first at the hearing.

(e) *Evidence*—(1) *In general.* The testimony of witnesses at a hearing shall be upon oath or affirmation administered by the referee and shall be subject to cross-examination.

Any witness may, in the discretion of the referee, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.

The referee shall exclude evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitations of the scope of any examination or cross-examination, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the referee. The transcript shall not include argument or debate thereon except as ordered by the referee. The ruling of the referee on any objection shall be a part of the transcript.

Only objections made before the referee may subsequently be relied upon in the proceeding.

(3) *Depositions.* The deposition of any witness shall be admitted, in the manner provided in and subject to the provisions of § 0.62.

(4) *Affidavits.* Except as is otherwise provided in the rules in this subpart, affidavits may be admitted only if the evidence is otherwise admissible and the parties agree that affidavits may be used.

(5) *Proof of documents.* A true copy of every written entry in the records of the Commission or of the Department, made by an officer or employee thereof in the course of his official duty, and relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(6) *Exhibits.* Except where the referee finds that the furnishing of copies is impracticable, a copy of each exhibit, in addition to the original, shall be filed with the referee for the use of each other party to the proceeding. The referee shall advise the parties as to the exact number of copies which will be required to be filed and shall make and have noted on the record the proper distribution of the copies.

(7) *Official notice.* Official notice will be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical or scientific fact of established character: *Provided,* That the parties shall be given adequate notice, at the hearing or by reference in the referee's report or tentative order or otherwise, of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(8) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript *in toto.* In such event, it shall be considered a part of the transcript if the Commission decides that the referee's ruling in excluding the evidence was erroneous. The referee shall not allow the insertion of such evidence *in toto* if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Commission decides that the referee's ruling in excluding the evidence was erroneous, the hearing shall be reopened to permit the taking of such evidence.

(f) *Oral argument before referee.* In disciplinary proceedings, oral argument before the referee shall be allowed unless the referee finds that the denial of such argument will not deprive the parties of an adequate opportunity for oral argument subsequently in the proceeding. Such argument may be limited by the referee to any extent that he finds necessary for the expeditious disposition of the proceeding.

(g) *Transcript.* Copies of the transcript may be obtained upon written application filed with the reporter, and upon the payment of fees at the rate provided in the contract with the reporter.

§ 0.62 *Depositions*—(a) *Application for taking deposition.* Upon the application of a party to the proceeding, the referee may, at any time after the filing of the complaint, order the taking of testimony by deposition. The application shall be in writing and shall be filed with the hearing clerk and shall set forth: (1) The name and address of the proposed deponent; (2) the name and address of the person (referred to hereinafter in this section as the "officer") qualified under the rules in this subpart to take depositions, before whom the proposed examination is to be made; (3) the proposed time and place of the examination, which should be at least 15 days after the date of the mailing of the application; and (4) the reasons why such deposition should be taken.

(b) *Referee's order for taking deposition.* If the referee is satisfied that good cause for taking the deposition is present, he may order its taking. The order shall be filed with the hearing clerk and shall be served upon the parties and shall state: (1) The time and place of the examination (which shall not be less than 10 days after the filing of the order) (2) the name of the officer before whom the examination is to be made; (3) the name of the deponent. The officer and the time and place need not be the same as those suggested in the application.

(c) *Qualifications of officer.* The deposition "may be taken before any judge of any court of the United States, or any United States Commissioner, or any clerk of a district court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceedings"[1]

(d) *Procedure on examination.* The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or by some person under his direction and in his presence. In lieu of oral cross-examination, parties may transmit written cross-interrogatories to the officer prior to the examination and the officer shall propound such cross-interrogatories to the deponent.

The applicant must arrange for the examination of the witness either by oral examination or by written interrogatories. If it is found by the referee, upon the protest of a party to the proceeding, that such party has his residence and his place of business more than 100 miles from the place of the examination and that it would constitute an undue hardship upon such party to be represented at the examination, the applicant will be required to conduct the examination by means of interrogatories. When the examination is conducted by means of interrogatories, copies of the

[1] Words in quotation marks from 24 Stat. 383, as amended; 49 U. S. C. 12, which is made applicable to proceedings under the Commodity Exchange Act by sec. 6 (b) as amended (42 Stat. 1001, as amended; 7 U. S. C. 15).

interrogatories shall be served upon the other parties to the proceeding at least five days prior to the date set for the examination, and the other parties shall be afforded an opportunity to file with the officer cross-interrogatories at any time prior to the time of the examination.

(e) *Signature by witness.* The transcript of the deposition shall be read to or by the deponent, unless such reading is waived by the parties and the deponent. Any changes which the deponent wishes to make shall be entered upon the deposition by the officer, with a statement of the reasons given by the deponent for such changes. The deposition shall be signed by the deponent unless the parties by stipulation waive such signing, or unless the deponent is ill or cannot be found or refuses to sign. If the deponent does not sign, the officer shall sign and shall state on the record the reason why the deponent did not sign. In such case the deposition shall be as valid as though signed by the deponent, unless the referee finds that the reason given by the deponent for his refusal to sign requires rejection of the deposition in whole or in part.

(f) *Certification by officer* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the deposition, together with two copies thereof, in an envelope and mail the same by registered mail to the hearing clerk.

(g) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section may be used in a proceeding if the referee finds that the evidence is otherwise admissible and (1) that the witness is dead; or (2) that the witness is at a greater distance than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify, because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has endeavored but has been unable to procure the attendance of the witness by subpena; or (5) in any event, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interests of justice and with due regard to the importance of presenting the testimony orally before the referee, to allow the deposition to be used. If any part of a deposition is put in evidence by a party, any other party may require the production of the remainder, or any other portion, of the deposition.

§ 0.63 *Subpenas* — (a) *Issuance of subpenas.* The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpena, be required at any designated place of hearing. Subpenas may be issued by the Commission or by the referee, upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof.

(b) *Application for subpena duces tecum.* Subpenas for the production of documentary evidence, unless issued by the referee upon his own motion, shall be issued only upon verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality and the necessity of their production.

(c) *Service of subpenas.* Subpenas may be served (1) by a United States Marshal or his deputy or (2) by any other person who is not less than 18 years of age, or (3) by registering and mailing a copy of the subpena addressed to the person to be served at his or its last known principal place of business or residence. Proof of service may be made by the return of service on the subpena by the United States Marshal or his deputy or, if served by an individual other than a United States Marshal or his deputy, by an affidavit of such person, stating that he personally served a copy of the subpena upon the person named therein; or, if service was by registered mail, by an affidavit made by the person mailing the subpena that it was mailed as provided herein and by the signed return post-office receipt: *Provided,* That where the subpena is issued on behalf of the Commission, the return receipt without an affidavit of mailing shall be sufficient proof of service. In making personal service, the person making service shall leave a copy of the subpena with the person subpenaed; the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the same.

§ 0.64 *Fees of witnesses.* Witnesses summoned before the referee or before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears or the deposition is taken.

§ 0.65 *Prehearing conferences.* In any proceeding in which it appears that such procedure will expedite the proceeding, the referee, at any time prior to the commencement of the oral hearing, may request the parties or their counsel to appear at a conference before him to consider (a) the simplification of issues; (b) the necessity or desirability of amendments to pleadings; (c) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (d) the limitation of the number of expert or other witnesses; and (e) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but the referee shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference. If the circumstances are such that a conference is impracticable, the referee may request the parties to correspond with him for the purpose of accomplishing any of the objects set forth in this section. The referee shall forward copies of letters and documents to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the referee shall submit a written summary for the record if any action is taken.

§ 0.66 *Referee's report*—(a) *Filing the transcript of evidence.* As soon as practicable after the close of the hearing, the reporter shall transmit to the hearing clerk the transcript of the testimony and the exhibits introduced in evidence at the hearing, except such portions of the transcript and exhibits as shall have been delivered to the referee. The hearing clerk will advise each party to the proceeding as to the date on which the transcript was filed.

(b) *Proposed findings of fact, conclusions, and orders.* Within 10 days after receipt of notice that the transcript has been filed, each party may file with the hearing clerk proposed findings of fact, conclusions, and orders, based solely upon the record, and a brief in support thereof.

(c) *Referee's report.* The referee, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare, upon the basis of the record and shall file with the hearing clerk, his report, a copy of which shall be served by the hearing clerk upon each of the parties.

(d) *Exceptions.* Within 20 days after receipt of the referee's report, the parties may file exceptions to the report. Any party who desires to take exception to any matter set out in the report shall transmit his exceptions in writing to the hearing clerk, referring to the relevant pages of the transcript, and suggesting a corrected finding of fact, conclusion, or order. Within the same period of time, each party shall transmit to the hearing clerk a brief statement in writing concerning each of the objections taken to the action of the referee at the hearing, as set out in § 0.61, upon which the party wishes to rely, referring, where revelant, to the pages of the transcript. A party, if he files exceptions or a statement of objections, shall state in writing whether he desires to make an oral argument thereon before the Commission; otherwise, he shall be deemed to have waived such oral argument.

§ 0.67 *Shortened procedure*—(a) *Consent of parties.* Whenever it appears to the referee who is assigned to a proceeding that the proceeding can be more expeditiously handled under the informal procedure provided for in this section, he shall suggest to the parties that they consent to the use of such procedure. Except where oral hearing has been waived by failure to request it in proper time or otherwise, parties are free to consent to such procedure if they choose; declination of consent will not affect or prejudice the rights or interests of any party. A party, if he has not waived oral hearing, may consent to the use of the shortened procedure on the condition that the statements of fact be submitted in the form of depositions rather than affidavits. In such case, if the other parties agree, depositions shall be re-

quired to be filed in lieu of affidavits. If any party who has not waived oral hearing does not consent to the use of the shortened procedure, the proceeding will be set for oral hearing. The request that the shortened procedure be used need not originate with the referee; any party may address a request to the referee asking that the shortened procedure be used. The referee, in his suggestion to the parties, will set a short period of time in which the parties may indicate their consent to the shortened procedure; at the end of that period, the referee will notify the parties that the shortened procedure will or will not be used. All requests, suggestions, and notices mentioned in this section shall be filed with the hearing clerk.

(b) *Complainant's opening statement.* Within 20 days after receipt of notice that the shortened procedure will be used, the complainant shall file with the hearing clerk, in quintuplicate, in support of the complaint, an opening statement of the facts. A copy of such document shall be served promptly by the hearing clerk upon the respondent.

(c) *Respondent's answering statement.* Within 20 days after receipt of the complainant's opening statement, the respondent may file with the hearing clerk, in quintuplicate, in support of his answer, an answering statement of the facts. A copy of the answering statement shall be served promptly by the hearing clerk upon the complainant.

(d) *Complainant's statement in reply.* Within 10 days after receipt of the answering statement, the complainant may file with the hearing clerk, in quintuplicate, a statement in reply, which shall be confined strictly to replying to the facts and arguments set forth in the answering statement.

(e) *Contents of statements.* As used in this section, the term "statement" includes (1) statements of fact signed and sworn to by persons having knowledge of those facts; (2) documents filed as a part of the proof of the alleged facts (which documents shall be properly identified by verified statements in the statement filed or otherwise authenticated in such a manner that they would be admissible in evidence at an oral hearing under these rules of practice) and (3) briefs containing argument to sustain the contentions of the party submitting the statement. When practicable, the documents which constitute the record of any transaction in dispute should be made a part of the statement.

(f) *Verification.* Any facts stated in the statement must be sworn to (before a person legally authorized to administer oaths or before a person designated by the Secretary for the purpose) by a person who states in the affidavit that he has actual knowledge of the facts. Except under unusual circumstances, which shall be set forth in the affidavit, any such person shall be one who would appear as a witness if an oral hearing were held. The original of each document must show the signature, capacity, and impression seal (if the officer is required by law to have a seal) of the officer administering the oath and the date thereof. Copies must bear a notation that the original shows the data required in this respect. If a party elects to do so, he may file his statement of facts in the form of depositions rather than affidavits. Depositions filed under the shortened procedure, whether filed as a result of a requirement in the consent to the shortened procedure or voluntarily, shall conform to the provisions set forth in § 0.62.

(g) *Stipulations.* In addition to or in lieu of such statements, the parties may file with the hearing clerk stipulations of fact signed by the parties or their representatives. Such stipulations shall become a part of the record. The stipulations must be filed with the hearing clerk within 20 days after notice that the shortened procedure will be used; or, if the complainant's opening statement is filed, within 20 days after the filing of such statement; or, if an answering statement is filed, within 15 days after the filing thereof; or, if a statement in reply is filed, within 15 days after the filing thereof.

(h) *Waiver of right to file.* Failure to file, within the time prescribed, any statement or stipulation required or authorized under this section shall constitute a waiver of the right to file such statement or stipulation. In such case, the referee may prepare his report and the Commission may make the final determination upon the evidence contained in the record at the time of such failure to file, except that no determination, other than dismissal of the proceeding, shall be made if the complainant fails to file an opening statement of the facts.

(i) *Referee's report under the shortened procedure.* Except as otherwise may be directed by the referee, the filing of the complainant's statement in reply will conclude the presentation of evidence. The referee will thereupon file with the hearing clerk a notice that the parties may file proposed findings of fact, conclusions, and orders within 10 days after service of such notice. Upon the expiration of the period set for the filing of proposed findings, conclusions, and orders, the referee will prepare his report and the same procedure shall be followed thereafter as in proceedings where an oral hearing has been held.

(j) *Assignment for oral hearing.* At the request of any party or upon the referee's own motion, the proceeding shall be set for oral hearing at any stage of the proceeding prior to the filing of the referee's report: *Provided,* That, where the party making such request has waived oral hearing by failure to request it in proper time, as provided in § 0.61 (a) the assignment for oral hearing shall be in the discretion of the referee.

§ 0.68 *Transmittal of record.* The hearing clerk, immediately following the period allowed for the filing of exceptions, shall transmit to the Commission the record of the proceeding. Such record shall include: the pleadings; motions and requests filed, and rulings thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed therein; any statements filed under the shortened procedure; any documents or papers filed in connection with prehearing conferences; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the hearing; the referee's report; and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

§ 0.69 *Argument before Commission*—(a) *Oral argument.* Unless a party has included in his exceptions a request for oral argument or has filed a separate request for oral argument prior to the expiration of the last date for filing such exceptions, he shall be deemed to have waived his right to such oral argument.

(b) *Briefs.* The parties may file written briefs either in addition to oral argument or in lieu thereof.

(c) *Scope of argument.* Except where the Commission determines that argument on additional issues would be helpful, argument, whether oral or on brief, shall be limited to the issues raised by the exceptions and statement of objections. If the Commission determines that additional issues should be argued, counsel for the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues to be argued.

§ 0.70 *Preparation and issuance of order*—(a) *Preparation of order.* As soon as practicable after the receipt of the record from the hearing clerk, or, in the case oral argument was had, as soon as practicable thereafter, the Commission, upon the basis of and after due consideration of the record, shall prepare its order in the proceeding which shall include findings, conclusions, order, and rulings on motions, exceptions, proposed findings, conclusions and orders submitted by the parties, not theretofore ruled upon. At no stage of the proceeding between its institution and the issuance of the order shall the Commission discuss *ex parte* the merits of the proceeding with any person who is connected with the proceeding in an advocative or an investigative capacity, or with any representative of such person: *Provided, however,* That the Commission may discuss the merits of the case with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Commission, during the pendency of the proceeding, and relating to the merits thereof, by, or on behalf of, any party shall be regarded as argument made in the proceeding and shall be filed with the hearing clerk, who shall serve a copy thereof upon the opposite party to the proceeding, and opportunity shall be given the opposite party to file a reply thereto.

(b) *Issuance of order.* The order, prepared as described in paragraph (a) of this section, shall be issued and served upon the parties as the final order in the proceeding without further procedure: *Provided,* That, if the terms of the order differ substantially from those proposed in the report of the referee the Commission may, if it deems it advisable to do so, direct that a copy of the order be served upon the parties as a tentative order; and, in such event, opportunity shall be given the parties

to file exceptions thereto and written arguments or briefs in support of such exceptions. In such case, if no exceptions are filed within 20 days following the service of the tentative order, it shall be issued and served as the final order in the proceeding.

§ 0.71 *Applications for reopening hearings, for rehearings or reargument of proceedings, or for reconsideration of orders*—(a) *Petition requisite*—(1) *Filing; service.* An application for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the order must be made by petition to the Commission filed with the hearing clerk, who immediately shall notify and serve a copy thereof upon the other party to the proceeding. Every such petition must state specifically the grounds relied upon.

(2) *Petitions to reopen hearings.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing. Every such petition shall be served by the hearing clerk on the other parties to the proceeding.

(3) *Petitions to rehear or reargue proceedings, or to reconsider orders.* A petition to rehear or reargue the proceeding or to reconsider the order must be filed within 15 days after the date of the service of the order. Every such petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

(b) *Procedure for disposition of petitions.* Within 20 days following the service of any petition provided for in this section, the other party to the proceeding shall file with the hearing clerk an answer thereto. As soon as practicable thereafter, the Commission shall announce the decision whether to grant or to deny the petition. Unless the Commission shall determine otherwise, operation of the order shall not be stayed pending the decision whether to grant or to deny the petition. In the event that any such petition is granted by the Commission, the applicable rules of practice, as set out elsewhere in this part, shall be followed. A person filing a petition under this section shall be regarded as the complainant, although he shall be referred to as the complainant or respondent, depending upon his designation in the original proceeding.

§ 0.72 *Filing; service; extensions of time; additional time for filing; and computation of time*—(a) *Filing; number of copies.* Except as is provided otherwise herein, all documents or papers required or authorized by the rules in this subpart to be filed with the hearing clerk shall be filed in quintuplicate: *Provided,* That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide for service upon all the parties to the proceeding. Any document or paper, required or authorized under these rules to be filed with the hearing clerk, shall, during the course of an oral hearing, be filed with the referee.

(b) *Service; proof of service.* Copies of all such papers shall be served upon the parties by the hearing clerk, by the referee, or by some other employee of the Department, or by a United States Marshal or his deputy. Service shall be made either (1) by delivering a copy of the document or paper to the individual to be served or to a member of the partnership to be served or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association; or (2) by leaving a copy of the document or paper at the principal office or place of business of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (3) by registering and mailing a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known principal office, place of business, or residence. Proof of service hereunder shall be made by the affidavit of the person who actually made the service, provided that, if the service be made by registered mail, as outlined in subparagraph (3) of this paragraph, proof of service shall be made by the return post office receipt. The affidavit or post-office receipt contemplated herein shall be filed with the hearing clerk, and the fact of filing thereof shall be noted on the docket of the proceeding.

(c) *Extensions of time.* The time for the filing of any document or paper required or authorized under the rules in this subpart to be filed may be extended by the referee (before the referee's report is filed) or by the Commission (after the referee's report is filed) if request for such extension of time is made prior to or on the final date allowed for such filing, and if, in the judgment of the referee or the Commission, as the case may be, after notice to and consideration of the views of the other party, there is good reason for the extension.

(d) *Effective date of filing.* Any document or paper required or authorized to be filed under this subpart, shall be deemed to be filed at the time when it reaches the Department of Agriculture in Washington, D. C.

(e) *Additional time for filing.* The time for the filing of any document or paper required or authorized under this subpart to be filed shall be five days longer when the party resides or has his or its principal place of business at any place west of 104° west longitude.

(f) *Computation of time.* Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided,* That, when such time expires on a Sunday or legal holiday, such period shall be extended to include the next following business day.

RULES OF PRACTICE APPLICABLE TO RULE-MAKING PROCEEDINGS

§ 0.73 *Requests for promulgation, amendment, or rescission of regulations.* Any interested person may file with the Act Administrator a request that an order of the Commission, promulgating a regulation under subsection (1) of section 4a of the act, should be promulgated, amended, or rescinded. Such request shall be in writing, signed by or on behalf of the person making the request, and shall contain the alleged reasons for the promulgation, amendment, or rescission of the order. No right to a hearing shall accrue by virtue of the filing of such a request: *Provided,* That notice shall be given of the denial in whole or in part of any such request and, except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of procedural or other grounds for denial. A hearing may be called either as a result of such a request or upon the Commission's own motion.

§ 0.74 *Status of persons requesting promulgation, amendment, or rescission of regulations.* No person who requests the promulgation, amendment, or rescission of any regulation, as provided in § 0.73, shall have a legal status in any proceeding growing out of such request except that he may appear and testify and may file statements in any such proceeding in accordance with the provisions of this subpart.

§ 0.75 *Notice of hearing.* At least 10 days prior to any public hearing held in a rule-making proceeding, unless the Commission shall determine that an emergency exists which requires a shorter period of notice, notice of such hearing shall be published in the FEDERAL REGISTER and shall be sent to all persons known to be interested in the proposed regulation. The notice shall state the time and place of hearing and shall contain one or more of the following:

(a) The exact text or a summary thereof of proposed findings, conclusions, and order;

(b) A summary of the results of any investigation made, or conference held in anticipation of the hearing;

(c) A statement of the issues to be considered at the hearing, insofar as such issues may be known at the time of issuance of the notice.

§ 0.76 *Conduct of hearing*—(a) *Presiding officer.* Each such hearing shall be presided over by the Act Administrator or by an employee of the Commodity Exchange Authority whom he shall designate, or by such person as the Commission may designate for the purpose. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and so as to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) *Continuance of hearing.* Each such hearing shall be held at the time and place set forth in the notice of hearing, but may at such time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(c) *Order of proceeding.* At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) *Submission of evidence.* All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, be sworn, after which he shall state his name, address, and whom he represents at the hearing and shall give such other information respecting his appearance as the presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the technical rules of evidence. Affidavits as to relevant facts may be admitted in evidence at the hearing. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Commission, but cross-examination by private persons shall not be permitted, except when the presiding officer expressly permits it.

(e) *Transcript of the evidence.* Testimony given at the hearing shall be reported verbatim. All supporting written statements, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be numbered as exhibits and received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impracticable, four copies of the exhibits shall be submitted and in typewritten, printed, or mimeographed form. If sufficient copies are not available, the presiding officer may have any exhibit read in evidence or may require additional copies to be furnished within a specified time.

(f) *Written arguments.* The presiding officer shall announce at the hearing a reasonable period within which interested persons may file with him written arguments based on the evidence received at the hearing. Written arguments will not be accepted unless an original and four copies are filed. The period for filing written arguments may be extended by the presiding officer for good cause.

(g) *Copies of the record.* Any person desiring a copy of the transcript of testimony or of any written exhibit or written argument shall be entitled thereto upon written application filed with the reporter, and upon payment of fees at the rate provided in the contract with the reporter.

§ 0.77 *Preparation and issuance of order*—(a) *Preparation of proposed final order.* Within a reasonable period of time after the hearing, the presiding officer, assisted by such employees of the Commodity Exchange Authority and of the Office of the Solicitor as the Act Administrator and the Solicitor, respectively, may direct, shall prepare such proposed final order as is appropriate and practicable. Such order shall include findings of fact and conclusions based thereon, but the findings of fact need not be based solely upon the testimony or exhibits received in evidence at the hearing.

(b) *Submission of proposed final order to the Commission.* Immediately upon completion of its preparation, the proposed final order shall be submitted by the presiding officer to the Commission for approval and issuance. The proposed final order shall be accompanied by a copy of the transcript and of any exhibits that may have been introduced, and by a memorandum containing a summary of the evidence contained in the record and of such other factual data upon which the findings of fact in the proposed final order were based.

(c) *Tentative issuance of proposed final order.* The Commission may, if it deems it advisable to do so, issue the proposed final order as a tentative order. In such event, the tentative order shall be published in the FEDERAL REGISTER, and interested persons who appeared at the hearing shall be given a reasonable opportunity to file exceptions to the tentative order and to file briefs in support of such exceptions.

(d) *Publication of the final order.* The full text of the final order in any rule-making proceeding shall be published in the FEDERAL REGISTER and a copy of the order shall be sent to each contract market.

RULES APPLICABLE IN 6A PROCEEDINGS

§ 0.78 *Complaints*—(a) *Filing; number of copies; service.* Whenever, for any reason contemplated by subsection (1) of section 6a of the act, any board of trade which has been designated as a "contract market" seeks to exclude from membership in, and privileges on, such board of trade any cooperative association or corporation as defined in said subsection (1) of section 6a, the board of trade shall file a complaint. The complaint shall be filed, in quintuplicate, with the hearing clerk, who promptly shall serve a copy thereof upon the respondent, in the manner provided in § 0.95.

(b) *Contents; amendments.* Section 0.55 (b) and (c) shall be applicable in 6a proceedings.

§ 0.79 *Docket number.* Section 0.56 shall be applicable in 6a proceedings.

§ 0.80 *Referees*—(a) *Assignment.* No referee shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, or (2) is related within the third degree by blood or marriage to any of the directors or officers of any of the parties to the proceeding.

(b) *Disqualification of referee.* The provisions of § 0.57 (b) shall be applicable in 6a proceedings.

(c) *Conduct.* The provisions of § 0.57 (c) shall be applicable in 6a proceedings.

(d) *Powers of referee.* The provisions of § 0.57 (d) shall be applicable in 6a proceedings.

(e) *Who may act in the absence of the referee.* The provisions of § 0.57 (e) shall be applicable in 6a proceedings.

§ 0.81 *Intervention.* The provisions of § 0.58 shall be applicable in 6a proceedings.

§ 0.82 *The answer*—(a) *Filing and service.* The provisions of § 0.59 (a) shall be applicable in 6a proceedings.

(b) *Contents; failure to file.* The provisions of § 0.59 (b) shall be applicable in 6a proceedings.

(c) *Procedure upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. If, in such case, the respondent, prior to the expiration of the period for filing the answer, has requested in writing an opportunity to argue the question of whether the facts alleged constitute grounds for exclusion from membership and privileges, the respondent shall be afforded a period of 15 days in which to file a brief, setting forth such argument. If no request for argument is filed by the respondent prior to the expiration of the period for the filing of the answer, the referee shall prepare, for issuance by the Commission, an order, in which the findings of fact shall consist of the material facts alleged in the complaint.

§ 0.83 *Motions and requests.* The referee is authorized to rule upon all motions and requests filed in the proceeding prior to his submission of the record to the Commission. All motions and requests shall be filed with the hearing clerk, except that those made during the course of an oral hearing may be filed with the referee or may be stated orally and made a part of the transcript. Submission or certification of any question to the Commission prior to the close of the hearing shall be in the discretion of the referee, except that, in case the referee shall grant a motion to dismiss on the pleadings, an immediate appeal from the referee's ruling may be taken to the Commission.

§ 0.84 *Oral hearing before referee*—(a) *Request for hearing.* Any party may request an oral hearing on the facts by including such request in the complaint or answer, or by a separate request in writing, filed with the hearing clerk. Failure to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing, and any party so failing to request an oral hearing will be deemed to have agreed that the proceeding may be decided upon a record formed under the shortened procedure hereinafter provided for in § 0.90.

(b) *Time and place.* The provisions of § 0.61 (b) shall be applicable in 6a proceedings.

(c) *Appearances*—(1) *Representation.* The provisions of § 0.61 (c) (1) shall be applicable in 6a proceedings.

(2) *Failure to appear.* If any party to the proceeding, after being duly notified, fails to appear at the hearing, he or it shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the other side, the party who is present shall have an election to present his or its evidence, in whole or in part, in the form of affidavits or by oral testimony before

the referee. Failure to appear at the hearing shall not be deemed to be a waiver of the right to file suggested findings of fact, conclusions, and orders, and briefs in support thereof.

(d) *Order of proceeding.* Except as may be determined otherwise by the referee, the complainant shall proceed first at the hearing.

(e) *Evidence.* The provisions of § 0.61 (e) shall be applicable in 6a proceedings.

(f) *Oral argument before referee.* The provisions of § 0.61 (f) shall be applicable in 6a proceedings.

(g) *Transcript.* The provisions of § 0.61 (g) shall be applicable in 6a proceedings.

§ 0.85 *Depositions.* The provisions of § 0.62 shall be applicable in a 6a proceedings.

§ 0.86 *Subpenas.* The provisions of § 0.63 shall be applicable in 6a proceedings.

§ 0.87 *Fees of witnesses.* The provisions of § 0.64 shall be applicable in 6a proceedings.

§ 0.88 *Prehearing conferences.* The provisions of § 0.65 shall be applicable in 6a proceedings.

§ 0.89 *Referee's report*—(a) *Filing the transcript of evidence.* The provisions of § 0.66 (a) shall be applicable in 6a proceedings.

(b) *Proposed findings of fact, conclusions, and orders.* The provisions of § 0.66 (b) shall be applicable in 6a proceedings.

(c) *The referee's report.* The provisions of § 0.66 (c) shall be applicable in 6a proceedings.

(d) *Exceptions.* The provisions, except those contained in the last sentence, of § 0.66 (d) shall be applicable in 6a proceedings.

§ 0.90 *The shortened procedure.* The provisions of § 0.67 shall be applicable in 6a proceedings.

§ 0.91 *Transmittal of record.* The provisions of § 0.68 shall be applicable in 6a proceedings.

§ 0.92 *Argument before the Commission*—(a) *Oral argument.* There shall be no right to oral argument in 6a proceedings other than that hereinbefore provided in § 0.84 (f)

(b) *Exceptions; briefs.* The Commission will consider all exceptions taken to the referee's report, all statements of objections, and briefs filed in support thereof.

Additional briefs may be filed only with leave of the Commission.

§ 0.93 *Preparation and issuance of order*—(a) *Preparation of order* As soon as practicable after the receipt of the record from the hearing clerk, the Commission, upon the basis, and after due consideration, of the record, shall prepare its order in the proceeding which shall include findings, conclusions, order, and rulings on motions, exceptions, proposed findings, conclusions and orders submitted by parties, not theretofore ruled upon.

(b) *Issuance of order* The order, prepared as described in paragraph (a) of this section, shall be issued and served upon the parties as the final order in the proceeding without further procedure: *Provided,* That, if the terms of the order differ substantially from those proposed in the report of the referee, the Commission may, if it deems it advisable to do so, direct that a copy of the order be served upon the parties as a tentative order; and, in such event, opportunity shall be given the parties to file exceptions thereto and written arguments or briefs in support of such exceptions. In such case, if no exceptions are filed within 20 days following the service of the tentative order, it shall be issued and served as the final order in the proceeding.

§ 0.94 *Applications for reopening hearings, for rehearings or reargument of proceedings, or for reconsideration of orders.* The provisions of § 0.71 shall be applicable in 6a proceedings.

§ 0.95 *Filing; service; extensions of time; additional time for filing; and computation of time.* The provisions of § 0.72 shall be applicable in 6a proceedings.

RULES APPLICABLE TO ALL PROCEEDINGS

§ 0.96 *Hearings before the Commission.* The Commission may act in the place and stead of a referee or presiding officer in any proceeding hereunder. When it so acts, the hearing clerk shall transmit the record to the Commission at the expiration of the period provided for the filing of proposed findings of fact, conclusions and orders, and the Commission shall thereupon, after due consideration of the record, issue its final order in the proceeding: *Provided,* That it may issue a tentative order, in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final order.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

DEFINITIONS

Sec.
1.1 Words in singular and plural form.
1.2 Liability of principal for act of agent.
1.3 Definitions.

ADMINISTRATION

1.4 Duties to be performed by Act Administrator.
1.5 Information confidential; disclosures to contract-market committees and officials.
1.6 Speculation in commodities by officers and employees prohibited.

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

1.7 Registration required of futures commission merchants.
1.8 Registration required of floor brokers.
1.9 Registration as floor broker not included in registration as futures commission merchant and vice versa.
1.10 Applications for registration required on prescribed forms; financial statements of futures commission merchants; registration suspended or revoked for willful misrepresentation.
1.11 Registration fee; form of remittance.
1.12 Posting of registration certificate; fee for duplicate.
1.13 Deposit of registration fee; fee not subject to refund after registration; form of certificate.
1.14 Changes to be reported by futures commission merchants and floor brokers.
1.15 Changes requiring new registration.
1.16 Registrations expire December 31 of each year.

REPORTS

1.18 Futures commission merchants, on call, to report on Form 160.
1.19 Futures commission merchants, on call, to report names of persons exercising trading control over customers' accounts.
1.19a Contract-market members to report uncleared transactions ("pass-outs") on Form 110.

CUSTOMERS' FUNDS

1.20 Customers' funds to be segregated and separately accounted for.
1.21 Care of money and equities accruing to customer.
1.22 Use of money, securities, or property of customers restricted.
1.23 Interest of futures commission merchant in segregated funds, additions and withdrawals.
1.24 Segregated funds; exclusions therefrom.
1.25 Investment and lending of customers' money; conditions governing.
1.26 Deposit of investment securities, obligations, and warehouse receipts.
1.27 Permanent record of investment and loans.
1.28 Appraisal of investment securities and obligations.
1.29 Increment or interest resulting from investment or lending of customers' funds.
1.30 Loans by futures commission merchants; treatment of proceeds.

RECORD KEEPING

1.31 Books and records; keeping and inspection.
1.31a Compliance with §§ 1.32–1.36.
1.32 Segregated account; daily computation and permanent record.
1.33 Permanent record of customer's position in each future.
1.34 Monthly record, "point balance"; semiannual record for each customer; information on call.
1.35 Records of cash commodity and futures transactions.
1.36 Record of securities and property received from customers.
1.37 Customer's name, address, and occupation recorded; record of guarantor or controller of account.
1.38 "Transfer" or "office" trades, exchanges of futures; identification of and restrictions upon.
1.39 Simultaneous buying and selling orders of different principals; execution of, for and between principals.

MISCELLANEOUS

1.40 Crop, market information letters, reports; copies required.
1.41 Contract market rules, regulations; filing of copies.
1.42 Delivery notice; filing of copy.
1.43 Information required concerning warehouses.
1.44 Warehouse records, reports; visitation of premises.
1.45 Delivery of commodities conforming to United States standards.
1.46 Application and closing out of offsetting long and short positions.

AUTHORITY: §§ 1.1 to 1.46 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U.S.C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

DEFINITIONS

§ 1.1 *Words in singular and plural form.* Words used in the singular form

in the rules and regulations in this chapter shall be deemed to import the plural, and vice versa, as the case may require.

§ 1.2 *Liability of principal for act of agent.* The act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust, within the scope of his employment or office, shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust as well as of such official, agent, or other person. (Sec. 2, 42 Stat. 998; 7 U. S. C. 4)

§ 1.3 *Definitions.* The following terms, as used in the Commodity Exchange Act or in the rules and regulations in this chapter, shall have the meanings hereby assigned to them, unless the context otherwise requires:

(a) *Board of Trade.* This term means any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling any commodity or receiving the same for sale on consignment.

(b) *Business day.* This term means any day other than a Sunday or holiday. In all notices required by the act or by the rules and regulations in this chapter to be given in terms of business days the rule for computing time shall be to exclude the day on which notice is given and include the day on which shall take place the act of which notice is given.

(c) *Clearing member.* This term means any person who is a member of, or enjoys the privilege of clearing trades in his own name through, the clearing organization of a contract market.

(d) *Clearing organization.* This term means the person or organization which acts as a medium for clearing transactions in commodities for future delivery, or for effecting settlements of contracts for future delivery, for and between members of any board of trade.

(e) *Commodity.* This term means and includes wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs, Irish potatoes, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils) cottonseed meal, cottonseed, peanuts, soybeans, and soybean meal.

(f) *Commodity Exchange Act; the act.* These terms mean the Commodity Exchange Act approved September 21, 1922 (42 Stat. 993), as amended June 15, 1936 (49 Stat. 1491, 7 U. S. C. 1–17a), and other legislation supplementary thereto and amendatory thereof.

(g) *Commodity Exchange Authority.* This term means the Commodity Exchange Authority, United States Department of Agriculture.

(h) *Contract market.* This term means a board of trade designated by the Secretary of Agriculture as a contract market under the Commodity Exchange Act.

(i) *Contract of sale.* This term includes sales, purchases, agreements of sale or purchase, and agreements to sell or purchase.

(j) *Controlled account.* An account shall be deemed to be controlled by a person if such person by power of attorney or otherwise actually directs trading for such account.

(k) *Customer; commodity customer.* These terms have the same meaning and refer to a customer trading in any commodity named in the definition of commodity herein.

(l) *Delivery month.* This term means the month of delivery specified in a contract of sale of any commodity for future delivery.

(m) *Executing for others.* This term as used in the definition of floor broker means executing by any person of orders, including his own, for the purchase or sale of any commodity for future delivery in the name of, or for the account of, more than one principal (clearing member).

(n) *Floor broker.* This term means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall engage in executing for others any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market, and who for such services receives or accepts any commission or other compensation.

(o) *Future delivery.* This term does not include any sale of a cash commodity for deferred shipment or delivery.

(p) *Futures commission merchant.* This term means individuals, associations, partnerships, corporations, and trusts engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

(q) *Member of a contract market.* This term means and includes individuals, associations, partnerships, corporations, and trusts owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon.

(r) *Net equity.* This term means the credit balance which would be obtained by combining the commodity margin balance of any person with the net profit or loss, if any, accruing on the open trades or contracts of such person.

(s) *Net deficit.* This term means the debit balance which would be obtained by combining the commodity margin balance of any person with the net profit or loss, if any, accruing on the open trades or contracts of such person.

(t) *Open contracts.* This term means contracts of purchase or sale of any commodity made by or for any person on or subject to the rules of a board of trade for future delivery during a specified month or delivery period which have not been fulfilled by delivery nor offset by other contracts of sale or purchase in the same commodity and delivery month.

(u) *Person.* This term includes individuals, associations, partnerships, corporations, and trusts.

(v) *Act Administrator.* This term means the Administrator of the Commodity Exchange Authority, United States Department of Agriculture, in his capacity as Administrator of the Commodity Exchange Act, or any officer or employee of the Commodity Exchange Authority to whom he has heretofore lawfully delegated or may hereafter lawfully delegate the authority to act in his stead.

(w) *Secretary of Agriculture.* This term means the Secretary of Agriculture or any person to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead. (Sec. 2 (a), 42 Stat. 998, as amended; 7 U. S. C. 2)

ADMINISTRATION

§ 1.4 *Duties to be performed by Act Administrator.* The Act Administrator shall perform for and under the supervision of the Secretary of Agriculture such duties as the Secretary may require in enforcing the provisions of the act and of the rules and regulations promulgated thereunder.

§ 1.5 *Information confidential; disclosures to contract-market committees and officials.* No officer or employee of the Department of Agriculture shall publish, divulge, or make known in any manner, except insofar as may be required in the performance of his official duties or by a court of competent jurisdiction, any facts or information regarding the business of any person which may come to the knowledge of such officer or employee through any inspection or examination of the reports or records of, or through any information given by, any person pursuant to the Commodity Exchange Act or rules and regulations in this chapter: *Provided, however* That this prohibition shall not apply to disclosures made in good faith to the Business Conduct Committee or other proper committee or official of a contract market of matters in respect to which such contract market has responsibility or duty under the Commodity Exchange Act, or which, in the judgment of the Act Administrator, adversely affect such market or are prejudicial to the interests of producers or consumers. (Sec. 8, 42 Stat. 1003, as amended; 7 U. S. C. 12)

§ 1.6 *Speculation in commodities by officers and employees prohibited.* No officer or employee of the Department of Agriculture engaged in the administration or enforcement of the Commodity Exchange Act, or having access to any confidential information obtained under authority of the act, shall have any interest directly or indirectly in any speculative transaction in any commodity for future delivery.

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

§ 1.7 *Registration required of futures commission merchants.* No person shall engage as futures commission merchant in the solicitation or acceptance of orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any com-

modity for future delivery, on or subject to the rules of any contract market, unless such person shall have secured a certificate of registration as futures commission merchant under the Commodity Exchange Act issued by the Secretary of Agriculture and countersigned by the Act Administrator and such registration shall not have expired, been suspended, or been revoked. Such registration shall be required of every person engaged as herein described irrespective of whether accounting records relating to such orders and trades and contracts resulting therefrom are maintained by other futures commission merchants to whom such orders are transmitted for execution or clearance. (Sec. 4d, as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d)

§ 1.8 *Registration required of floor brokers.* No person shall act as floor broker in executing any orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have secured a certificate of registration as floor broker under the Commodity Exchange Act issued by the Secretary of Agriculture and countersigned by the Act Administrator and such registration shall not have expired, been suspended, or been revoked. (Sec. 4e, as added by sec. 5, 49 Stat. 1495; 7 U. S. C. 6e)

§ 1.9 *Registration as floor broker not included in registration as futures commission merchant and vice versa.* Registration as futures commission merchant shall not include registration as floor broker nor shall registration as floor broker include registration as futures commission merchant.

§ 1.10 *Applications for registration required on prescribed forms; financial statements of futures commission merchants; registration suspended or revoked for willful misrepresentation.* Application for registration as futures commission merchant shall be made on Form 1–R. Application for registration as floor broker shall be made on Form 2–R. Application forms may be obtained from the Commodity Exchange Authority, United States Department of Agriculture, Washington, D. C., or from any field office of the Commodity Exchange Authority. Each application shall be executed and filed in accordance with the instructions appearing on the prescribed form.

Every application for registration as futures commission merchant other than an application necessitated solely by reason of a change in the name of the registrant shall be accompanied by a supplemental statement on Form 1–RF showing the financial condition of the applicant as of a date not more than 6 months prior to the date of filing application: *Provided,* That the latest statement of financial condition submitted by the applicant to any commodity or securities exchange of which applicant is a member which includes substantially the same information concerning applicant's financial condition as that required on Form 1–RF as of a date not more than 6 months prior to the filing of application, may be filed with the application in lieu of statement on Form 1–RF: *Provided further* That in exceptional instances, upon good cause shown, the Act Administrator may extend, for not to exceed 60 days, the time for the filing of the applicant's financial statement.

Every statement on Form 1–RF and every statement filed in lieu thereof shall bear the verification of the applicant in the following form, to wit:

Applicant represents that all information contained or incorporated in this financial statement is true to the best of applicant's knowledge and belief.

Dated at ----------, the -------- day of ---------- 19----.

If the applicant is a partnership, the financial statement shall be signed in the name of the partnership by a general partner. If the applicant is a sole proprietorship, the financial statement shall be signed by the proprietor. If the applicant is a corporation or other form of organization, the financial statement shall be signed in the name of the corporation or other organization by the president, vice president, or other principal officer, attested and the seal affixed by the secretary or other authorized officer.

Willful misrepresentation or concealment by the applicant (or registrant) of any material fact in an application for registration or in any statement supplemental thereto shall constitute cause for the suspension or revocation of registration. (Secs. 4f, 4g, as added by sec. 5, 49 Stat. 1495, 1496; 7 U. S. C. 6f, 6g)

§ 1.11 *Registration fee; form of remittance.* Each application for registration, or renewal thereof, shall be accompanied by a registration (or renewal) fee of ten dollars ($10) in the form of a money order, bank draft, or certified check, payable to the Treasurer of the United States, and the application and fee shall be forwarded to the Commodity Exchange Authority, Department of Agriculture, Washington, D. C.

§ 1.12 *Posting of registration certificate; fee for duplicate.* Every person registered as futures commission merchant under the act shall:

(a) Post in a conspicuous place in each office in the United States maintained by such person in which orders for the purchase or sale of any commodity for future delivery are solicited or accepted, the original or a duplicate (issued by the Secretary of Agriculture) of such registrant's registration certificate as futures commission merchant; and

(b) Post in a conspicuous place in each office in the United States in which orders for the purchase or sale of any commodity for future delivery are solicited or accepted for, and in the name of, such registrant, a duplicate (issued by the Secretary of Agriculture) of such registrant's registration certificate as futures commission merchant.

Duplicates of registration certificates may be procured on request on payment of two dollars ($2) for each duplicate. Remittances in payment of duplicates shall be made payable to the Treasurer of the United States. The word "DUPLICATE" in conspicuous letters shall appear on the face of each duplicate. (Sec. 4f (2) as added by sec. 5, 49 Stat. 1495; 7 U. S. C. 6f (2))

§ 1.13 *Deposit of registration fee; fee not subject to refund after registration, form of certificate.* Upon receipt of an application for registration (or renewal thereof) the Secretary of Agriculture will, if the application be approved, issue a certificate of registration certifying that the registrant has registered under the act as futures commission merchant or as floor broker. The registration fee (including the fee for duplicate copies of the certificate of registration, if any) so tendered, shall be deposited in a special deposit account until the registration is finally issued or denied. If registration be denied, the fee shall be returned to the applicant, but if issued the fee shall be deposited in the Treasury of the United States as a miscellaneous receipt and will not thereafter be subject to refund. Each registration certificate shall bear a serial number, the signature of the Secretary of Agriculture, be issued under the seal of the United States Department of Agriculture, and be countersigned by the Act Administrator.

§ 1.14 *Changes to be reported by futures commission merchants and floor brokers.* The registrant shall file with the Commodity Exchange Authority a statement on Form 3–R setting forth any change which renders no longer accurate and current the information contained in any of the following enumerated items of the registrant's application for registration (or any statement supplemental thereto)

With respect to a futures commission merchant: Item 2 (address of principal office) item 3 (concerning general books and records) item 4 (form of organization) item 9 (addresses of branch offices and names of managers thereof, and location of branch offices in which there is maintained a separate and complete set of financial records of commodity customers' accounts) item 10 (agents authorized to solicit or accept commodity futures orders for, and in the name of, the registrant) and item 14 (refusal of, or suspension or expulsion from, commodity-exchange membership) Any change in the personnel of a partnership resulting from the death, withdrawal, or addition of a partner which, as a matter of law, does not create a new partnership may be reported on Form 3–R, as provided in § 1.15.

With respect to a floor broker: Item 2. (a) (business address) item 9 (names and addresses of clearing members through whom registrant clears commodity futures transactions for his own account) and item 11 (refusal of, or suspension or expulsion from, commodity-exchange membership)

Upon discontinuing business as futures commission merchant or as floor broker the registrant shall immediately notify the Commodity Exchange Authority on Form 3–R.

All statements on Form 3–R shall be prepared and filed in accordance with the instructions appearing thereon. (Sec.

4 (f) (1) as added by sec. 5, 49 Stat. 1495; 7 U. S. C. 6f (1))

§ 1.15 *Changes requiring new registration.* A new registration shall be required in the event of a change:

(a) In the name of the registrant;

(b) In the form of organization of the registrant;

(c) In the ownership of the business of the registrant in the case of a sole proprietorship; and

(d) In the personnel of a partnership resulting from the death, withdrawal, or addition of a partner: *Provided,* That if such change does not, as a matter of law, create a new partnership, it may be reported by the registrant to the Commodity Exchange Authority on Form 3-R within 10 days of the date of such change, and if so reported a new registration shall not be required.

§ 1.16 *Registrations expire December 31 of each year* All registrations shall automatically terminate at midnight on December 31 of the year for which issued, unless sooner suspended or revoked in accordance with the provisions of the act and the rules and regulations thereunder. (Sec. 4f (1) as added by sec. 5, 49 Stat. 1495; 7 U. S. C., 6f (1))

REPORTS

§ 1.18 *Futures commission merchants, on call, to report on Form 160.* Each futures commission merchant shall, upon call from the Commodity Exchange Authority, report on Form 160. Such report shall be prepared in accordance with the instructions appearing on Form 160 and shall be filed with the Commodity Exchange Authority, United States Department of Agriculture, Washington, D. C., not later than the third business day following the date specified in the call. Reports received by mail will be considered duly filed if postmarked not later than midnight of such third business day.

Such report shall show as of the close of business on the day named in the call:

(a) The total amount of money and credits held or carried by such futures commission merchant for the account of his commodity customers, including margin moneys and moneys and credits resulting from the closed trades and contracts and accruing in connection with the open trades and contracts of such customers; and

(b) The total amount of money segregated and set apart for the benefit of commodity customers—

(1) On hand,

(2) On deposit in banks,

(3) Pledged as margin with clearing organizations of contract markets,

(4) Pledged as margin with members of contract markets,

(5) Invested in securities described in section 4d (2) of the Commodity Exchange Act (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C., 6d (2)) and

(6) Loaned on security of warehouse receipts in accordance with the rules and regulations of the Secretary of Agriculture. (Sec. 4f, as added by sec. 5, 49 Stat. 1495; 7 U. S. C., 6f (1))

§ 1.19 *Futures commission merchants, on call, to report names of persons exercising trading control over customers' accounts.* Each futures commission merchant shall, upon call, file with the Commodity Exchange Authority a list of all persons who, by power of attorney or otherwise, exercise trading control over any account or accounts of any customer of such futures commission merchant with respect to contracts for the future delivery of any commodity on or subject to the rules of any contract market. (Sec. 4f (1) as added by sec. 5, 49 Stat. 1495; 7 U. S. C. 6f (1))

§ 1.19a *Contract-market members to report uncleared transactions ("pass-outs") on Form 110.* Each member of a contract market who shall execute uncleared transactions (commonly known as "pass-outs") in any commodity for future delivery on or subject to the rules of such contract market shall report to the Commodity Exchange Authority on Form 110 applicable to such contract market each business day on which he shall execute such uncleared transactions. Such report shall be prepared and filed in accordance with the instructions appearing on Form 110, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the details of each such transaction, including the commodity, future, quantity, and price, and the name of the person from whom bought and to whom sold: *Provided,* That the requirements of this section shall not apply to any member of a contract market, all of whose uncleared transactions are recorded on the books and records of, and included in the purchases and sales reported to the Commodity Exchange Authority by, a clearing member (or clearing members) of such contract market. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

CUSTOMERS' FUNDS

§ 1.20 *Customers' funds to be segregated and separately accounted for.* All money received by a futures commission merchant to margin, guarantee, or secure the trades or contracts of commodity customers and all money accruing to such customers as the result of such trades or contracts shall be separately accounted for and be segregated as belonging to such customers. Such funds, when deposited with any bank or trust company, shall be deposited under an account name which will clearly show that they are customers' funds segregated as required by the Commodity Exchange Act, and under a written agreement with such bank or trust company waiving any claim, lien, or right of set-off of any nature which such bank or trust company might otherwise have or obtain against such funds. An executed copy of such agreement shall be kept as a permanent record by the futures commission merchant. If such funds are deposited with a clearing organization of a contract market, they shall be deposited under an account name which will clearly show that they are customers' funds segregated as required by the Commodity Exchange Act. Under no circumstances shall any portion of commodity customers' funds be obligated to the clearing organization of a contract market, or to any member of a contract market, except to margin, guarantee, secure, transfer, adjust, or settle trades and contracts made in behalf of such commodity customers. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.21 *Care of money and equities accruing to customer.* All money received directly or indirectly by, and all money and equities accruing to, a futures commission merchant from any clearing organization of any contract market, or from any member thereof or from any member of a contract market, incident to or resulting from any trade or contract in commodity futures made by or through such futures commission merchant in behalf of any customer shall be considered as accruing to such customer within the meaning of section 4d (2) of the Commodity Exchange Act. Such money and equities shall be treated and dealt with as belonging to such customer in accordance with the provisions of the act. Money and equities accruing in connection with customers' open trades or contracts need not be separately credited to individual customers' accounts but may be treated and dealt with as belonging undivided to all customers having open trades or contracts which if closed would result in a credit to such customers. (Sec. 4d (2), as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.22 *Use of money, securities, or property of customer restricted.* No futures commission merchant shall use, or permit the use of, the money, securities, or property of one customer to margin or settle the trades or contracts, or to secure or extend the credit, of any person other than such customer. The net equity of one customer shall not be used to carry the trades or contracts or to offset the net deficit of any other customer or person or to carry the trades or offset the net deficit of the same customer in goods or property not included in the term "commodity" as defined herein. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C., 6d (2))

§ 1.23 *Interest of futures commission merchant in segregated funds, additions and withdrawals.* The prohibition in section 4d (2) of the Commodity Exchange Act (49 Stat. 1494; 7 U. S. C., 6d) against commingling customers' funds with the funds of a futures commission merchant shall not be construed to prevent such futures commission merchant from having a residual financial interest in the funds segregated and set apart for the benefit of commodity customers, nor shall such prohibition be construed to prevent a futures commission merchant from adding to customers' segregated funds from his own funds such amount or amounts of money as he may deem necessary to insure any and all customers' accounts from becoming undermargined at any time: *Provided, however,* That the books and records of such futures commission merchant shall at all times accurately reflect his interest in customers' segregated funds. Such futures commission merchant may draw upon such segregated funds to his own order to the extent of his actual interest

therein: *Provided,* That such withdrawal shall not result in the money, securities, property, or equity of one customer being used to margin or carry the trades or contracts, or extend the credit, of any other customer or person. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.24 *Segregated funds; exclusions therefrom.* Money held in segregated account by a futures commission merchant shall not include: (a) Money invested in obligations or stocks of any clearing organization, or in memberships in or obligations of any contract market; or (b) money held by any clearing organization of any contract market which may be used by such clearing organization for any purpose other than to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of the commodity customers of such futures commission merchant. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.25 *Investment and lending of customers' money; conditions governing.* Any futures commission merchant may, in accordance with the provisions of section 4d (2) of the Commodity Exchange Act,

(a) Invest customers' money in obligations or investment securities as described in said section; and

(b) Loan customers' money to other persons on the security of negotiable warehouse receipts conveying or securing title to readily marketable commodities, subject to the following conditions:

(1) That such warehouse receipts be issued by a public warehouseman other than such futures commission merchant, licensed as warehouseman under the provisions of the United States Warehouse Act (39 Stat. 486; 7 U. S. C., Chapter 10) or the warehouse laws of any State; and

(2) The amount of any loan so made shall at no time exceed 85 percent of the current market value of the commodities represented by such warehouse receipts. (Sec. 4d, as added by sec. 5, 49 Stat. 1494; 7 U. S. C., 6d (2))

CROSS REFERENCE: For regulations under the United States Warehouse Act, see 7 CFR Parts 101–114, 151.

§ 1.26 *Deposit of investment securities, obligations, and warehouse receipts.* Each futures commission merchant who, in accordance with section 4d (2) of the act and with these rules and regulations, invests money belonging or accruing to customers in obligations or investment securities described in said section, or loans such money on the security of negotiable warehouse receipts, shall promptly:

(a) Deposit such obligations, securities, and warehouse receipts in safekeeping with a bank or trust company under an account name which will clearly show that they represent investments of, or security for loans of, customers' funds segregated as required by the Commodity Exchange Act, and under a written agreement with such bank or trust company waiving any claim, lien, or right of set-off of any nature which such bank or trust company might otherwise have or obtain against such obligations, securities, and warehouse receipts, and authorizing inspection thereof at any reasonable time by representatives of the Commodity Exchange Authority; or

(b) Deposit such obligations, securities, and warehouse receipts with a clearing organization of a contract market under an account name which will clearly show that they represent investments of, or security for loans of, customers' funds segregated as required by the Commodity Exchange Act, and under a written agreement with such clearing organization providing that such obligations, securities, and warehouse receipts are deposited solely to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of the commodity customers of such futures commission merchant and waiving any other claim, lien, or right of set-off of any nature which such clearing organization might otherwise have or obtain against such obligations, securities, and warehouse receipts. Such agreement shall authorize the inspection at any reasonable time by representatives of the Commodity Exchange Authority of such obligations, securities, and warehouse receipts.

An executed copy of the agreement prescribed herein shall be kept as a permanent record by the futures commission merchant. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.27 *Permanent record of investments and loans.* Each futures commission merchant who, in accordance with section 4d (2) of the act and with the rules and regulations in this chapter, invests money belonging or accruing to customers in obligations or investment securities described in said section, or loans such money on the security of negotiable warehouse receipts, shall keep a permanent record showing the following:

(a) With respect to obligations and investment securities,

(1) The date on which such investments were made,

(2) The name of the person from or through whom such obligations or securities were bought,

(3) The amount of money paid for such obligations or securities,

(4) A description of such obligations or securities,

(5) The date on which disposition was made of such obligations or securities and the amount of money received therefor, and

(6) The name of the person to or through whom such obligations or securities were sold; and

(b) With respect to warehouse receipts,

(1) The date on which such loans were made,

(2) The name of the person to whom such funds were loaned,

(3) The amount loaned on the security of such warehouse receipts,

(4) A description of such warehouse receipts,

(5) The date and particulars of any changes or substitutions in the warehouse receipts held as security for such loans, and

(6) The date on which such loans were repaid. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.28 *Appraisal of investment securities and obligations.* Futures commission merchants who invest customers' money in obligations or investment securities under the provisions of section 4d (2) of the Commodity Exchange Act shall include such obligations or investment securities in segregated account at values which at no time shall be greater than current market value, determined as of the close of the market on the last preceding market day, less the cost of disposal. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.29 *Increment or interest resulting from investment or lending of customers' funds.* The investment and lending of customers' funds in accordance with the provisions of section 4d (2) of the Commodity Exchange Act and these rules and regulations and the deposit, in accordance with the provisions of § 1.26, of obligations, investment securities, and warehouse receipts, shall not operate to prevent the depositor from receiving and retaining as his own any increment or interest resulting therefrom. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494, 7 U. S. C. 6d (2))

§ 1.30 *Loans by futures commission merchants; treatment of proceeds.* Nothing contained in the rules and regulations in this chapter, shall be construed to prevent a futures commission merchant from lending his own funds to commodity customers on securities and property pledged by such customers, or from re-pledging or selling such securities and property pursuant to specific written agreement with such customers: *Provided, however,* That the proceeds of such loans used to margin, guarantee, or secure the trades or contracts of such customers in any commodity for future delivery shall be treated and dealt with by such futures commission merchant as belonging to such customers, in accordance with and subject to the provisions of section 4d (2) of the Commodity Exchange Act. (Sec. 4d (2), as added by sec. 5, 49 Stat. 1494, 7 U. S. C. 6d (2))

RECORD KEEPING

§ 1.31 *Books and records; keeping and inspection.* All books and records required to be kept by the act or by the rules and regulations in this chapter, shall be kept for a period of 5 years from the date thereof and during the first 2 years of such period shall be readily accessible. All such books and records shall be open to inspection by any representative of the United States Department of Agriculture or the United States Department of Justice. (Secs. 4, 5, 42 Stat. 999, 1000, secs. 4g, 4i, 5a, as added by secs. 5, 7, 49 Stat. 1496, 1497; 7 U. S. C. 6, 7 (b), 6g, 6i, 7a (2), 7a (3))

§ 1.31a *Compliance with* §§ 1.32–1.36. With respect to a futures commission merchant who transmits all customers' commodity futures orders, together with all money, securities, and property received to margin, guarantee, or clear the trades or contracts of such customers,

to another futures commission merchant for execution or clearance, and the latter renders confirmations and statements of purchase and sale, and transmits remittances, direct to such customers, the requirements of §§ 1.32–1.36, inclusive, shall be deemed to be complied with if the books and records described in the aforesaid sections are prepared and kept, in the form and manner therein set forth, by either the futures commission merchant transmitting such orders or by the futures commission merchant to whom such orders are transmitted.

§ 1.32 *Segregated account; daily computation and permanent record.* The amount of money, securities, and property which must be in segregated account in order to comply with the requirements of section 4d (2) of the Commodity Exchange Act shall be computed by each futures commission merchant as of the close of the market each business day, based upon his accounting records. A permanent record of such computation shall be made and kept in readily accessible form, together with all supporting data. (Sec. 4d (2) as added by sec. 5, 49 Stat. 1494; 7 U. S. C. 6d (2))

§ 1.33 *Permanent record of customer's position in each future.* Each futures commission merchant shall prepare and keep as a permanent record a statement which shows the position of each customer in each future of each commodity on each contract market as of the close of the last business day of each calendar month. Such statement may be prepared separately or may be combined with the statement required by § 1.34. (Sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C., 6g)

§ 1.34 *Monthly record, "point balance"; semiannual record for each customer; information on call.* Each futures commission merchant shall prepare and keep as a permanent record a statement, commonly known as a "point balance" which accrues or brings to the official closing price, or settlement price fixed by the clearing organization, all open trades or contracts of customers as of the last business day of each calendar month. Each futures commission merchant shall also prepare and keep as a permanent record a statement which shall show, as of the close of the last business day of his fiscal year and semiannually thereafter, (a) the net profit or loss (equity or deficit) based upon the closing price or settlement price fixed by the clearing organization, accruing to each customer from the combined open trades, or contracts of such customer, (b) the credit or debit balance of the commodity margin account of each customer, whether or not such customer has any trades or contracts open, and (c) a description of all securities and property in segregated account received from each customer to margin, guarantee, or secure the trades or contracts of such customer: *Provided,* That, upon call, a statement shall be prepared setting forth the information described in paragraphs (a) (b) and (c) of this section, as of the close of the calendar month specified in the call: *Provided further* That such statement when made upon call may, with the approval of the Commodity Exchange Authority, be substituted for, and used in lieu of, the next succeeding semiannual statement which would otherwise be required by the provisions of this section. (Sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C., 6g)

§ 1.35 *Records of cash commodity and futures transactions.* Each futures commission merchant and each member of a contract market shall keep full and complete records of all commodity futures transactions and cash commodity transactions, made by or through him, on or subject to the rules of a board of trade. Such records shall be kept systematically and in such manner as to be readily accessible. He shall keep such records, including all orders, trading cards, signature cards, street books, journals, ledgers, canceled checks, copies of confirmations and copies of statements of purchase and sale, together with all other data and memoranda, and records of every sort pertaining to transactions in cash commodities and in commodities for future delivery, for a period of 5 years from the date thereof. He shall produce the same for inspection and shall furnish true and correct information and reports as to the contents or the meaning thereof, when and as requested by any authorized representative of the Commodity Exchange Authority. (Sec. 4g, as added by sec. 5, 49 Stat. 1496, sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 6g 7 (b))

§ 1.36 *Record of securities and property received from customers.* Each futures commission merchant shall keep, in permanent and readily accessible form, a record of all securities and property (other than money) received from customers in lieu of money to margin, guarantee, or secure the commodity trades and contracts of such customers. Such record shall include a description of the securities and property received from each customer, the name and address of such customer, the dates when such securities and property were received from and when returned to such customer, or otherwise disposed of, together with the facts and circumstances of such other disposition. (Sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C., 6g)

§ 1.37 *Customer's name, address, and occupation recorded; record of guarantor or controller of account.* Each futures commission merchant and each member of a contract market shall keep a record in permanent form which shall show for each commodity futures account carried by him the true name and address of the person for whom such account is carried and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. Such record shall be open to inspection by any authorized representative of the Commodity Exchange Authority. (Secs. 4, 5, 42 Stat. 999, 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6, 7 (b), 6g)

§ 1.38 *"Transfer" or "office" trades, exchanges of futures; identification of and restrictions upon.* Each member of a contract market, each futures commission merchant and each floor broker handling or executing trades or transactions known as transfer trades or office trades, or which involve the exchange of futures for cash commodities or the exchange of futures in connection with cash commodity transactions, shall identify and mark by appropriate symbol or designation all such transactions and all records and memoranda pertaining thereto. No transaction or trade shall be considered to be a transfer trade or office trade or an exchange of futures for cash commodities or an exchange of futures in connection with cash commodities unless made in accordance with the written rules of a board of trade applying to such trades and transactions and such rules have not been disapproved by the Secretary of Agriculture. (Sec. 5 (b), 42 Stat. 1000 secs. 4c, 4g, as added by sec. 5, 49 Stat. 1494, 1496; 7 U. S. C. 7 (b), 6c, 6g)

§ 1.39 *Simultaneous buying and selling orders of different principals; execution of, for and between principals*—(a) *Conditions and requirements.* A member of a contract market who shall have in hand at the same time both buying and selling orders of different principals for the same commodity for future delivery in the same delivery month may execute such orders for and directly between such principals at the market price, if, in conformity with the written rules of such contract market specifically applicable to such cases:

(1) Such orders are first offered openly and competitively by open outcry in the trading pit or ring (i) by both bidding and offering at the same price, and neither such bid nor offer is accepted, or (ii) by bidding and offering to a point where such offer is higher than such bid by not more than the minimum permissible price fluctuation applicable to such commodity on such contract market, and neither such bid nor offer is accepted;

(2) Such member executes such orders in the presence of an official representative of such contract market designated to observe such transactions and, by appropriate descriptive words or symbol, clearly identifies all such transactions on his trading card or other similar record, made at the time of execution, and notes thereon the exact time of execution and promptly presents said record to such official representative for verification and initialing;

(3) Such contract market keeps a permanent record of each such transaction showing the date, price, quantity, kind of commodity, delivery month, by whom executed, and the exact time of execution; and

(4) Neither the futures commission merchant receiving nor the member executing such orders has any interest therein, directly or indirectly, except as a fiduciary.

(b) *Not deemed filling orders by offset nor cross trades.* The execution of orders in compliance with the conditions herein set forth will not be deemed to constitute the filling of orders by offset within the meaning of paragraph (D) of section 4b, nor to constitute cross trades within the meaning of paragraph

(A) of section 4c, of the Commodity Exchange Act. (Secs. 4b, 4c, as added by sec. 5, 49 Stat. 1493, 1494, 7 U. S. C. 6b 6c)

MISCELLANEOUS

§ 1.40 *Crop, market information letters, reports; copies required.* Each futures commission merchant and each member of a contract market shall, upon request, furnish or cause to be furnished to the Commodity Exchange Authority a true copy of any letter, circular, telegram, or report published or given general circulation by such futures commission merchant or member which concerns crop or market information or conditions that affect or tend to affect the price of any commodity, and the true source of or authority for the information contained therein.

§ 1.41 *Contract market rules, regulations; filing of copies.* Each contract market shall promptly furnish to the Commodity Exchange Authority copies of all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof, or by any committee or clearing organization thereof, and of all changes and proposed changes therein, and shall notify the Commodity Exchange Authority promptly of all changes in its membership. Three copies of all such material shall be furnished to the Act Administrator, United States Department of Agriculture, Washington, D. C., and one copy shall be furnished to the supervisor in charge of the field office of the Commodity Exchange Authority having local jurisdiction with respect to such contract market. (Sec. 5a (1) as added by sec. 7, 49 Stat. 1497; 7 U. S. C. 7a (1))

§ 1.42 *Delivery notice; filing of copy.* Each contract market shall furnish or cause to be furnished promptly to the Commodity Exchange Authority a copy of each notice of delivery issued by any member thereof covering the delivery of any commodity on a futures contract made on or subject to the rules of such contract market, and shall also furnish or cause to be furnished promptly to the Commodity Exchange Authority a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made.

§ 1.43 *Information required concerning warehouses.* Each contract market shall file with the Commodity Exchange Authority a list of all warehouses in which or out of which commodities are deliverable in satisfaction of futures contracts made on or subject to the rules of such contract market, which list shall show the name, location, and storage capacity of each such warehouse, together with the name and business address of the operator thereof. Such list shall be accompanied by a schedule of the storage charges, handling charges, and the annual fire insurance rate applicable to each such warehouse. The Commodity Exchange Authority shall be kept currently advised of all changes affecting such information. (Sec. 5a (3) as added by sec. 7, 49 Stat. 1497; 7 U. S. C. 7a, (3))

§ 1.44 *Warehouse records, reports; visitation of premises.* Each contract market shall require the operators of warehouses whose receipts are deliverable in satisfaction of commodity futures contracts made on or subject to the rules of such contract market—

(a) To keep records showing the stocks of each commodity traded in for future delivery on such contract market, in store in such warehouses by kinds, by classes, and by grades, if stored under conditions requiring such designation or identification, and including also lots and parcels stored specially or separately or in specially leased warehouse space;

(b) Upon call from the Commodity Exchange Authority, to report the stocks of commodities in such warehouses and to furnish information concerning stocks of each commodity traded in for future delivery on such contract market about to be transferred or in process of being transferred, or otherwise moved into or out of such warehouses, as well as any other information concerning commodities stored in such warehouses and which are or may be available for delivery on futures contracts; and

(c) To permit visitation of the premises and inspection of the books and records of such warehouses by duly authorized representatives of the United States Department of Agriculture or the Department of Justice, and to keep all books, records, papers, and memoranda relating to the storage and warehousing of commodities in such warehouses for a period of 5 years from the date thereof. (Sec. 5a (3) as added by sec. 7, 49 Stat. 1497; 7 U. S. C. 7a (3))

§ 1.45 *Delivery of commodities conforming to United States standards.* Each contract market shall require that all contracts of sale of any commodity for future delivery on or subject to the rules of such contract market shall provide for the delivery thereunder of commodities of grades conforming to United States standards if such standards shall have been officially promulgated. In the event of a change in United States standards, all contracts made on and after the effective date of such change shall be made on the basis of the standards as changed: *Provided,* That this shall not be construed to prevent the closing of trades made prior to the effective date of such change. (Sec. 5a (6) as added by sec. 7, 49 Stat. 1498; 7 U. S. C. 7a (6))

§ 1.46 *Application and closing out of offsetting long and short positions*—(a) *Application of purchases and sales.* Any futures commission merchant who, on or subject to the rules of a contract market:

(1) Shall purchase any commodity for future delivery for the account of any customer (other than the "Customers' Account" of another futures commission merchant) when the account of such customer at the time of such purchase has a short position in the same future of the same commodity on the same market, or

(2) Shall sell any commodity for future delivery for the account of any customer (other than the "Customers' Account" of another futures commission merchant) when the account of such customer at the time of such sale has a long position in the same future of the same commodity on the same market,

shall on the same day apply such purchase or sale against such previously held short or long position, as the case may be, and shall promptly furnish such customer a purchase and sale statement, or account sale, showing the financial result of the transactions involved.

(b) *Customer's instructions.* In all instances wherein the short or long position in such customer's account immediately prior to such offsetting purchase or sale is greater than the quantity purchased or sold, the futures commission merchant shall apply such offsetting purchase or sale to such portion of the previously held short or long position as may be specified by the customer. In the absence of specific instructions from the customer, the futures commission merchant shall apply such offsetting purchase or sale to the oldest portion of the previously held short or long position, as the case may be.

(c) *In-and-out trades; day trades.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, this section shall not be deemed to require the application of purchases or sales closed out during the same day (commonly known as "in-and-out trades" or "day trades") against short or long positions carried forward from a prior date.

(d) *Exceptions.* The provisions of this section shall not apply to:

(1) Purchases or sales of job lots against positions in round lots, nor to purchases or sales of round lots against positions in job lots, on markets where round lots and job lots are cleared separately;

(2) Purchases or sales constituting "bona fide hedging transactions" as defined in section 4a (3) of the Commodity Exchange Act; nor

(3) Sales during a delivery period for the purpose of making delivery during such delivery period if such sales are accompanied by instructions to make delivery thereon, together with warehouse receipts or other documents necessary to effectuate such delivery. (42 Stat. 998, 49 Stat. 1491, 52 Stat. 205, 54 Stat. 1059, Pub. Law 392, 80th Cong., 7 U. S. C. 1–17a)

PART 2—SPECIAL PROVISIONS APPLICABLE TO GRAINS, FLAXSEED, AND SOYBEANS

Sec.

2.00 Definition; "grain."

FORM 200

2.01 Daily reports on Form 200 by clearing members; information shown.

2.02 Time and place of filing reports on Form 200.

2.03 Errors or omissions in reports on Form 200.

FORMS 201 AND 202

2.04 "Special accounts" reported on Form 201.

2.05 Net position of account prior and subsequent to special account status.

2.06 Time of filing reports on Form 201.

2.07 Accounts reported on Form 201 shown by account number or code; identification on Form 202.

2.08 Persons controlling or having participating financial interest in accounts shown on Form 202.

2.09 Character accounts shown on Form 202.

FORM 203

Sec.
2.10 Persons holding or controlling open contracts of specified size; reports on Form 203.
2.11 Separate reports on Form 203 for each grain; information shown.
2.12 Time of filing reports on Form 203.
2.13 Assignment of code number.
2.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
2.15 Information required upon call.

FORM 204

2.16 Merchandisers, processors, and dealers holding or controlling open contracts of specified size to report weekly on Form 204.
2.17 Information shown in reports on Form 204.
2.18 Cash-grain position; how determined.
2.19 Time of filing reports on Form 204.

AMOUNTS FIXED FOR REPORTING ON FORMS 201, 203, AND 204

2.20 Amount fixed for reporting on Form 201.
2.21 Amount fixed for reporting on Forms 203 and 204.

SPECIAL CALLS

2.22 Special calls; reports on Form 201.
2.23 Special calls; reports on Form 203.

AUTHORITY: §§ 2.00 to 2.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 2.00 *Definition; "grain."* The word "grain" as used in this part shall mean and include wheat, corn, oats, barley, rye, rice, flaxseed, grain sorghums, and soybeans.

FORM 200

§ 2.01 *Daily reports on Form 200 by clearing members; information shown.* Each clearing member of each contract market shall report to the Commodity Exchange Authority each business day on Form 200 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 200, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of grain for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market shall report separately with respect to each such market. Such report shall show separately for each kind of grain and each delivery month:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of grain bought and the quantity of grain sold on such contracts during the period covered by the report;

(d) The quantity of grain delivered and the quantity of grain received on such contracts during the period covered by the report; and

(e) The quantity of grain represented by delivery notices passed back to the clearing organization or passed on to other clearing members. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 2.02 *Time and place of filing reports on Form 200.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 200 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. If there be no office of the Commodity Exchange Authority in such city, the reports shall be transmitted in accordance with instructions furnished by the Commodity Exchange Authority. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 2.03 *Errors or omissions in reports on Form 200.* Reports on Form 200 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 201 AND 202

§ 2.04 *"Special accounts" reported on Form 201.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any future of any grain, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 2.20, shall report such account daily to the Commodity Exchange Authority on Form 201 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 201.

For the purpose of reporting on Form 201, all accounts which belong to or are controlled by the same person shall be considered as one account. All accounts required to be reported on Form 201 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 2.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 2.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6 g)

§ 2.06 *Time of filing reports on Form 201.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 201 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 2.07 *Accounts reported on Form 201 shown by account number or code; identification on Form 202.* Reports on Form 201 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 201 it shall be identified on Form 202, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 201. An account number or code once identified on Form 202 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 2.08 *Persons controlling or having participating financial interest in accounts shown on Form 202.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 201, the names and addresses of all such persons shall be shown on Form 202. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7(b), 6g)

§ 2.09 *Character of accounts shown on Form 202.* In identifying accounts on Form 202 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading, speculative, or commission house. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

FORM 203

§ 2.10 *Persons holding or controlling open contracts of specified size; reports on Form 203.* Every person who holds or controls open contracts in any one future of any grain on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 2.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Ex-

change Authority on Form 203. Such report shall be made daily: *Provided,* That if on any day such person has no trades or transactions in any future of a grain previously reported and there has been no change in the open contracts of such person in any such grain, the last detailed report of such person shall be considered as his report on open contracts in such grain on all intervening days. Such person shall also make a report on Form 203 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 2.21. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 2.11 *Separate reports on Form 203 for each grain; information shown.* Separate reports on Form 203 shall be filed covering each grain in which the person reporting has or controls open contracts in any one future which equal or exceed the amount fixed in § 2.21. Each such report shall show for the day covered thereby, by markets and by futures:

(a) The amount of open contracts held or controlled by such person in all futures of such grain on all boards of trade in the United States and elsewhere;

(b) The character of the open contracts held or controlled, i. e., whether hedging, spreading, or speculative;

(c) The amount of such grain bought and the amount sold by such person for future delivery on all boards of trade in the United States and elsewhere; and

(d) The amount of such grain delivered by or to such person in settlement of futures contracts.

For the purposes of paragraph (b) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C., 6a (3)) (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 2.12 *Time of filing reports on Form 203.* Unless otherwise authorized in writing by the Commodity Exhange Authority upon good cause shown, reports required on Form 203 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 2.13 *Assignment of code number* Upon receipt of the first report from any person on Form 203, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 203 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 2.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any future of any grain on any contract market equal to or in excess of the amount fixed in § 2.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

CROSS REFERENCE: For general provisions relating to inspection and the keeping of books and records, see § 1.31 of this chapter.

§ 2.15 *Information required upon call.* Each person required to report on Form 203 shall,

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such associaton or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; U. S. C. 6i)

FORM 204

§ 2.16 *Merchandisers, processors, and dealers holding or controlling open contracts of specified size to report weekly on Form 204.* Every person who is engaged in merchandising, processing, or dealing in, grain or grain products and who holds or controls open contracts in any one future of any grain on any contract market which equal or exceed the amount fixed in § 2.21 shall report to the Commodity Exchange Authority on Form 204, which report shall be rendered as of the close of business on Friday of each week unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 2.17 *Information shown in reports on Form 204.* Such report shall contain the following information with respect to each grain in which the person reporting holds or controls open contracts in any one future thereof on or subject to the rules of any contract market equal to or in excess of the amount fixed in § 2.21.

(a) The amount of the net long or net short cash-grain position of such person in such grain;

(b) The make-up of the cash-grain position of such person in such grain showing:

(1) The amount of stocks of such grain or products or byproducts thereof,

(2) The amount of purchase commitments open in such grain or products or byproducts thereof, and

(3) The amount of sale commitments open in such grain or products or byproducts thereof; and

(c) The amount of open contracts held by such person in all futures of such grain on all boards of trade in the United States and elsewhere. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 2.18 *Cash-grain position, how determined.* In determining the cash-grain position of any person reporting on Form 204, such person shall use such standards and conversion factors applying to grain products and byproducts as are usual and common to the business in which he is engaged. If, in determining the cash-grain position of such person for hedging purposes, it be his practice regularly to exclude certain products or byproducts, such products or byproducts shall be excluded in reporting such cash-grain position on Form 204.

Such person shall upon request furnish the Commodity Exchange Authority with detailed information concerning the kind and amount of each product or byproduct included in computing his cash-grain position and the conversion factor used for each such product or byproduct. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 2.19 *Time of filing reports on Form 204.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 204 shall be filed with the Commodity Exchange Authority not later than the next business day following the day covered by the report: *Provided,* That reports may be transmitted by mail in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the last day allowed for filing. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 201, 203, AND 204

§ 2.20 *Amount fixed for reporting on Form 201.* For the purpose of §§ 2.04 and 2.05, the amount specified for reporting accounts on Form 201 is 200,000 bushels, but such specified amount shall not apply to special calls issued under authority of § 2.22. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 2.21 *Amount fixed for reporting on Forms 203 and 204.* For the purpose of §§ 2.10, 2.11, 2.14, 2.16, and 2.17, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 203 and Form 204 is 200,000 bushels. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

SPECIAL CALLS

§ 2.22 *Special calls; reports on Form 201.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each

futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated grain future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 201, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 2.20 shall have no application. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 2.23 *Special calls; reports on Form 203.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any grain future shall, upon call, report all open contracts in grain futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 203 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 2.21 shall have no application. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 3—SPECIAL PROVISIONS APPLICABLE TO COTTON

Sec.

3.00 Definitions: "cash cotton"; "spot cotton"; "call cotton"; "cotton on call."

FORM 300

3.01 Daily reports on Form 300 by clearing members; information shown.
3.02 Time and place of filing reports on Form 300.
3.03 Errors or omissions in reports on Form 300.

FORMS 301 AND 302

3.04 "Special accounts" reported on Form 301.
3.05 Net position of account prior and subsequent to special account status.
3.06 Time of filing reports on Form 301.
3.07 Accounts reported on Form 301 shown by account number or code; identification on Form 302.
3.08 Persons controlling or having participating financial interest in accounts shown on Form 302.
3.09 Character of accounts shown on Form 302.

FORM 303

3.10 Persons holding or controlling open contracts of specified size; reports on Form 303.
3.11 Information shown in reports on Form 303.
3.12 Time of filing reports on Form 303.
3.13 Assignment of code number.
3.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
3.15 Information required upon call.

FORM 304

3.16 Merchandisers, processors, and dealers holding or controlling open contracts of specified size to report on Form 304.
3.17 Information shown in reports on Form 304.
3.18 Spot-cotton position; how determined.
3.19 Time of filing reports on Form 304.

AMOUNTS FIXED FOR REPORTING ON FORMS 301, 303, AND 304

3.20 Amount fixed for reporting on Form 301.
3.21 Amount fixed for reporting on Forms 303 and 304.

SPECIAL CALLS

3.22 Special calls; reports on Form 301.
3.23 Special calls; reports on Form 303.

AUTHORITY: §§ 3.00 to 3.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCE: For general regulations under the Commodity Exchange Act, see Part 1 of this chapter.

§ 3.00 *Definitions: "cash cotton"; "spot cotton"; "call cotton"; "cotton on call."* The terms "cash cotton" and "spot cotton" shall have the same meaning and shall refer to transactions in actual cotton as distinguished from cotton futures. The terms "call cotton" and "cotton on call" shall mean spot cotton bought or sold, or contracted for purchase or sale, at a price to be fixed later, based upon a specified future.

FORM 300

§ 3.01 *Daily reports on Form 300 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for cotton shall report to the Commodity Exchange Authority each business day on Form 300 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 300, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of cotton for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for cotton shall report separately with respect to each such market. Such report shall show separately for each future:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of cotton bought and the quantity of cotton sold on such contracts during the period covered by the report;

(d) The quantity of cotton delivered and the quantity of cotton received on such contracts during the period covered by the report; and

(e) The quantity of cotton represented by delivery notices passed back to the clearing organization or passed on to other clearing members. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 3.02 *Time and place of filing reports on Form 300.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 300 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 3.03 *Errors or omission in reports on Form 300.* Reports on Form 300 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 301 AND 302

§ 3.04 *"Special accounts" reported on Form 301.* (a) Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any cotton future, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 3.20, shall report such account daily to the Commodity Exchange Authority on Form 301 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 301.

(b) For the purpose of reporting on Form 301, all accounts which belong to or are controlled by the same person shall be considered as one account. All accounts required to be reported on Form 301 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 3.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 3.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 3.06 *Time of filing reports on Form 301.* Unless otherwise authorized in writing by the Comodity Exchange Authority upon good cause shown, reports required to be made on Form 301 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided*, That, futures commission mer-

chants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1946; 7 U. S. C. 7 (b) 6g)

§ 3.07 *Accounts reported on Form 301 shown by account number or code; identification on Form 302.* Reports on Form 301 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 301 it shall be identified on Form 302, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 301. An account number or code once identified on Form 302 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 3.08 *Persons controlling or having participating financial interest in accounts shown on Form 302.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 301, the names and addresses of all such persons shall be shown on Form 302. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 3.09 *Character of accounts shown on Form 302.* In identifying accounts on Form 302 the person reporting shall indicate the character of such accounts, i. e., whether hedging, straddling, speculative, or commission house. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

FORM 303

§ 3.10 *Persons holding or controlling open contracts of specified size; reports on Form 303.* Every person who holds or controls open contracts in any one cotton future on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 3.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 303. Such report shall be made daily: *Provided,* That, if on any day such person has no trades or transactions in any cotton future previously reported and there has been no change in the open contracts of such person in any cotton future, the last detailed report of such person shall be considered as his report on open contracts in cotton futures on all intervening days. Such person shall also make a report on Form 303 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 3.21. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 3.11 *Information shown in reports on Form 303.* Reports made by any person on Form 303 shall show for the day covered thereby, by markets and by futures:

(a) The amount of open contracts held or controlled by such person in any and all cotton futures on all boards of trade (exchanges) in the United States and elsewhere;

(b) The character of the open contracts held or controlled, i. e., whether hedging, straddling, or speculative;

(c) The amount of cotton bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(d) The amount of cotton delivered by or to such person in settlement of futures contracts.

For the purposes of paragraph (b) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3) (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 3.12 *Time of filing reports on Form 303.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 303 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That, reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 3.13 *Assignment of code number* Upon receipt of the first report from any person on Form 303, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 303 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 3.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any cotton future on any contract market equal to or in excess of the amount fixed in § 3.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

CROSS REFERENCE: For general provisions relating to inspection and the keeping of books and records, see § 1.31 of this chapter.

§ 3.15 *Information required upon call.* Each person required to report on Form 303 shall:

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

FORM 304

§ 3.16 *Merchandisers, processors, and dealers holding or controlling open contracts of specified size to report on Form 304.* Every person who is engaged in merchandising, processing, or dealing in cotton, cotton yarn, cotton cloth, or other cotton products, and who holds or controls open contracts in any one cotton future on any contract market which equal or exceed the amount fixed in § 3.21, shall report to the Commodity Exchange Authority on Form 304, which report shall be rendered as of the close of business on Friday of each week and July 31 of each year unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 3.17 *Information shown in reports on Form 304.* Reports made by any person on Form 304 shall be prepared in accordance with the instructions appearing on Form 304 and shall contain the following information:

(a) The make-up of such person's net fixed-price position in spot cotton;

(b) The make-up of such person's hedgeable interest in spot cotton and his market position;

(c) The make-up of such person's basis position in spot cotton;

(d) The amount of certificated cotton owned by such person;

(e) Such person's fixed-price spot-cotton positions (both long and short) if such person holds or controls open contracts in any one cotton future on any contract market amounting to, or exceeding, 20,000 bales: *Provided,* That, upon call from the Commodity Exchange Authority, such person shall report his fixed-price spot-cotton positions (both long and short) irrespective of the amount of such open contracts held or controlled by him;

(f) The amount of open contracts held by such person for his own account in all cotton futures on all boards of trade (exchanges) in the United States and elsewhere, by markets and by futures; and

(g) The amount of "call cotton" bought and sold, or contracted for purchase or sale, on which the price has not been fixed, together with the respective futures on which based. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 3.18 *Spot-cotton position; how determined.* In determining the spot-cotton position of any person reporting on Form 304, such person shall use such standards and conversion factors applying to cotton products as are usual and common to the business in which he is engaged. If, in determining the spot-cotton position of such person for hedging purposes, it be his practice regularly to exclude certain items, such items shall be excluded in reporting such spot-cotton position on Form 304.

Such person shall upon request furnish the Commodity Exchange Authority with detailed information concerning the kind and amount of each product included in computing his spot-cotton position and the conversion factor used for each such product. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C., 6i)

§ 3.19 *Time of filing reports on Form 304.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 304 shall be filed with the Commodity Exchange Authority not later than the next business day following the day covered by the report: *Provided,* That, reports may be transmitted by mail in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the last day allowed for filing. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C., 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 301, 303, AND 304

§ 3.20 *Amount fixed for reporting on Form 301.* For the purpose of §§ 3.04 and 3.05, the amount specified for reporting accounts on Form 301 is 5,000 bales, but such specified amount shall not apply to special calls issued under authority of § 3.22. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 3.21 *Amount fixed for reporting on Forms 303 and 304.* For the purpose of §§ 3.10, 3.14, and 3.16, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 303 and Form 304 is 5,000 bales. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

SPECIAL CALLS

§ 3.22 *Special calls; reports on Form 301.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated cotton future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 301, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 3.20 shall have no application. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 3.23 *Special calls; reports on Form 303.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any cotton future shall, upon call, report all open contracts in cotton futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 303 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 3.21 shall have no application. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 4—SPECIAL PROVISIONS APPLICABLE TO BUTTER

Sec.

4.00 Definitions: "cash butter"; "spot butter"; "butter future"; "each future"; "one future."

FORM 400

4.01 Daily reports on Form 400 by clearing members; information shown.
4.02 Time and place of filing reports on Form 400.
4.03 Errors or omissions in reports on Form 400.

FORMS 401 AND 402

4.04 "Special accounts" reported on Form 401.
4.05 Net position of account prior and subsequent to special account status.
4.06 Time of filing reports on Form 401.
4.07 Accounts reported on Form 401 shown by account number or code; identification on Form 402.
4.08 Persons controlling or having participating financial interest in accounts shown on Form 402.
4.09 Character of accounts shown on Form 402.

FORM 403

4.10 Persons holding or controlling open contracts of specified size; reports on Form 403.
4.11 Information shown in reports on Form 403.
4.12 Time of filing reports on Form 403.
4.13 Assignment of code number.
4.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
4.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 401 AND 403

4.20 Amount fixed for reporting on Form 401.
4.21 Amount fixed for reporting on Form 403.

SPECIAL CALLS

4.22 Special calls; reports on Form 401.
4.23 Special calls; reports on Form 403.

AUTHORITY: §§ 4.00 to 4.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCE: For general regulations under the Commodity Exchange Act, see Part 1 of this chapter.

§ 4.00 *Definition: "cash butter"; "spot butter"; "butter future"; "each future"; "one future."* The terms "cash butter" and "spot butter" shall have the same meaning and shall refer to transactions in actual butter as distinguished from futures. The terms "butter future", "each future" and "one future" shall include contracts of the same kind and class maturing during the same delivery month.

FORM 400

§ 4.01 *Daily reports on Form 400 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for butter shall report to the Commodity Exchange Authority each business day on Form 400 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 400, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of butter for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for butter shall report separately with respect to each such market. Such report shall show separately for each future:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of butter bought and the quantity of butter sold on such contracts during the period covered by the report; and

(d) The quantity of butter delivered and the quantity of butter received on such contracts during the period covered by the report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 4.02 *Time and place of filing reports on Form 400.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 400 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 4.03 *Errors or omissions in reports on Form 400.* Reports on Form 400 shall be prepared with care, and if any error or omission is discovered in any

report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 401 AND 402

§ 4.04 *"Special accounts" reported on Form 401.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any butter future, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 4.20, shall report such account daily to the Commodity Exchange Authority on Form 401 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 401.

For the purpose of reporting on Form 401 all accounts which belong to or are controlled by the same person shall be considered as one account. All accounts required to be reported on Form 401 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 4.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 4.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account" (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 4.06 *Time of filing reports on Form 401.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 401 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 4.07 *Accounts reported on Form 401 shown by account number or code; identification on Form 402.* Reports on Form 401 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 401 it shall be identified on Form 402, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 401. An account number or code once identified on Form 402 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 4.08 *Persons controlling or having participating financial interest in accounts shown on Form 402.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 401, the names and addresses of all such persons shall be shown on Form 402. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 4.09 *Character of accounts shown on Form 402.* In identifying accounts on Form 402 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading, speculative, or commission house. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

FORM 403

§ 4.10 *Persons holding or controlling open contracts of specified size; reports on Form 403.* Every person who holds or controls open contracts in any one butter future on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 4.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 403. Such report shall be made daily: *Provided,* That if on any day such person has no trades or transactions in any butter future previously reported and there has been no change in the open contracts of such person in any butter future, the last detailed report of such person shall be considered as his report on open contracts in butter futures on all intervening days. Such person shall also make a report on Form 403 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 4.21. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 4.11 *Information shown in reports on Form 403.* Reports made by any person on Form 403 shall show for the day covered thereby, by markets and by futures:

(a) The amount of open contracts held or controlled by such person in any and all butter futures on all boards of trade (exchanges) in the United States and elsewhere;

(b) The character of the open contracts held or controlled, i. e., whether hedging, spreading, or speculative;

(c) The amount of butter bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(d) The amount of such butter delivered by or to such person in settlement of futures contracts.

For the purposes of paragraph (b) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6 a(3)) Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 4.12 *Time of filing reports on Form 403.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 403 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 4.13 *Assignment of code number* Upon receipt of the first report from any person on Form 403, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 403 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 4.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any butter future on any contract market equal to or in excess of the amount fixed in § 4.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i as added by sec. 5, 49 Stat. 1496, 7 U. S. C. 6i)

CROSS REFERENCE: For general provisions relating to inspection and the keeping of books and records, see § 1.31 of this chapter.

§ 4.15 *Information required upon call.* Each person required to report on Form 403 shall:

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each

person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 401 AND 403

§ 4.20 *Amount fixed for reporting on Form 401.* For the purpose of §§ 4.04 and 4.05, the amount specified for reporting accounts on Form 401 is 25 carlots, but such specified amount shall not apply to special calls issued under authority of § 4.22. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 4.21 *Amount fixed for reporting on Form 403.* For the purpose of §§ 4.10 and 4.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 403 is 25 carlots. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

SPECIAL CALLS

§ 4.22 *Special calls; reports on Form 401.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated butter future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 401, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 4.20 shall have no application. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 4.23 *Special calls; reports on Form 403.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any butter future shall, upon call, report all open contracts in butter futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 403 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 4.21 shall have no application. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 5—SPECIAL PROVISIONS APPLICABLE TO EGGS

Sec.

5.00 Definitions: "cash eggs"; "spot eggs"; "egg futures"; "each future"; "one future."

FORM 500

5.01 Daily reports on Form 500 by clearing members; information shown.
5.02 Time and place of filing reports on Form 500.
5.03 Errors or omission in reports on Form 500.

FORMS 501 AND 502

5.04 "Special accounts" reported on Form 501.
5.05 Net position of account prior and subsequent to special account status.
5.06 Time of filing reports on Form 501.
5.07 Accounts reported on Form 501 shown by account number or code; identification on Form 502.
5.08 Persons controlling or having participating financial interest in accounts shown on Form 502.
5.09 Character of accounts shown on Form 502.

FORM 503

5.10 Persons holding or controlling open contracts of specified size; reports on Form 503.
5.11 Information shown in reports on Form 503.
5.12 Time of filing reports on Form 503.
5.13 Assignment of code number.
5.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
5.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 501 AND 503

5.20 Amount fixed for reporting on Form 501.
5.21 Amount fixed for reporting on Form 503.

SPECIAL CALLS

5.22 Special calls; reports on Form 501.
5.23 Special calls; reports on Form 503.

AUTHORITY: §§ 5.00 to 5.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCE: For general regulations under the Commodity Exchange Act, see Part 1 of this chapter.

§ 5.00 *Definitions: "cash eggs"; "spot eggs"; "egg futures"; "each future"; "one future."* The terms "cash eggs" and "spot eggs" shall have the same meaning and shall refer to transactions in actual eggs as distinguished from futures. The terms "egg future" "each future" and "one future" shall includ contracts of the same kind and class maturing during the same delivery month.

FORM 500

§ 5.01 *Daily reports on Form 500 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for eggs shall report to the Commodity Exchange Authority each business day on Form 500 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 500, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of eggs for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for eggs shall report separately with respect to each such market. Such report shall show separately for each future:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of eggs bought and the quantity of eggs sold on such contracts during the period covered by the report; and

(d) The quantity of eggs delivered and the quantity of eggs received on such contracts during the period covered by the report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 5.02 *Time and place of filing reports on Form 500.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 500 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following day. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 5.03 *Errors or omissions in reports on Form 500.* Reports on Form 500 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 501 AND 502

§ 5.04 *"Special accounts" reported on Form 501.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any egg future, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 5.20, shall report such account daily to the Commodity Exchange Authority on Form 501 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 501.

For the purpose of reporting on Form 501, all accounts which belong to or are controlled by the same person shall be considered as one account. All accounts required to be reported on Form 501 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 5.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 5.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account" (Sec. 5 (b) 42 Stat. 1000; sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 5.06 *Time of filing reports on Form 501.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 501 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 5.07 *Accounts reported on Form 501 shown by account number or code; identification on Form 502.* Reports on Form 501 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 501 it shall be identified on Form 502, and such identification (transmitted in a separate sealed envelop marked "Confidential") shall accompany the report on Form 501. An account number or code once identified on Form 502 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

5.08 *Persons controlling or having participating financial interest in accounts shown on Form 502.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 501, the names and addresses of all such persons shall be shown on Form 502. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 5.09 *Character of accounts shown on Form 502.* In identifying accounts on Form 502 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading, speculative, or commission house. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

FORM 503

§ 5.10 *Persons holding or controlling open contracts of specified size; reports on Form 503.* Every person who holds or controls open contracts in any one egg future on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 5.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 503. Such report shall be made daily: *Provided,* That if on any day such person has no trades or transactions in any egg future previously reported and there has been no change in the open contracts of such person in any egg future, the last detailed report of such person shall be considered as his report on open contracts in egg futures on all intervening days. Such person shall also make a report on Form 503 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 5.21. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 5.11 *Information shown in reports on Form 503.* Reports made by any person on Form 503 shall show for the day covered thereby, by markets and by futures:

(a) The amount of open contracts held or controlled by such person in any and all egg futures on all boards of trade (exchanges) in the United States and elsewhere;

(b) The character of the open contracts held or controlled, i. e., whether hedging, spreading, or speculative;

(c) The amount of eggs bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(d) The amount of such eggs delivered by or to such person in settlement of futures contracts.

For the purposes of paragraph (b) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act (sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3)) (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 5.12 *Time of filing reports on Form 503.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 503 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 5.13 *Assignment of code number.* Upon receipt of the first report from any person on Form 503, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 503 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 5.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any egg future on any contract market equal to or in excess of the amount fixed in § 5.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

CROSS REFERENCE: For general provisions relating to inspection and the keeping of books and records, see § 1.31 of this chapter.

§ 5.15 *Information required upon call.* Each person required to report on Form 503 shall,

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 501 AND 503

§ 5.20 *Amount fixed for reporting on Form 501.* For the purpose of §§ 5.04 and 5.05, the amount specified for reporting accounts on Form 501 is 25 carlots, but such specified amount shall not apply to special calls issued under authority of § 5.22. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 5.21 *Amount fixed for reporting on Form 503.* For the purpose of §§ 5.10 and 5.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 503 is 25 carlots. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

SPECIAL CALLS

§ 5.22 *Special calls; reports on Form 501.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each

futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated egg future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 501, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 5.20, shall have no application. (Sec. 5, 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 5.23 *Special calls; reports on Form 503.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any egg future shall, upon call, report all open contracts in egg futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 503 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 5.21 shall have no application. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 6—SPECIAL PROVISIONS APPLICABLE TO POTATOES

Sec.

6.00 Definitions: "potatoes"; "cash potatoes"; "spot potatoes"; "potato future"; "each future"; "one future."

FORM 600

6.01 Daily reports on Form 600 by clearing members; information shown.
6.02 Time and place of filing reports on Form 600.
6.03 Errors on omissions in reports on Form 600.

FORMS 601 AND 602

6.04 "Special accounts" reported on Form 601.
6.05 Net position of account prior and subsequent to special account status.
6.06 Time of filing reports on Form 601.
6.07 Accounts reported on Form 601 shown by account number or code; identification on Form 602.
6.08 Persons controlling or having participating financial interest in accounts shown on Form 602.
6.09 Character of accounts shown on Form 602.

FORM 603

6.10 Persons holding or controlling open contracts of specified size; reports on Form 603.
6.11 Information shown in reports on Form 603.
6.12 Time of filing reports on Form 603.
6.13 Assignment of code number.
6.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
6.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 601 AND 603

6.20 Amount fixed for reporting on Form 601.
6.21 Amount fixed for reporting on Form 603.

SPECIAL CALLS

Sec.

6.22 Special calls; reports on Form 601.
6.23 Special calls; reports on Form 603.

AUTHORITY: §§ 6.00 to 6.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCE: For general regulations under the Commodity Exchange Act, see Part 1 of this chapter.

§ 6.00 *Definitions: "potatoes"; "cash potatoes"; "spot potatoes"; "potato future"; "each future"; "one future."* The term "potatoes" as used in this part shall mean Irish potatoes. The terms "cash potatoes" and "spot potatoes" shall have the same meaning and shall refer to transactions in actual potatoes as distinguished from futures. The term "potato future", "each future" and "one future" shall include contracts of the same kind and class maturing during the same delivery month.

FORM 600

§ 6.01 *Daily reports on Form 600 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for potatoes shall report to the Commodity Exchange Authority each business day on Form 600 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 600, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of potatoes for future delivery to which such clearing member is a party either as buyer or seller, made on or subjet to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for potatoes shall report separately with respect to each such market. Such report shall show separately for each future:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quality of potatoes bought and the quantity of potatoes sold on such contracts during the period covered by the report; and

(d) The quantity of potatoes delivered and the quantity of potatoes received on such contracts during the period covered by the report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 6.02 *Time and place of filing reports on Form 600.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 600 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 6.03 *Errors or omissions in reports on Form 600.* Reports on Form 600 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 601 AND 602

§ 6.04 *"Special accounts" reported on Form 601.* (a) Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any potato future, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified equal to or in excess of the amount specified in § 6.20, shall report such account daily to the Commodity Exchange Authority on Form 601 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 601.

(b) For the purpose of reporting on Form 601, all accounts which belong to or are controlled by the same person shall be considered as one account. All accounts required to be reported on Form 601 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 6.05 *Net position of account prior to and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 6.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 6.06 *Time of filing reports on Form 601.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 601 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided*, That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be consid-

ered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 6.07 *Accounts reported on Form 601 shown by account number or code; identification on Form 602.* Reports on Form 601 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 601 it shall be identified on Form 602, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 601. An account number or code once identified on Form 602 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 6.08 *Persons controlling or having participating financial interest in accounts shown on Form 602.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 601, the names and addresses of all such persons shall be shown on Form 602. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 6.09 *Character of accounts shown on Form 602.* In identifying accounts on Form 602 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading, speculative, or commission house. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

FORM 603

§ 6.10 *Persons holding or controlling open contracts of specified size; reports or Form 603.* Every person who holds or controls open contracts in any one potato future on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 6.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 603. Such report shall be made daily: *Provided,* That if on any day such person has no trades or transactions in any potato future previously reported and there has been no change in the open contracts of such person in any potato future, the last detailed report of such person shall be considered as his report on open contracts in potato futures on all intervening days. Such person shall also make a report on Form 603 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 6.21. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 6.11 *Information shown in reports on Form 603.* Reports made by any person on Form 603 shall show for the day covered thereby, by markets and by futures:

(a) The amount of open contracts held or controlled by such person in any and all potato futures on all boards of trade (exchanges) in the United States and elsewhere;

(b) The character of the open contracts held or controlled, i. e., whether hedging, spreading, or speculative;

(c) The amount of potatoes bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(d) The amount of such potatoes delivered by or to such person in settlement of futures contracts.

For the purpose of paragraph (b) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3)) (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 6.12 *Time of filing reports on Form 603.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 603 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 6.13 *Assignment of code number.* Upon receipt of the first report from any person on Form 603, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 603 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 6.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any potato future on any contract market equal to or in excess of the amount fixed in § 6.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

CROSS REFERENCE: For general provisions relating to inspection and the keeping of books and records, see § 1.31 of this chapter.

§ 6.15 *Information required upon call.* Each person required to report on Form 603 shall,

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 601 AND 603

§ 6.20 *Amount fixed for reporting on Form 601.* For the purpose of §§ 6.04 and 6.05, the amount specified for reporting accounts on Form 601 is 25 carlots, but such specified amount shall not apply to special calls issued under authority of § 6.22. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 6.21 *Amount fixed for reporting on Form 603.* For the purpose of §§ 6.10 and 6.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 603 is 25 carlots. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

SPECIAL CALLS

§ 6.22 *Special calls; reports on Form 601.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated potato future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 601, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 6.20 shall have no application. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 6.23 *Special calls; reports on Form 603.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any potato future shall, upon call, report all open contracts in potato futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 603 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 6.21 shall have no application. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 7—SPECIAL PROVISIONS APPLICABLE TO MILLFEEDS

Sec.
7.00 Definitions: "cash millfeed"; "spot millfeed"; "millfeed future"; "each future"; "one future."

FORM 700

7.01 Daily reports on Form 700 by clearing members; information shown.
7.02 Time and place of filing reports on Form 700.
7.03 Errors or omissions in reports on Form 700.

FORMS 701 AND 702

7.04 "Special accounts" reported on Form 701.
7.05 Net position of account prior and subsequent to special account status.
7.06 Time of filing reports on Form 701.
7.07 Accounts reported on Form 701 shown by account number or code; identification on Form 702.
7.08 Persons controlling or having participating financial interest in accounts shown on Form 702.
7.09 Character of accounts shown on Form 702.

FORM 703

7.10 Persons holding or controlling open contracts of specified size; reports on Form 703.
7.11 Information shown in reports on Form 703.
7.12 Time of filing reports on Form 703.
7.13 Assignment of code number.
7.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
7.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 701 AND 703

7.20 Amount fixed for reporting on Form 701.
7.21 Amount fixed for reporting on Form 703.

SPECIAL CALLS

7.22 Special calls; reports on Form 701.
7.23 Special calls; reports on Form 703.

AUTHORITY: §§ 7.00 to 7.23, issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

CROSS REFERENCE: For general regulations under the Commodity Exchange Act, see Part 1 of this chapter.

§ 7.00 *Definitions: "cash millfeed"; "spot millfeed"; "millfeed future"; "each future" "one future."* The terms "cash millfeed" and "spot millfeed" shall have the same meaning and shall refer to transactions in actual millfeeds as distinguished from futures. The terms "millfeed future" "each future" and "one future" shall include contracts of the same kind and class maturing during the same delivery month.

FORM 700

§ 7.01 *Daily reports on Form 700 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for millfeeds shall report to the Commodity Exchange Authority each business day on Form 700 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 700, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of millfeed for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for millfeeds shall report separately with respect to each such market. Such report shall show separately for each future:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of millfeed bought and the quantity of millfeed sold on such contracts during the period covered by the report; and

(d) The quantity of millfeed delivered and the quantity of millfeed received on such contracts during the period covered by the report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 7.02 *Time and place of filing reports on Form 700.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 700 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. If there be no office of the Commodity Exchange Authority in such city, the reports shall be transmitted in accordance with instructions furnished by the Commodity Exchange Authority (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 7.03 *Errors or omissions in reports on Form 700.* Reports on Form 700 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 701 AND 702

§ 7.04 *"Special accounts" reported on Form 701.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any millfeed future, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 7.20, shall report such account daily to the Commodity Exchange Authority on Form 701 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 701.

For the purpose of reporting on Form 701, all accounts which belong to or are controlled by the same person shall be considered as one account. All accounts required to be reported on Form 701 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 7.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 7.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account" (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 7.06 *Time of filing reports on Form 701.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 701 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6 g)

§ 7.07 *Accounts reported on Form 701 shown by account number or code; identification on Form 702.* Reports on Form 701 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 701 it shall be identified on Form 702, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 701. An account number or code once identified on Form 702 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 7.08 *Persons controlling or having participating financial interest in accounts shown on Form 702.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 701, the names and addresses of all such persons shall be shown on Form 702.

(Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 7.09 *Character of accounts shown on Form 702.* In identifying accounts on Form 702 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading, speculative, or commission house. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

FORM 703

§ 7.10 *Persons holding or controlling open contracts of specified size; reports on Form 703.* Every person who holds or controls open contracts in any one millfeed future on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 7.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 703. Such report shall be made daily: *Provided,* That if on any day such person has no trades or transactions in any millfeed future previously reported and there has been no change in the open contracts of such person in any millfeed future, the last detailed report of such person shall be considered as his report on open contracts in millfeed futures on all intervening days. Such person shall also make a report on Form 703 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 7.21. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 7.11 *Information shown in reports on Form 703.* Reports made by any person on Form 703 shall show for the day covered thereby, by markets and by futures:

(a) The amount of open contracts held or controlled by such person in any and all millfeed futures on all boards of trade (exchanges) in the United States and elsewhere;

(b) The character of the open contracts held or controlled, i. e., whether hedging, spreading, or speculative;

(c) The amount of millfeed bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(d) The amount of such millfeed delivered by or to such person in settlement of futures contracts.

For the purposes of paragraph (b) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (33)) (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 7.12 *Time of filing reports on Form 703.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 703 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 7.13 *Assignment of code number.* Upon receipt of the first report from any person on Form 703, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 703 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 7.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any millfeed future on any contract market equal to or in excess of the amount fixed in § 7.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i; as added by Sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

CROSS REFERENCE: For general provisions relating to inspection and the keeping of books and records, see § 1.31 of this chapter.

§ 7.15 *Information required upon call.* Each person required to report on Form 703 shall,

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporations; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 701 AND 703

§ 7.20 *Amount fixed for reporting on Form 701.* For the purpose of §§ 7.04 and 7.05, the amount specified for reporting accounts on Form 701 is 1,000 tons, but such specified amount shall not apply to special calls issued under authority of § 7.22. (Sec 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 7.21 *Amount fixed for reporting on Form 703.* For the purpose of §§ 7.10 and 7.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 703 is 1,000 tons. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

SPECIAL CALLS

§ 7.22 *Special calls; reports on Form 701.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated millfeed future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 701, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 7.20 shall have no application. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 7.23 *Special calls; reports on Form 703.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any millfeed future shall, upon call, report all open contracts in millfeed futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 703 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 7.21 shall have no application. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 8—SPECIAL PROVISIONS APPLICABLE TO WOOL TOPS

Sec.

8.00 Definitions: "cash wool tops"; "spot wool tops"

FORM 800

8.01 Daily reports on Form 800 by clearing members; information shown.
8.02 Time and place of filing reports on Form 800.
8.03 Errors or omissions in reports on Form 800.

FORMS 801 AND 802

8.04 "Special accounts" reported on Form 801.
8.05 Net position of account prior and subsequent to special account status.
8.06 Time of filing reports on Form 801.
8.07 Accounts reported on Form 801 shown by account number or code; identification on Form 802.
8.08 Persons controlling or having participating financial interest in accounts shown on Form 802.
8.09 Character of accounts shown on Form 802.

FORM 803

8.10 Persons holding or controlling open contracts of specified size; reports on Form 803.
8.11 Information shown in reports on Form 803.
8.12 Time of filing reports on Form 803.
8.13 Assignment of code number.

Sec.
8.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
8.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 801 AND 803

8.20 Amount fixed for reporting on Form 801.
8.21 Amount fixed for reporting on Form 803.

SPECIAL CALLS

8.22 Special calls; reports on Form 801.
8.23 Special calls; reports on Form 803.

AUTHORITY: §§ 8.00 to 8.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 8.00 *Definitions: "cash wool tops;" "spot wool tops."* The terms "cash wool tops" and "spot wool tops" shall have the same meaning and shall refer to transactions in actual wool tops as distinguished from wool top futures.

FORM 800

§8.01 *Daily reports on Form 800 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for wool tops shall report to the Commodity Exchange Authority each business day on Form 800 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 800, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of wool tops for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for wool tops shall report separately with respect to each such market. Such report shall show separately for each future:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of wool tops bought and the quantity of wool tops sold on such contracts during the period covered by the report;

(d) The quantity of wool tops delivered and the quantity of wool tops received on such contracts during the period covered by the report; and

(e) The quantity of wool tops represented by delivery notices issued, stopped, and passed, respectively, during the period covered by the report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 8.02 *Time and place of filing reports on Form 800.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 800 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 8.03 *Errors or omissions in reports on Form 800.* Reports on Form 800 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 801 AND 802

§8.04 *"Special accounts" reported on Form 801*—(a) *By whom reported.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any wool top future, resulting from any transactions made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 8.20, shall report such account daily to the Commodity Exchange Authority on Form 801 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 801.

(b) *Accounts belonging to or controlled by the same person.* For the purpose of reporting on Form 801, all accounts which belong to or are controlled by the same person shall be considered one account. All accounts required to be reported on Form 801 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 8.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 8.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5 (b) 42 Stat. 1000, sec. 4 g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 8.06 *Time or filing reports on Form 801.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 801 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day. *Provided*, That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 8.07 *Accounts reported on Form 801 shown by account number or code; identification on Form 802.* Reports on Form 801 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 801 it shall be identified on Form 802, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 801. An account number or code once identified on Form 802 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 8.08 *Persons controlling or having participating financial interest in accounts shown on Form 802.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 801, the names and addresses of all such persons shall be shown on Form 802. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 8.09 *Character of accounts shown on Form 802.* In identifying accounts on Form 802 the person reporting shall indicate the character of such accounts, i. e., whether hedging, straddling, speculative, or commission house. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

FORM 803

§ 8.10 *Persons holding or controlling open contracts of specified size; reports on Form 803.* Every person who holds or controls open contracts in any one wool top future on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 8.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 803. Such reports shall be made daily: *Provided*, That if on any day such person has no trades or transactions in any wool top future previously reported and there has been no change in the open contracts of such person in any wool top future, the last detailed report of such person shall be considered as his report on open contracts in wool top futures on all intervening days. Such person shall also make a report on Form 803 covering the day on which the amount

of his open contracts in such future falls below the amount fixed in § 8.21. (Sec. 4i (2), as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 8.11 *Information shown in reports on Form 803*—(a) *Arranged by markets and futures.* Reports made by any person on Form 803 shall show for the day covered thereby, by markets and by futures:

(1) The amount of open contracts held or controlled by such person in any and all wool top futures on all boards of trade (exchanges) in the United States and elsewhere;

(2) The character of the open contracts held or controlled, i. e., whether hedging, straddling, or speculative;

(3) The amount of wool tops bought and the amount sold by such persons for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(4) The amount of wool tops delivered by or to such person in settlement of futures contracts.

(b) *"Hedging", meaning of.* For the purpose of paragraph (a) (2) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act, (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3)) (Sec. 4; as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 8.12 *Time of filing reports on Form 803.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 803 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 8.13 *Assignment of code number* Upon receipt of the first report from any person on Form 803, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 803 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 8.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any wool top future on any contract market equal to or in excess of the amount fixed in § 8.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 8.15 *Information required upon call.* Each person required to report on Form 803 shall:

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 801 AND 803

§ 8.20 *Amount fixed for reporting on Form 801.* For the purpose of §§ 8.04 and 8.05, the amount specified for reporting accounts on Form 801 is 125,000 pounds, but such specified amount shall not apply to special calls issued under authority of § 8.22. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 8.21 *Amount fixed for reporting on Form 803.* For the purpose of §§ 8.10 and 8.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 803 is 125,000 pounds. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

SPECIAL CALLS

§ 8.22 *Special calls; reports on Form 801.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated wool top future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 801, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 8.20 shall have no application. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 8.23 *Special calls; reports on Form 803.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any wool top future shall, upon call, report all open contracts in wool top futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 803 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 8.21 shall have no application. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 9—SPECIAL PROVISIONS APPLICABLE TO FATS

Sec.

9.00 Definitions: "fat"; "cash fat"; "spot fat"

FORM 900

9.01 Daily reports on Form 900 by clearing members; information shown.
9.02 Time and place of filing reports on Form 900.
9.03 Errors or omissions in reports on Form 900.

FORMS 901 AND 902

9.04 "Special accounts" reported on Form 901.
9.05 Net position of account prior and subsequent to special account status.
9.06 Time of filing reports on Form 901.
9.07 Accounts reported on Form 901 shown by account number or code; identification on Form 902.
9.08 Persons controlling or having participating financial interest in accounts shown on Form 902.
9.09 Character of accounts shown on Form 902.

FORM 903

9.10 Persons holding or controlling open contracts of specified size; reports on Form 903.
9.11 Information shown in reports on Form 903.
9.12 Time of filing reports on Form 903.
9.13 Assignment of code number.
9.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
9.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 901 AND 903

9.20 Amount fixed for reporting on Form 901.
9.21 Amount fixed for reporting on Form 903.

SPECIAL CALLS

9.22 Special calls; reports on Form 901.
9.23 Special calls; reports on Form 903.

AUTHORITY: §§ 9.00 to 9.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied cited to text in parentheses.

§ 9.00 *Definitions: "fat"; "cash fat"; "spot fat."* The term "fat" shall mean and include lard and tallow. The terms "cash fat" and "spot fat" shall have the same meaning and shall refer to transactions in actual fat as distinguished from fat futures.

FORM 900

§ 9.01 *Daily reports on Form 900 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for any fat shall report to the Commodity Exchange Authority each business day on Form 900 applicable to such contract market. Such report shall be prepared in accordance with the in-

structions appearing on Form 900, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of fat for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for any fat shall report separately with respect to each such market. Such report shall show separately for each fat and each delivery month:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of fat bought and the quantity of fat sold on such contracts during the period covered by the report;

(d) The quantity of fat delivered and the quantity of fat received on such contracts during the period covered by the report; and

(e) The quantity of fat represented by delivery notices issued, stopped, and passed, respectively, during the period covered by the report. Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 9.02 *Time and place of filing reports on Form 900.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 900 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 9.03 *Errors or omissions in reports on Form 900.* Reports on Form 900 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 901 AND 902

§ 9.04 *"Special accounts" reported on Form 901*—(a) *By whom reported.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any future of any fat, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 9.20, shall report such account daily to the Commodity Exchange Authority on Form 901 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 901.

(b) *Accounts belonging to or controlled by the same person.* For the purpose of reporting on Form 901, all accounts which belong to or are controlled by the same person shall be considered one account. All accounts required to be reported on Form 901 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 9.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 9.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 9.06 *Time of filing reports on Form 901.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 901 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 9.07 *Accounts reported on Form 901 shown by account number or code; identification on Form 902.* Reports on Form 901 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 901 it shall be identified on Form 902, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 901. An account number or code once identified on Form 902 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 9.08 *Persons controlling or having participating financial interest in accounts shown on Form 902.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 901, the names and addresses of all such persons shall be shown on Form 902. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 9.09 *Character of accounts shown on Form 902.* In identifying accounts on Form 902 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading (straddling) speculative, or commission house. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

FORM 903

§ 9.10 *Persons holding or controlling open contracts of specified size; reports on Form 903.* Every person who holds or controls open contracts in any one future of any fat on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 9.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 903. Such reports shall be made daily: *Provided,* That if on any day such person has no trades or transactions in any future of a fat previously reported and there has been no change in the open contracts of such person in any such fat, the last detailed report of such person shall be considered as his report on open contracts in such fat on all intervening days. Such person shall also make a report on Form 903 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 9.21. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 9.11 *Information shown in reports on Form 903*—(a) *Arranged by markets and futures.* Reports made by any person on Form 903 shall show for the day covered thereby, by markets and by futures, with respect to each fat in which the person reporting holds or controls open contracts in any one future thereof on or subject to the rules of any contract market equal to or in excess of the amount fixed in § 9.21.

(1) The amount of open contracts held or controlled by such person in all futures of such fat on all boards of trade (exchanges) in the United States and elsewhere;

(2) The character of the open contracts held or controlled, i. e., whether hedging, spreading (straddling), or speculative;

(3) The amount of such fat bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(4) The amount of such fat delivered by or to such person in settlement of futures contracts.

(b) *"Hedging", meaning of.* For the purpose of paragraph (a) (2) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act. (Sec. 4a (3) as added by sec. 5, 49

Stat. 1493; 7 U. S. C. 6a (3)) (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 9.12 *Time of filing reports on Form 903.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 903 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 9.13 *Assignment of code number.* Upon receipt of the first report from any person on Form 903, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 903 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 9.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any future of any fat on any contract market equal to or in excess of the amount fixed in § 9.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 9.15 *Information required upon call.* Each person required to report on Form 903 shall,

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 901 AND 903

§ 9.20 *Amount fixed for reporting on Form 901.* For the purpose of §§ 9.04 and 9.05, the amount specified for reporting accounts on Form 901 is 250,000 pounds, but such specified amount shall not apply to special calls issued under authority of § 9.22. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 9.21 *Amount fixed for reporting on Form 903.* For the purpose of §§ 9.10 and 9.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 903 is 250,000 pounds. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

SPECIAL CALLS

§ 9.22 *Special calls; reports on Form 901.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated fat future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 901, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 9.20 shall have no application. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 9.23 *Special calls; reports on Form 903.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any fat future shall, upon call, report all open contracts in fat futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 903 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 9.21 shall have no application. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 10—SPECIAL PROVISIONS APPLICABLE TO OILS

Sec.

10.00 Definitions: "oil"; "cash oil"; "spot oil"

FORM 1000

10.01 Daily reports on Form 1000 by clearing members; information shown.
10.02 Time and place of filing reports on Form 1000.
10.03 Errors or omissions in reports on Form 1000.

FORMS 1001 AND 1002

10.04 "Special accounts" reported on Form 1001.
10.05 Net position of account prior and subsequent to special account status.
10.06 Time of filing reports on Form 1001.
10.07 Accounts reported on Form 1001 shown by account number or code; identification on Form 1002.
10.08 Persons controlling or having participating financial interest in accounts shown on Form 1002.
10.09 Character of accounts shown on Form 1002.

FORM 1003

10.10 Persons holding or controlling open contracts of specified size; reports on Form 1003.
10.11 Information shown in reports on Form 1003.
10.12 Time of filing reports on Form 1003.
10.13 Assignment of code number.
10.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
10.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 1001 AND 1003

10.20 Amount fixed for reporting on Form 1001.
10.21 Amount fixed for reporting on Form 1003.

SPECIAL CALLS

10.22 Special calls; reports on Form 1001.
10.23 Special calls; reports on Form 1003.

AUTHORITY: §§ 10.00 to 10.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 10.00 *Definitions: "oil" "cash oil"; "spot oil"* The term "oil" shall mean and include cottonseed oil and soybean oil. The terms "cash oil" and "spot oil" shall have the same meaning and shall refer to transactions in actual oil as distinguished from oil futures.

FORM 1000

§ 10.01 *Daily reports on Form 1000 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for any oil shall report to the Commodity Exchange Authority each business day on Form 1000 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 1000, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of oil for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for any oil shall report separately with respect to each such market. Such report shall show separately for each oil and each delivery month:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of oil bought and the quantity of oil sold on such contracts during the period covered by the report;

(d) The quantity of oil delivered and the quantity of oil received on such contracts during the period covered by the report; and

(e) The quantity of oil represented by delivery notices issued, stopped, and passed, respectively, during the period

covered by the report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 10.02 *Time and place of filing reports on Form 1000.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 1000 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 10.03 *Errors or omissions in reports on Form 1000.* Reports on Form 1000 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S C. 7 (b))

FORMS 1001 AND 1002

§ 10.04 *"Special accounts" reported on Form 1001*—(a) *By whom reported.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any future of any oil, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 10.20, shall report such account daily to the Commodity Exchange Authority on Form 1001 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 1001.

(b) *Accounts belonging to or controlled by the same person.* For the purpose of reporting on Form 1001, all accounts which belong to or are controlled by the same person shall be considered one account. All accounts required to be reported on Form 1001 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 10.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 10.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 10.06 *Time of filing reports on Form 1001.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 1001 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7(b), 6g)

§ 10.07 *Accounts reported on Form 1001 shown by account number or code; identification on Form 1002.* Reports on Form 1001 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 1001 it shall be identified on Form 1002, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 1001. An account number or code once identified on Form 1002 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b), 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. (b) 6g)

§ 10.08 *Persons controlling or having participating financial interest in accounts shown on Form 1002.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 1001, the names and addresses of all such persons shall be shown on Form 1002. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 10.09 *Character of accounts shown on Form 1002.* In identifying accounts on Form 1002 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading (straddling), speculative, or commission house. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

FORM 1003

§ 10.10 *Persons holding or controlling open contracts of specified size; reports on Form 1003.* Every person who holds or controls open contracts in any one future of any oil on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 10.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Administration on Form 1003. Such reports shall be made daily: *Provided,* That if on any day such person has no trades or transactions in any future of an oil previously reported and there has been no change in the open contracts of such person in any such oil, the last detailed report of such person shall be considered as his report on open contracts in such oil on all intervening days. Such person shall also make a report on Form 1003 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 10.21. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 10.11 *Information shown in reports on Form 1003*—(a) *Arranged by markets and futures.* Reports made by any person on Form 1003 shall show for the day covered thereby, by markets and by futures, with respect to each oil in which the person reporting holds or controls open contracts in any one future thereof on or subject to the rules of any contract market equal to or in excess of the amount fixed in § 10.21:

(1) The amount of open contracts held or controlled by such person in all futures of such oil on all boards of trade (exchanges) in the United States and elsewhere;

(2) The character of the open contracts held or controlled, i. e., whether hedging, spreading (straddling), or speculative;

(3) The amount of such oil bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(4) The amount of such oil delivered by or to such person in settlement of futures contracts.

(b) *"Hedging", meaning of.* For the purpose of paragraph (a) (2) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions", appearing in section 4a (3) of the Commodity Exchange Act. (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3)) (Sec. 4, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 10.12 *Time of filing reports on Form 1003.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 1003 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 10.13 *Assignment of code number.* Upon receipt of the first report from any person on Form 1003, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 1003 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 10.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any future of any oil on any contract market equal to or in excess of the amount fixed in § 10.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 10.15 *Information required upon call.* Each person required to report on Form 1003 shall:

(a) If a partnership, furnish upon call the name and address of each partner;

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 1001 AND 1003

§ 10.20 *Amount fixed for reporting on Form 1001.* For the purpose of §§ 10.04 and 10.05, the amount specified for reporting accounts on Form 1001 is 300,000 pounds, but such specified amount shall not apply to special calls issued under authority of § 10.22. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 10.21 *Amount fixed for reporting on Form 1003.* For the purpose of §§ 10.10 and 10.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 1003 is 300,000 pounds. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

SPECIAL CALLS

§ 10.22 *Special calls; reports on Form 1001.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated oil future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 1001, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 10.20 shall have no application. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 10.23 *Special calls; reports on Form 1003.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any oil future shall, upon call, report all open contracts in oil futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 1003 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 10.21 shall have no application. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

PART 11—SPECIAL PROVISIONS APPLICABLE TO COTTONSEED MEAL AND SOYBEAN MEAL

Sec.

11.00 Definitions: "meal"· "cash meal"· "spot meal"

FORM 1100

11.01 Daily reports on Form 1100 by clearing members; information shown.
11.02 Time and place of filing reports on Form 1100.
11.03 Errors or omissions in reports on Form 1100.

FORMS 1101 AND 1102

11.04 "Special accounts" reported on Form 1101.
11.05 Net position of account prior and subsequent to special account status.
11.06 Time of filing reports on Form 1101.
11.07 Accounts reported on Form 1101 shown by account number or code; identification on Form 1102.
11.08 Persons controlling or having participating financial interest in accounts shown on Form 1102.
11.09 Character of accounts shown on Form 1102.

FORM 1103

11.10 Persons holding or controlling open contracts of specified size; reports on Form 1103.
11.11 Information shown in reports on Form 1103.
11.12 Time of filing reports on Form 1103.
11.13 Assignment of code number.
11.14 Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.
11.15 Information required upon call.

AMOUNTS FIXED FOR REPORTING ON FORMS 1101 AND 1103

11.20 Amount fixed for reporting on Form 1101.
11.21 Amount fixed for reporting on Form 1103.

SPECIAL CALLS

11.22 Special calls; reports on Form 1101.
11.23 Special calls; reports on Form 1103.

AUTHORITY: §§ 11.00 to 11.23 issued under sec. 8a, as added by sec. 10, 49 Stat. 1500; 7 U. S. C. 12a. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 11.00 *Definitions: "meal"· "cash meal"· "spot meal"* The term "meal" shall mean and include cottonseed meal and soybean meal. The terms "cash meal" and "spot meal" shall have the same meaning and shall refer to transactions in actual meal as distinguished from meal futures.

FORM 1100

§ 11.01 *Daily reports on Form 1100 by clearing members; information shown.* Each clearing member of each board of trade (exchange) designated as a contract market for any meal shall report to the Commodity Exchange Authority each business day on Form 1100 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on Form 1100, to be obtained from the Commodity Exchange Authority, and shall show accurately and fully the information called for with respect to all contracts of sale of meal for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for any meal shall report separately with respect to each such market. Such report shall show separately for each meal and each delivery month:

(a) The total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(b) The net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(c) The quantity of meal bought and the quality of meal sold on such contracts during the period covered by the report;

(d) The quantity of meal delivered and the quantity of meal received on such contracts during the period covered by the report; and

(e) The quantity of meal represented by delivery notices issued, stopped, and passed, respectively, during the period covered by the report. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 11.02 *Time and place of filing reports on Form 1100.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 1100 shall be filed in the office of the Commodity Exchange Authority in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. If there be no office of the Commodity Exchange Authority in such city, the reports shall be transmitted in accordance with instructions furnished by the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

§ 11.03 *Errors or omissions in reports on Form 1100.* Reports on Form 1100 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor

corrections may be shown in the next succeeding report. (Sec. 5 (b) 42 Stat. 1000; 7 U. S. C. 7 (b))

FORMS 1101 AND 1102

§ 11.04 *"Special accounts" reported on Form 1101*—(a) *By whom reported.* Each futures commission merchant and each member of a contract market, who shall carry for another person any account in any future of any meal, resulting from any transaction made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in § 11.20, shall report such account daily to the Commodity Exchange Authority on Form 1101 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on Form 1101.

(b) *Accounts belonging to or controlled by the same person.* For the purpose of reporting on Form 1101, all accounts which belong to or are controlled by the same person shall be considered one account. All accounts required to be reported on Form 1101 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 11.05 *Net position of account prior and subsequent to special account status.* The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in § 11.20 shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 11.06 *Time of filing reports on Form 1101.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required to be made on Form 1101 shall be filed with the Commodity Exchange Authority not later than 30 minutes before the official opening of the market on the next following business day: *Provided,* That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Authority has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 11.07 *Accounts reported on Form 1101 shown by account number or code; identification on Form 1102.* Reports on Form 1101 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on Form 1101 it shall be identified on Form 1102, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on Form 1101. An account number or code once identified on Form 1102 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Authority. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 11.08 *Persons controlling or having participating financial interest in accounts shown on Form 1102.* If more than one person shall have control over or be known to have a participating financial interest in any account reported on Form 1101, the names and addresses of all such persons shall be shown on Form 1102 (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

§ 11.09 *Character of accounts shown on Form 1102.* In identifying accounts on Form 1102 the person reporting shall indicate the character of such accounts, i. e., whether hedging, spreading (straddling) speculative, or commission house. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b), 6g)

FORM 1103

§ 11.10 *Persons holding or controlling open contracts of specified size; reports on Form 1103.* Every person who holds or controls open contracts in any one future of any meal on any one contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in § 11.21) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Authority on Form 1103. Such reports shall be made daily; *Provided,* That if on any day such person has no trades or transactions in any future of a meal previously reported and there has been no change in the open contracts of such person in any such meal, the last detailed report of such person shall be considered as his report on open contracts in such meal on all intervening days Such person shall also make a report on Form 1103 covering the day on which the amount of his open contracts in such future falls below the amount fixed in § 11.21. (Sec. 4i (2), as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

§ 11.11 *Information shown in reports on Form 1103*—(a) *Arranged by markets and futures.* Reports made by any person on Form 1103 shall show for the day covered thereby, by markets and by futures, with respect to each meal in which the person reporting holds or controls open contracts in any one future thereof on or subject to the rules of any contract market equal to or in excess of the amount fixed in § 11.21.

(1) The amount of open contracts held or controlled by such person in all futures of such meal on all boards of trade (exchanges) in the United States and elsewhere;

(2) The character of the open contracts held or controlled, i. e., whether hedging, spreading (straddling) or speculative;

(3) The amount of such meal bought and the amount sold by such person for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(4) The amount of such meal delivered by or to such person in settlement of futures contracts.

(b) *"Hedging" meaning of.* For the purpose of paragraph (a) (2) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions" appearing in section 4a (3) of the Commodity Exchange Act. (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3) (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 74 U. S. C. 6i)

§ 11.12 *Time of filing reports on Form 1103.* Unless otherwise authorized in writing by the Commodity Exchange Authority upon good cause shown, reports required on Form 1103 shall be filed with the Commodity Exchange Authority as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided,* That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Authority. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 11.13 *Assignment of code number.* Upon receipt of the first report from any person on Form 1103, or upon application in advance, the Commodity Exchange Authority will assign to such person a code number. In all reports on Form 1103 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 11.14 *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.* Persons having or controlling open contracts in any future of any meal on any contract market equal to or in excess of the amount fixed in § 11.21 shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Authority with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

§ 11.15 *Information required upon call.* Each person required to report on Form 1103 shall:

(a) If a partnership, furnish upon call the name and address of each partner.

(b) If a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(c) If an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Authority upon call in accordance with instructions contained in the call. (Sec. 4i, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i)

AMOUNTS FIXED FOR REPORTING ON FORMS 1101 AND 1103

§ 11.20 *Amount fixed for reporting on Form 1101.* For the purpose of §§ 11.04 and 11.05, the amount specified for reporting accounts on Form 1101 is 1,000 tons, but such specified amount shall not apply to special calls issued under authority of § 11.22. (Sec. 5 (b) 42 Stat. 1000, sec. 4g, as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 11.21 *Amount fixed for reporting on Form 1103.* For the purpose of §§ 11.10 and 11.14, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on Form 1103 is 1,000 tons. (Sec. 4i (2) as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 6i (2))

SPECIAL CALLS

§ 11.22 *Special calls; reports on Form 1101.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated meal future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Authority on Form 1101, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in § 11.20 shall have no application. (Sec. 5 (b) 42 Stat. 1000, sec. 4g. as added by sec. 5, 49 Stat. 1496; 7 U. S. C. 7 (b) 6g)

§ 11.23 *Special calls; reports on Form 1103.* Whenever in the judgment of the Act Administrator there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any meal future shall, upon call, report all open contracts in meal futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Authority on Form 1103 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in § 11.21 shall have no application. (Sec. 5 (b), 42 Stat. 1000; 7 U. S. C. 7 (b))

NOTE: The reporting and record-keeping requirements contained in the foregoing rules and regulations (parts 1 to 11, inclusive) have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

PART 100—ORDERS OF THE SECRETARY OF AGRICULTURE

§ 100.1 *Delivery period required with respect to certain grains.* A period of 7 business days is ordered and required during which contracts for future delivery in the current delivery month of wheat, corn, oats, barley, rye, or flaxseed may be settled by delivery of the actual cash commodity after trading in such contracts has ceased, for each delivery month after May 1938, on all contract markets on which there is trading in futures in any of such commodities, and such contract markets, and each of them, are directed to provide therefor. (Sec. 8a, as added by sec. 10, 49 Stat. 1500, 7 U. S. C. 12a) (Applies sec. 5a (4) as added by sec. 7, 49 Stat. 1497. 7 U. S. C. 7a (4))

PART 150—ORDERS OF THE COMMODITY EXCHANGE COMMISSION

Sec.
150.1 Limits on position and daily trading in grain for future delivery.
150.2 Limits on position and daily trading in cotton for future delivery.
150.3 Limits on position and daily trading in rye for future delivery.

AUTHORITY: §§ 150.1 to 150.3 issued under sec. 4a, as added by sec. 5, 49 Stat. 1492, 7 U. S. C. 6a.

§ 150.1 *Limits on position and daily trading in grain for future delivery.* The following limits on the amount of trading under contracts of sale of grain for future delivery on or subject to the rules of contract markets which may be done by any person are hereby proclaimed and fixed, to be in full force and effect on and after December 31, 1938:

(a) *Position limits.* (1) The limit on the maximum net long or net short position which any one person may hold or control in any one grain on any one contract market, except as specifically authorized by paragraph (a) (2) of this section, is: 2,000,000 bushels in any one future or in all futures combined.

(2) To the extent that the net position held or controlled by any one person in all futures combined in any one grain on any one contract market is shown to represent spreading in the same grain between markets, the limit on net position in all futures combined set forth in paragraph (a) (1) of this section may be exceeded on such contract market, but in no case shall the excess result in a net position of more than 3,000,000 bushels in all futures combined nor more than 2,000,000 bushels in any one future.

(b) *Daily trading limits.* (1) The limit on the maximum amount which any person may buy, and on the maximum amount which any person may sell, of any one grain on any one contract market during any one business day, except as specifically authorized by paragraph (b) (2) of this section, is: 2,000,000 bushels in any one future or in all futures combined.

(2) To the extent that purchases or sales of any one grain on any one contract market during any one business day made by any person are shown to represent spreading, or the closing of spreads, in the same grain between markets, the limit set forth in paragraph (b) (1) of this section may be exceeded on such contract market, but in no case shall the excess result in total purchases of more than 3,000,000 bushels, or total sales of more than 3,000,000 bushels, and in no event shall such person's total purchases or total sales, during any one business day, in any one future exceed 2,000,000 bushels.

(c) *Bona fide hedging.* The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions as defined in section 4a (3) of the Commodity Exchange Act. (Sec. 4a (3), as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3))

(d) *Manipulation, corners; responsibility of contract market.* Nothing contained in this section shall be construed to affect any provisions of the Commodity Exchange Act relating to manipulation or corners, nor to relieve any contract market, or its governing board, from responsibility to prevent manipulation and corners under section 5 (d) of the Commodity Exchange Act (Sec. 5 (d) 42 Stat. 1000, as amended; 7 U. S. C. 7 (d))

(e) *Definitions.* As used herein, the word "grain" includes wheat, corn, oats, barley, and flaxseed, and the word "person" includes individuals, associations, partnerships, corporations, and trusts.

§ 150.2 *Limits on position and daily trading in cotton for future delivery.* The following limits on the amount of speculative trading under contracts of sale of cotton for future delivery, on or subject to the rules of any contract market, which may be done by any person, are hereby proclaimed and fixed, to be in full force and effect on and after September 5, 1940:

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in cotton on any one contract market is 30,000 bales in any one future or in all futures combined.

(b) *Daily trading limit.* The limit on the maximum amount of cotton which any person may buy, and on the maximum amount which any person may sell, on any one contract market during any one business day is 30,000 bales in any one future.

(c) *Bona fide hedging; straddles.* The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions, as defined in section 4a (3) of the Commodity Exchange Act (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3)), nor, except during the delivery month, to (1) net positions in any one future to the extent that they are shown to represent straddles between cotton futures or markets, or (2) purchases and sales of cotton which are shown to represent straddles or the closing of straddles between futures or markets.

(d) *Manipulation; corners; responsibility of contract market.* Nothing contained herein shall be construed to af-

fect any provisions of the Commodity Exchange Act relating to manipulation or corners, nor to relieve any contract market or its governing board from responsibility under section 5 (d) of the Commodity Exchange Act (Sec. 5 (d) 42 Stat. 1000, as amended; 7 U. S. C. 7 (d)) to prevent manipulation and corners.

(e) *Definitions.* As used herein, the word "person" includes individuals, associations, partnerships, corporations, and trusts.

§ 150.3 *Limits on position and daily trading in rye for future delivery.* The following limits on the amount of trading under contracts of sale of rye for future delivery on or subject to the rules of any contract market, which may be done by any person, are hereby proclaimed and fixed, to be in full force and effect on and after December 3, 1945:

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in rye on or subject to the rules of any one contract market is 500,000 bushels in any one future or in all futures combined.

(b) *Daily trading limit.* The limit on the maximum amount of rye which any person may buy, and on the maximum amount which any person may sell, on or subject to the rules of any one contract market during any one business day is 500,000 bushels in any one future or in all futures combined.

(c) *Bona fide hedging.* The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions, as defined in section 4a (3) of the Commodity Exchange Act. (Sec. 4a (3) as added by sec. 5, 49 Stat. 1493; 7 U. S. C. 6a (3))

(d) *Manipulation; corners; responsibility of contract market.* Nothing contained herein shall be construed to affect any provisions of the Commodity Exchange Act relating to manipulation or corners, nor to relieve any contract market or its governing board from responsibility under section 5 (d) of the Commodity Exchange Act (Sec. 5 (d) 42 Stat. 1000, as amended; 7 U. S. C. 7 (d)) to prevent manipulation and corners.

(e) *Definition.* As used herein, the word "person" includes individuals, associations, partnerships, corporations, and trusts.

[F. R. Doc. 48-11030; Filed, Dec. 17, 1948; 8:51 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Regs., Serial No. OR-11]

PART 301—ORGANIZATION, DELEGATIONS OF AUTHORITY, AND PUBLIC INFORMATION

PART 302—DESCRIPTION OF FUNCTIONS; COURSE AND METHOD BY WHICH FUNCTIONS ARE CHANNELED; SCOPE AND CONTENTS OF DOCUMENTS

PART 303—SUBSTANTIVE RULES

EDITORIAL CHANGES INCIDENT TO PREPARATION OF CODE OF FEDERAL REGULATIONS, 1949 EDITION

In order to conform Chapter I of Title 14 to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulations of the Administrative Committee of the Federal Register and approved by the President effective October 12, 1948 (13 F. R. 5929), the following editorial changes are made, effective upon publication in the FEDERAL REGISTER:

1. The codification of Parts 301, 302, and 303 is hereby discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.

2. The chapter is divided into two subchapters: Subchapter A—Civil Air Regulations, comprising Parts 1-199; and Subchapter B—Economic Regulations, comprising Parts 200-299.

Dated: December 14, 1948.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 48-11008; Filed, Dec. 17, 1948; 8:47 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 4319]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

MORTON SALT CO.

§ 3.45 (c) *Discriminating in price—Indirect discrimination—Cumulative discounts.* § 3.45 (e) *Discriminating in price—Indirect discrimination—Discounts and allowances.* In the sale of Morton's Free Running Table Salt, plain or iodized, or other grades of table salt in commerce, discriminating directly or indirectly in the price of such products of like grade and quality as among wholesale or retail dealers purchasing said salt when the differences in price—defined, for the purposes of comparison, as used in the order as taking into account discounts, rebates, allowances, and other terms and conditions of sale—are not justified by difference in the cost of manufacture, sale, or delivery resulting from differing methods or quantities in which such products are sold or delivered, (a) by selling such products to some wholesalers thereof at prices different from the prices charged other wholesalers who in fact compete in the sale and distribution of such products; (b) by selling such products to some retailers thereof at prices different from the prices charged other retailers who in fact compete in the sale and distribution of such products; or (c) by selling such products to any retailer at prices lower than prices charged wholesalers whose customers compete with such retailer; prohibited. (Sec. 2 (a), 49 Stat. 1526; 15 U. S. C., sec. 13 (a)) [Modified cease and desist order, Morton Salt Company, Docket 4319, November 2, 1948]

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 2d day of November A. D. 1948.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondent, testimony and other evidence in support of the allegations of said complaint and in opposition thereto taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and exceptions filed thereto, briefs in support of the complaint and in opposition thereto, and oral argument of counsel, the Commission, having considered the matter, made and issued its findings as to the facts, conclusion, and order to cease and desist on July 28, 1944;

Thereafter, said cause was remanded by the Circuit Court of Appeals for the further consideration of the Commission, and the Commission, having reconsidered the matter and the record herein, made and issued on April 14, 1945, its modified findings as to the facts, its conclusion that respondent has violated the provisions of subsection (a) of section 2 of an act of Congress entitled, "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (Clayton Act) as amended by an act approved June 19, 1936 (Robinson-Patman Act), and its order to cease and desist; and

The Circuit Court of Appeals having, on July 8, 1948, entered a final decree further modifying the aforesaid order to cease and desist, pursuant to the opinion announced on May 3, 1948, by the Supreme Court of the United States:

Now, therefore it is hereby ordered, That respondent, Morton Salt Company, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device in the sale of Morton's Free Running Table Salt, plain or iodized, or other grades of table salt in commerce as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from discriminating directly or indirectly in the price of such products of like grade and quality as among wholesale or retail dealers purchasing said salt when the differences in price are not justified by difference in the cost of manufacture, sale, or delivery, resulting from differing methods or quantities in which such products are sold or delivered.

(a) By selling such products to some wholesalers thereof at prices different from the prices charged other wholesalers who, in fact, compete in the sale and distribution of such products.

(b) By selling such products to some retailers thereof at prices different from the prices charged other retailers who, in fact, compete in the sale and distribution of such products.

(c) By selling such products to any retailer at prices lower than prices charged wholesalers whose customers compete with such retailer.

For the purpose of comparison, the term "price" as used in this order takes into account discounts, rebates, allowances, and other terms and conditions of sale.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 48-11009; Filed, Dec. 17, 1948; 8:48 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VII—Housing and Home Finance Agency

PART 707—VETERANS' EMERGENCY HOUSING PROGRAM

PART 753—RULES OF PRACTICE AND PROCEDURE, INCLUDING FORMS AND INSTRUCTIONS

REVOCATION OF PARTS

Parts 707 and 753 are hereby revoked.

Notwithstanding this revocation, the provisions of all the regulations, orders, delegations and other public documents herein revoked shall be treated as remaining in force, as to rights or liabilities incurred or offenses committed prior to the date of this revocation, for the purpose of sustaining any proper suit, action or prosecution with respect to any such right, liability or offense.

Issued this 21st day of December 1948.

TIGHE E. WOODS,
Housing Expediter

[F. R. Doc. 48-11026; Filed, Dec. 17, 1948; 8:51 a. m.]

Chapter VIII—Office of the Housing Expediter

[Controlled Housing Rent Reg.[1] Amdt. 54]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATIONS

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, Item 83a, is amended to read as follows:

83a. [Revoked and decontrolled].

This decontrols all of the Clinton, Illinois, Defense-Rental Area.

2. Schedule A, Item 221b, is amended to read as follows:

221b. [Revoked and decontrolled].

This decontrols all of the Pender County, North Carolina, Defense-Rental Area.

(Sec. 204 (d) 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. Sup., 1894 (d) Applies sec. 204 (c) 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. Sup., 1894 (c))

This amendment shall become effective December 18, 1948.

Issued this 15th day of December 1948.

TIGHE E. WOODS,
Housing Expediter

Statement To Accompany Amendment 54 to the Controlled Housing Rent Regulation

It is the judgment of the Housing Expediter that the need for continuing maximum rents in the Clinton, Illinois, Defense-Rental Area and in the Pender County, North Carolina, Defense-Rental Area no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met.

This amendment is therefore being issued to decontrol said Defense-Rental Areas in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 48-11025; Filed, Dec. 17, 1948; 8:51 a. m.]

[Rent Reg. for Controlled Rooms in Rooming Houses and Other Establishments,[1] Amdt. 54]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, Item 83a, is amended to read as follows:

83a. [Revoked and decontrolled.]

This decontrols all of the Clinton, Illinois, Defense-Rental Area.

2. Schedule A, Item 221b, is amended to read as follows:

221b. [Revoked and decontrolled.]

This decontrols all of the Pender County, North Carolina, Defense-Rental Area.

(Sec. 204 (d) 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. Sup., 1894 (d) Applies sec. 204 (c) 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. Sup., 1894 (e))

This amendment shall become effective December 18, 1948.

Issued this 15th day of December 1948.

TIGHE E. WOODS,
Housing Expediter

Statement To Accompany Amendment 54 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments

It is the judgment of the Housing Expediter that the need for continuing maximum rents in the Clinton, Illinois, Defense-Rental Area and in the Pender County, North Carolina, Defense-Rental Area no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met.

This amendment is therefore being issued to decontrol said Defense-Rental Areas in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

[F. R. Doc. 48-11014; Filed, Dec. 17, 1948; 8:49 a. m.]

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671.

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672.

TITLE 29—LABOR

Chapter XII—Federal Mediation and Conciliation Service

REVISION OF CHAPTER, AND STATEMENT OF ORGANIZATION AND DELEGATIONS OF FINAL AUTHORITY

EDITORIAL NOTE: The statement with respect to organization and delegations of final authority (sections 1-4) will not be included in the Code of Federal Regulations, 1949 Edition. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.

SECTION 1. *Creation and function.* The Federal Mediation and Conciliation Service was created by act of Congress on June 23, 1947 (Labor-Management Relations Act, 1947, Public Law 101, 80th Cong., Ch. 120, 1st Sess.) The Service is an independent agency of the Executive branch of the Government. Its duty and function is, through conciliation and mediation, to promote collective bargaining as the Government's established policy of maintaining industrial peace and high levels of production and, thereby, to assist parties to labor disputes in industries affecting commerce to settle such disputes in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes. As a supplement to mediation and conciliation, it encourages the parties to resort to voluntary arbitration as a final step in the collective bargaining process, and it aids the parties in the selection of an arbitrator. The Service also places emphasis on a program of improving labor-management relations in order to prevent differences from developing into disputes. The principal statutory sources of the authority of the Service are Title II of the Act, above named and cited, and Section 8 of the Act of March 4, 1913 (37 Stat. 738; 29 U. S. C. 51)

SEC. 2. *Offices.* (a) The central offices of the Service are located at Constitution Avenue and 14th Street, N. W., Washington 25, D. C. The telephone exchange of these offices is Executive 7350.

(b) The Service has twelve regional offices which are maintained and operated under the supervision and direction of regional directors. The names of such regional directors and the locations of the regional offices are as follows:

Region 1: Daniel F. Hurley, Director; 294 Washington Street, Boston 8, Mass., Telephone—Hancock 7574.

Region 2: Frank H. Brown, Director; 341 Ninth Avenue, New York 1, N. Y., Telephone—Bryant 9-3930.

Region 3: John T. Daly, Director; 1634 Widener Building, Philadelphia 7, Pa., Telephone—Rittenhouse 6-0501.

Region 4: Martin J. O'Connell, Director; 144 Tariff Building, Washington 25, D. C., Telephone—Executive 7350.

Region 5: William S. Pierce, Director; 10 Forsyth St. Building, Atlanta 3, Ga., Telephone—Cypress 4671.

Region 6: E. J. Cunningham, Director; 258 Federal Building, Cleveland 14, Ohio; Telephone—Main 8985.

Region 7: Arthur C. Vlat, Director; 1023 Federal Building, Detroit 26, Mich., Telephone—Woodward 3-9330.

Region 8: James J. Spillane, Director, 220 South State Street, Chicago 4, Ill., Telephone—Harrison 6141.

Region 9: H. Arnold Griffith, Acting Director; 404 Old Custom House Building, St. Louis 1, Mo., Telephone—Central 3200.

Region 10: Theodore F. Morrow, Director; 304 Federal Office Building, Houston, Tex.; Telephone—Preston 4288.

Region 11: Ernest P. Marsh, Director; 820 Seaboard Building, Seattle 1, Wash., Telephone—Seneca 8161.

Region 12: William P. Halloran, Director; 477 Federal Office Building, San Francisco 2, Calif., Telephone—Klondike 2-2350.

Region 1 covers Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut; Region 2 covers New York and northern New Jersey (including Sussex, Passaic, Bergen, Hudson, Essex, Morris, Warren, Hunterdon, Somerset, Union, Middlesex, Monmouth and Mercer Counties) Region 3 covers Pennsylvania, Delaware and southern New Jersey (including Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem Counties), Region 4 covers Maryland, District of Columbia, Virginia, West Virginia, North Carolina, and South Carolina; Region 5 covers Georgia, Florida, Tennessee, Alabama, Mississippi, Puerto Rico, and Virgin Islands; Region 6 covers Ohio and Kentucky; Region 7 covers Lower Michigan and Indiana, except Lake County; Region 8 covers Illinois, except St. Clair, Madison, and Monroe Counties, Wisconsin, upper peninsula of Michigan, Minnesota, North Dakota, South Dakota, and Lake County Indiana; Region 9 covers Iowa, Missouri, St. Clair, Madison and Monroe Counties in Illinois, Nebraska, Kansas, and Colorado; Region 10 covers Arkansas, Louisiana, Oklahoma, Texas, and New Mexico; Region 11 covers Washington, Oregon, Idaho, Montana, Wyoming, Utah, and Alaska; and Region 12 covers Nevada, Arizona, California, and Hawaii.

(c) The Service has a number of field offices established to facilitate the work of its commissioners. Each field office is under the direction of the regional director in the region in which it is located. Assignments of commissioners to labor disputes are made in the regional, not the field offices. The locations of such field offices and the number of the region in which they are located are as follows:

Akron, Ohio (6), 309 Buckeye Building, Jefferson 2129.

Baltimore, Md. (4), 103 South Gay Street, Lexington 6655.

Birmingham, Ala. (5), 725-728 Comer Building, 4-6393.

Buffalo, N. Y. (2), 1103 Morgan Building, Mohawk 4131.

Chattanooga, Tenn. (5), 214 Federal Building, 7-5551-2.

Cincinnati, Ohio (6), 445 Post Office Building, Cherry 5820.

Dallas, Texas (10), 1114 Commerce Street, Riverside 6951.

Denver, Colorado (9), 626 Commonwealth Building, Keystone 4151.

Des Moines, Iowa (9), 313 Federal Office Building, 4-5273.

Fresno, Calif. (12), 323 Post Office Building, 2-9391.

Indianapolis, Ind. (7), 212 Federal Building, Market 1561.

Kansas City, Kansas (9), 2401 Fidelity Building, Harrison 6464.

Los Angeles, Calif. (12), 803 Federal Building, Madison 7411.

Milwaukee, Wisconsin (8), 352 Federal Building, Broadway 8600.

Minneapolis, Minn. (8), 210 U. S. Courthouse, Geneva 9364.

New Orleans, La. (10), 333 Customshouse Building, Magnolia 1435.

Pittsburgh, Pa. (3), 301 Old Post Office Building, Atlantic 7931.

Portland, Oregon (11), 303 Old U. S. Courthouse, Broadway 8471.

Richmond, Va., (4), 4 State Capitol Building, 2-8523.

SEC. 3. *Organization*—(a) *Divisions of the Service.* The Service is under the direction of a Director, who is appointed by the President by and with the advice and consent of the Senate. The Director is assisted in the performance of his duties by an Associate Director, an Assistant Director, a General Counsel and a Director of Administrative Management. The operating functions are performed in the twelve regional offices. The National Labor-Management Panel, established by section 205 (a) of the Labor-Management Relations Act, 1947, to advise the Director, particularly with reference to controversies affecting the general welfare, is a part of the Service and is convened at the request of the Director.

SEC. 4. *Responsibilities of principal officers and delegations of authority.* (a) Director is responsible for the administration of the policies, and relations with the Executive Offices of the White House, other Executive agencies, Congress and Committees of Congress. In the event of the absence from duty or the incapacity of the Director, the functions of his office and the authority conferred upon him by the Act shall devolve upon the following officers who shall perform such functions and exercise such authority as "Acting Director"; Associate Director; Assistant Director.

(b) Associate Director assists the Director in formulating policy and has particular responsibility for the administration and coordination of all program activities in the field.

(c) Assistant Director assists the Director in formulating policy and has particular responsibility for mediation and conciliation of all national emergency cases as well as all other cases of outstanding national significance.

(d) *Office of General Counsel.* (1) General Counsel is consultant and legal advisor to the Director and all other officers of the Service on matters involving its policies and program, and, particularly, on the relation to the duties of the Service of Federal and State statutes and regulations governing industrial relations. He is in charge of all phases of the legislative duties of the Service and acts as liaison officer on legal problems in the relations of the Service with other executive agencies. He assists in the conciliation of disputes of outstanding national significance. He is in charge of the arbitration functions of the Service and on request of parties to labor disputes, assists them in the selection of arbitrators by submitting panels of names of qualified arbitrators, or by designating an arbitrator.

(e) *Administrative Management Division.* (1) Director of Administrative Management serves as budget officer and director of personnel of the Service; under delegation of authority by the Director of the Service, and in accordance with its established policies, takes final action on employment and general administration and allocation of personnel; authorizes and approves travel and vouchers therefor and transfers of employees from one station to another; requisitions appropriated funds; certifies claims and pay rolls; negotiates contracts and leases; directs the purchase of articles and services and takes such other action as may be necessary in the administrative management of the Service. He is in charge of and responsible for the operating statistics of the Service.

(f) *District Representatives.* District Representatives serve in the field as the representatives of the Director of the Service; have general responsibility for the maintenance of liaison relationships between the field staff and the national office of the Service.

(g) *Regional Directors.* Regional Directors are responsible for the effectuation in their respective regions of the policies of the Service through assignments of commissioners to labor disputes and phases of the preventive program of the Service, development of cooperative arrangements with State and other conciliation agencies, and general supervision of the operations and activities of the regional offices.

PART 1401—AVAILABILITY OF INFORMATION

SEC.

1401.1 Places at which information may be obtained.

1401.2 Availability of information and records.

§ 1401.1 *Places at which information may be obtained.* Any individual, employer or union, or representative thereof, desiring information regarding the operations of the Service should communicate with the regional office of the Service in the region in which the labor dispute or other matter exists with respect to which information is sought. General inquiries for information concerning the Service should be addressed to the Federal Mediation and Conciliation Service, Washington 25, D. C. (Sec. 202, 61 Stat. 153; 29 U. S. C., Sup., 172)

§ 1401.2 *Availability of information and records*—(a) *Records*—(1) *Withdrawal.* No report, letter, memorandum file or other document or paper in the official custody of the Service (hereinafter referred to as "records") shall be taken, withdrawn or removed therefrom by any person not officially connected with the Service or any agent or representative of such person without the written consent of the Director.

(2) *Inspection and copies.* All records in the official custody of the Service are hereby declared to be confidential for good cause found. Inspection and the procurement of copies thereof will be afforded only to persons who demonstrate a material and justifiable interest therein not prejudicial to the public interest as determined by the Director. Applications for inspection or the procurement of copies thereof should be made to the Director, under oath, setting forth the interest of the applicant and showing the reason why and the purpose

for which the inspection or the copies of the records requested are desired.

(b) *Compliance with subpoenas.* No officer or employee or other person officially connected with the Service shall produce or present any records of the Service or testify in behalf of any party to any cause pending in any court or before any Board, Commission, Committee, Tribunal or other agency of the United States or of any State, Territory, or the District of Columbia with respect to the facts, or other matter coming to his knowledge in his official capacity or with respect to the contents of any records of the Service, whether in answer to a subpoena, subpoena *duces tecum* or otherwise without the written consent of the Director. Whenever any subpoena or subpoena *duces tecum* calling for records or testimony as described above shall have been served upon any such officer, employee or other person, he will, unless otherwise expressly directed by the Director, appear in answer thereto, and respectfully decline, by reason of this part, to produce or present such records or to give such testimony. (Sec. 202, 61 Stat. 153; 29 U. S. C., Sup., 172)

PART 1402—PROCEDURES OF THE SERVICE

Sec.
1402.1 Filing of notices under Labor-Management Relations Act, 1947.
1402.2 Circumstances in which the Service will conciliate or mediate labor disputes.

§ 1402.1 *Filing of notices under Labor-Management Relations Act, 1947* Any party to a collective bargaining contract, subject to the provisions of Title I of the Labor-Management Relations Act, 1947, desiring to comply with the notice requirements of section 8 (d) (3) of that act, should file such notice, in duplicate, with the appropriate regional office, on a form provided for that purpose. Copies of this form are obtainable at the regional offices of the Service and at the offices of international unions and employer associations. This form may be duplicated for use by representatives of employers and unions, provided it is copied in full and without change. It is emphasized that the requirement to notify the Service relates to a notice, filed with it, "within thirty days" after a sixty-day notice to terminate or modify a collective bargaining contract has been served by one party to the contract upon another, provided no agreement has been reached at that time. The "sixty-day notice", referred to in section 8 (d) (3) of the act, should not be filed with the Service. (Sec. 202, 61 Stat. 153; 29 U. S. C., Sup., 172)

§ 1402.2 *Circumstances in which the Service will conciliate or mediate labor disputes.* The Service will intercede in a labor dispute either on request of one or more parties to the dispute or upon its own motion only when in its judgment the jurisdictional facts authorizing such intercession are present (See section 203 (a) and (b) of the Labor-Management Relations Act, 1947) Requests for intercession should be directed to the appropriate regional director or directors. The fact that a commissioner of the Service communicates with the parties to a labor dispute in response to a notice filed under section 8 (d) (3) of the act, or otherwise should not be taken as evidence that the Service has interceded or will intercede in the dispute for the purpose of mediation or conciliation, or that the judgment of the Service has been exercised with respect to its jurisdiction and authority to intercede. (Sec. 202, 61 Stat. 153; 29 U. S. C., Sup. 172)

PART 1405—GENERAL REGULATIONS OF THE SERVICE

The provisions in §§ 1405.1 and 1405.2 entitled respectively, "Records; withdrawal, inspection and copies" and "Compliance with subpoenas" published in the FEDERAL REGISTER on September 23, 1947, at page 6326, are hereby revoked and the contents thereof incorporated in Part 1401, § 1401.2 (a) and (b)

Signed at Washington, D. C., this 14th day of December, 1948.

C. S. CHING,
Director

[F. R. Doc. 48-11047; Filed, Dec. 17, 1948; 8:59 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

[Amdt. 4]

PART 670—RECORDS ADMINISTRATION IN FEDERAL RECORD DEPOTS

SUPPLYING INFORMATION FROM RECORDS

The Selective Service Regulations are hereby amended as follows:

1. Section 670.3 is amended to read as follows:

§ 670.3 *Federal record depot for National Headquarters.* A Federal record depot shall be established at National Headquarters for Selective Service as a branch of the Records and Research Division, for the custody, preservation, servicing, and disposal of such records as may be designated by the Director of Selective Service.

2. Paragraph (b) of § 670.31 is amended by adding a new subparagraph (18) to read as follows:

§ 670.31 *Supplying information to Federal agencies and officials.* * * *

(b) * * *

(18) *Central Intelligence Agency.* The Central Intelligence Agency may obtain such information upon the request of (i) the Executive for Inspection and Security, (ii) the Chief, Security Branch, or (iii) a Special Agent in Charge or an Assistant Special Agent in Charge of a Field Office, Employee Investigative Service.

3. Subparagraphs (21) (30) and (34) of paragraph (b) of § 670.32 are amended to read as follows:

§ 670.32 *Supplying information to officials and agencies of States, the District of Columbia, Territories and possessions of the United States.* * * *

(b) * * *

(21) *State of Maryland.* The officials of the State of Maryland and its subdivisions authorized to obtain such information are (i) the Adjutant General, (ii) the Chairman, Department of Employment Security, (iii) the Director, War Records Division, Maryland Historical Society, and (iv) the Commissioner, Baltimore City Police Department.

* * * * *

(30) *State of New Hampshire.* The officials of the State of New Hampshire authorized to obtain such information are (i) the Adjutant General, (ii) the Administrator, Unemployment Compensation Division, (iii) the Commissioner, State Department of Public Welfare, (iv) the Health Officer, State Department of Health, (v) the Superintendent, State Department of Hospitals, (vi) the State Director, State Employment Office, (vii) the Director of Probation, State Department of Probation, and (viii) the Director, State Veterans' Council.

* * * * *

(34) *State of North Carolina.* The officials of the State of North Carolina authorized to obtain such information are (i) the Adjutant General, (ii) the Assistant Adjutant General, (iii) the Chairman, Employment Security Commission, (iv) the Commissioner of Paroles, the Assistant Commissioner of Paroles, the Chief Parole Investigator, the Parole Investigators, and the Chief of Supervision, North Carolina Parole Commission, (v) the Director, the Assistant Director, and the Assistant State Service Officers, North Carolina Veterans' Commission, (vi) the Director and the Assistant Director of State Probation Officers, North Carolina Probation Commission, (vii) the Commissioner, the Director of Public Assistance, and the Director of Field Service, State Board of Public Welfare, and (viii) the Director, Bureau of Investigation, North Carolina Department of Justice.

(Secs. 6, 7, 61 Stat. 32, sec. 10 (a) (4), Pub. Law 759, 80th Cong., 50 U. S. C. App., Sup., 326, 327)

The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

[SEAL] LEWIS B. HERSHEY,
Director of Selective Service.

December 15, 1948.

[F. R. Doc. 48-11010; Filed, Dec. 17, 1948; 8:48 a. m.]

Chapter XXIV—Department of State, Disposal of Surplus Property

[Departmental Reg. 108.82; FLC Reg. 8, Order 6]

PART 8508—DISPOSAL OF SURPLUS PROPERTY LOCATED IN FOREIGN AREAS

IMPORTATION INTO UNITED STATES OF SURPLUS PROPERTY LOCATED IN FOREIGN AREAS

DECEMBER 14, 1948.

Foreign Liquidation Commissioner Regulation 8, Order 6, of September 23, 1948 (Department Regulation 108.74, 13

F. R. 5528) is hereby revised and amended to read as herein set forth.

The President has requested the Secretary of State to act, with regard to permitting the importation of surplus property, upon determinations as made by the Secretary of Commerce. The Secretary of Commerce has informed the Secretary of State that certain materials which have been or may be declared to the Foreign Liquidation Commissioner as surplus property located in foreign areas are in critically short supply and urgently needed in the domestic economy and are qualified for importation into the United States during the periods hereinafter specified.

It is hereby ordered, (a) That § 8508.15 of FLC Regulation 8 shall not apply to prevent the importation of surplus property specified in paragraphs numbered (1) through (3) of Schedule A attached hereto if such property is in transit to a point in the United States on or before June 30, 1949, (b) That § 8508.15 shall not apply to prevent the importation of surplus property specified in paragraph numbered (4) of Schedule A attached hereto, except as to such items as may be deleted therefrom by subsequent amendment of this order, if such property is in transit to a point in the United States on or before June 30, 1949. Any amendment which may be issued for the purpose of deleting items from paragraphs numbered (4) of Schedule A shall not be effective until thirty (30) days after publication. For the purpose of this order "in transit to a point in the United States" shall mean the property involved has been delivered to or accepted by a carrier which has issued a through bill of lading thereon to a point in the United States.

(58 Stat. 765, 59 Stat. 533, 60 Stat. 168, 754; 61 Stat. 501, 678; 50 U. S. C. App. and Sup. 1611–46)

This order shall become effective as of January 1, 1949.

Approved: December 14, 1948.

[SEAL] ROBERT A. LOVETT,
Acting Secretary of State.

SCHEDULE A

(1) Burlap bags and strips.

(2) Containers: steel, shipping barrels, drums, and pails.

(3) Telephone and telegraph equipment, including lead covered cable; line wire; messenger and drop wire; pole line hardware; and porcelain insulators.

(4) All items of iron and steel, machinery, equipment, and parts therefor in Schedule B, Statistical Classification of Domestic and Foreign Commodities exported from the United States, Part II, January 1, 1945, Edition, Nos. 600700 through 610800 (steel mill products); Nos. 700000 through 789998 inclusive with the following exceptions: Nos. 720100 (only as to excavators and cranes of 1 cubic yard and under bucket or dipper capacity), 721500 (concrete mixers), 722600 (scrapers; self-loading), 740005 through 748512 (machine tools and other metal-working machinery) and 770400 through 770600 (air compressors).

[F. R. Doc. 48–11002; Filed, Dec. 17, 1948; 8:46 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 1—AREAS ADMINISTERED BY THE NATIONAL PARK SERVICE

ALASKA

CROSS REFERENCE: For order withdrawing lands within the Mount McKinley National Park, Alaska, thereby affecting the tabulation contained in § 1.2, see Public Land Order 538 in the Appendix to Chapter I of Title 43, *infra.*

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter A—Alaska

[Circular 1711]

PART 78—SURVEYS

SURVEY OF PUBLIC LANDS IN ALASKA

Part 78 is completely revised to read as follows:

Sec.
78.1 System of surveys.
78.2 Meridians.
78.3 Administration of surveying activities.
78.4 Existing surveys and extensions thereof.
78.5 Special surveys.
78.6 Deposit required for survey made by deputy surveyor.
78.7 Copy of plat of non-mineral survey for posting on land.
78.8 Plats of mineral surveys released upon approval.
78.9 Copies of records.

AUTHORITY: §§ 78.1 to 78.9 issued under R. S. 453, 2478; 43 U. S. C. 2, 1201.

§ 78.1 *System of surveys.* The rectangular system of survey of the public lands was extended to the Territory of Alaska by the act of March 3, 1899 (30 Stat. 1098; 48 U. S. C. 351). The regular township surveys in Alaska conform to that system, but departures therefrom are permitted under the conditions stated in the act of April 13, 1926 (44 Stat. 243; 48 U. S. C. 379), and in certain other cases, such as special surveys for trade and manufacturing sites, headquarters sites, and homesites under section 10 of the act of May 14, 1898 (30 Stat. 413; 48 U. S. C. 461) as amended; for soldiers additional entries, pursuant to sections 2306 and 2307 of the Revised Statutes (43 U. S. C. 274, 278); and for small tracts under the act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended.

§ 78.2 *Meridians.* The public land surveys in Alaska are governed by three principal meridians established as follows: The Seward Meridian, initiated just north of Resurrection Bay and extending to the Matanuska coal fields; the Fairbanks Meridian, commencing near the town of Fairbanks and controlling the surveys in that vicinity, including the Nenana coal fields; and the Copper River Meridian which lies in the valley of the Copper River and from which surveys have been executed as far north as the Tanana River and south to the Bering River coal fields and the Gulf of Alaska.

§ 78.3 *Administration of surveying activities.* Administration of the public land surveying activities in Alaska is under the general supervision of the Regional Administrator, Bureau of Land Management, at Anchorage, Alaska. A public survey office, in which the records relating to the public land surveys in the Territory are maintained, is located at Juneau, Alaska. Correspondence relating to local survey matters should be addressed to the Public Survey Office, Juneau, Alaska.

§ 78.4 *Existing surveys and extensions thereof.* The surveys up to the present time have been confined to known agricultural areas, the coal fields, and such other lands as have been considered to be suitable for development by settlers or otherwise. The extensions of the surveys to other areas will be governed largely by the character of the lands and their suitability for use, development, and administration under the public land laws applicable to Alaska.

§ 78.5 *Special surveys.* Information respecting special surveys of soldiers' additional entries, homesites, homesteads, and trade and manufacturing sites is given in Parts 61, 64, 65, and 81 of this chapter, respectively.

§ 78.6 *Deposit required for survey made by deputy surveyor.* When application is made to have a special survey executed by a deputy surveyor, the Regional Cadastral Engineer, Public Survey Office, Juneau, Alaska, will furnish the applicant with an estimate of the cost of the office work involved in the preparation of the plat and field notes of such survey. The applicant will be required to deposit such estimated amount with said officer. If the estimated amount is found to be insufficient to cover the actual cost of such office work, the applicant will be required to pay the deficiency; if in excess of the actual cost, the excess will be refunded to the applicant.

§ 78.7 *Copy of plat of non-mineral survey for posting on land.* The public survey office will furnish the claimant, without charge, a copy of the plat of a special non-mineral survey for posting on the land.

§ 78.8 *Plats of mineral surveys released upon approval.* Upon approval of plats of Alaskan mineral surveys by the Office Cadastral Engineer, Public Survey Office, Juneau, Alaska, two copies thereof will be prepared in the public survey office by photostat, blueprint, or such other process as may be available. Such copies will be furnished without charge to the claimant, or his agent or attorney, for immediate use, one for posting on the land and one for filing with the application.

§ 78.9 *Copies of records.* Copies of plats of surveys in Alaska, or other records of the Public Survey Office, will be sold at the cost of production, in accordance with section 1 of the act of August

24, 1912 (37 Stat. 497; 5 U. S. C. 488) as amended by the act of July 30, 1947 (61 Stat. 521), and § 240.4 of this chapter.

MARION CLAWSON,
Director

Approved: December 14, 1948.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior

[F. R. Doc. 48-11001; Filed, Dec. 17, 1948; 8:46 a. m.]

Appendix—Public Land Orders

[Public Land Order 536]

CALIFORNIA

REVOKING EXECUTIVE ORDER NO. 5585 OF MARCH 30, 1931, WITHDRAWING LANDS PENDING RESURVEY

By virtue of the authority contained in section 1 of the act of June 25, 1910, 36 Stat. 847 (U. S. C. title 43, sec. 141) and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Executive Order No. 5585 of March 30, 1931, withdrawing the public lands in the hereinafter-described areas in California pending resurvey, is hereby revoked.

Effective upon the signing of this order, the jurisdiction over and administration of such lands shall be vested in the Department of the Interior and any other Department or agency of the Federal Government according to their respective interests then of record.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on February 11, 1949. At that time the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from February 11, 1949, to May 13, 1949, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead or the desert land laws, or the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C., sec. 682a) as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C., secs. 279–283) subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2)

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from January 22, 1949, to February 19, 1949, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on February 11, 1949, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on May 14, 1949, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20-day period from April 23, 1949, to May 13, 1949, inclusive, and all such applications, together with those presented at 10:00 a. m. on May 14, 1949, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office, Sacramento, California, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254) and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the District Land Office, Sacramento, California.

The lands affected by this order are the public lands in the following-described areas:

MOUNT DIABLO MERIDIAN

T. 18 S., R. 3 E.,
T. 18 S., R. 4 E.

The areas described, including both public and non-public lands, aggregate 46,545.47 acres.

Secs. 14, 15, secs. 17 to 23 inclusive, secs. 25 to 36 inclusive, T. 18 S., R. 3 E., and secs. 28 to 34 inclusive, T. 18 S., R. 4 E., are within the Los Padres National Forest, and some of the lands have been patented.

The lands are generally low, flat, and swampy in character, and are crossed by numerous sloughs draining into Kings River.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior

DECEMBER 10, 1948.

[F. R. Doc. 48-11000; Filed, Dec. 17, 1948; 8:46 a. m.]

[Public Land Order 538]

ALASKA

WITHDRAWING PUBLIC LANDS IN AID OF PROPOSED LEGISLATION

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the tract of land in Alaska described below by metes and bounds is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws, in aid of proposed legislation:

Beginning at the point of intersection of the north right-of-way line of the Alaska Railroad and section line between sections 10 and 11, T. 17 S., R. 7 W., F M., thence northeasterly along the north and west right-of-way line of the Alaska Railroad to latitude 63°28' N., thence west on the parallel to longitude 149° W., thence south on the meridian to latitude 63°26' N., thence east on the parallel to the north right-of-way line of the Alaska Railroad; thence northeasterly along the north right-of-way line of the railroad to the point of beginning.

The area described contains approximately 6,200 acres, including public and non-public lands.

The area described, which embraces in part secs. 2, 10, and 11, T. 17 S., R. 7 W., Fairbanks Meridian (surveyed) is within Mount McKinley National Park as enlarged by the act of March 19, 1932, 47 Stat. 68 (16 U. S. C. 355 and 355a)

OSCAR L. CHAPMAN,
Acting Secretary of the Interior

DECEMBER 16, 1948.

[F. R. Doc. 48-11097; Filed, Dec. 17, 1948; 9:03 a. m.]

TITLE 46—SHIPPING

Chapter II—United States Maritime Commission

EDITORIAL CHANGES INCIDENT TO PUBLICATION OF CODE OF FEDERAL REGULATIONS, 1949 EDITION

EDITORIAL NOTE: In order to conform Chapter II of Title 46 to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulations of the Administrative Committee of the Federal Register and approved by the President, effective October 12, 1948 (13 F R. 5929) the following editorial changes are made, effective upon publication in the FEDERAL REGISTER:

1. Codification of Part 200, Organization, Functions, and Delegations of Final Authority, is discontinued. Future amendments to this material will be published in the Notices section of the FEDERAL REGISTER.

2. Parts 204–206 are deleted. The subject matter contained therein is now covered by Part 201, Rules of Procedure Before the Commission, §§ 201.7, 201.10 and 201.41 to 201.45, inclusive (Rev. Gen. Order 41, 12 F R. 6076–6078)

3. Part 211, Adoption of Existing Orders, is deleted.

4. Part 300, General Provisions, is deleted.

5. Part 301, General Regulations, §§ 301.52 to 301.56, inclusive, and 301.71 to 301.76, inclusive, are deleted.

6. Part 302, Contracts with Vessel Owners and Rates of Compensation Relating Thereto, is deleted.

7. Part 303, Contracts for Carriage on Vessels Owned or Chartered by the War Shipping Administration, §§ 303.1 to 303.5, inclusive, 303.11 to 303.16, inclusive, 303.18 to 303.21, inclusive, 303.31 to 303.34, inclusive, 303.40 to 303.42, inclusive, and 303.45 are deleted.

8. Part 304, Labor, §§ 304.1 to 304.7, inclusive, 304.10 to 304.12, inclusive, 304.61 to 304.72, inclusive, and 304.101 to 304.106, inclusive, are deleted.

9. Part 305, Insurance, is deleted.

10. Part 306, General Agents and Agents:

(a) Terminal Operations. Sections 306.29 to 306.34b, inclusive, are deleted.

(b) Freight Brokerage, Tankers. Sections 306.151 to 306.154, inclusive, are deleted.

11. Parts 307, War Shipping Administration Price Adjustment Board, 321, Directives, and Appendix A, Maritime War Emergency Board, are excluded from the Code of Federal Regulations, 1949 Edition.

12. Part 343, Freight Forwarders Forwarding of Foreign Relief Cargoes, is renumbered and redesignated "Part 243, Commercial Forwarding of Certain Exports for Foreign Relief and Rehabilitation." Section 343.1 is divided into two sections under the following headnotes:

Sec.
243.1 Finding of the Commission.
243.2 Compilation of list of qualified forwarders.

Dated: December 15, 1948.

By the United States Maritime Commission.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 48-11013; Filed, Dec. 17, 1948; 8:48 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 3—RADIO BROADCAST SERVICES

TIME OF OPERATION OF STATIONS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 9th day of December, 1948;

The Commission having under consideration § 3.23 of its rules and regulations relating to the time of operation of classes of stations; and

It appearing, that section 1 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations provides that for Class IV stations on local channels the separation required for daytime protection shall also determine the nighttime separation; and that every Class IV station operating on a local channel can, under the Standards of Good Engineering Practice, operate full time without causing objectionable interference to any other station in accordance with these standards; and

It further appearing, that in order to make full utilization of Class IV frequencies it is in the public interest to amend § 3.23 of the Commission's rules and regulations to permit Class IV stations on local channels licensed to operate daytime only or with specified hours to operate at hours beyond those authorized in their license; and

It further appearing, that since the instant amendment is not prejudicial to any interested person notice and public procedure provided for in section 4 of the Administrative Procedure Act is unnecessary and that since this amendment relieves a restriction it may be made immediately;

It is ordered, Pursuant to sections 303 (a), 303 (b), 303 (c) 303 (f) 303 (r) and 307 (b) of the Communications Act of 1934, as amended that § 3.23 of the Commission's rules and regulations be and it is amended, effective immediately, to read as follows:

§ 3.23 *Time of operation of the several classes of stations.* The several classes of standard broadcast stations may be licensed to operate in accordance with the following:

(a) Unlimited time permits operation without a maximum limit as to time.

(b) Limited time is applicable to Class II (secondary stations) operating on a clear channel only. It permits operation of the secondary station during daytime, and until local sunset if located west of the dominant station on the channel, or if located east thereof, until sunset at the dominant station, and in addition during night hours, if any, not used by the dominant station or stations on the channel.

(c) Daytime permits operation during the hours between average monthly local sunrise and average monthly local sunset. (For exact time of sunset at any location see Average Sunrise and Sunset Times.) Daytime stations operating on local channels may, upon notification to the Commission and the engineer in charge of the district in which they are located, operate at hours beyond those specified in their license.

(d) Sharing time permits operation during hours which are so restricted by the station license as to require a division of time with one or more other stations using the same channel.

(e) Specified hours means that the exact operating hours are specified in the license. (The minimum hours that any station shall operate are specified in § 3.71.) Specified hours stations operating on local channels except those sharing time with other stations may, upon notification to the Commission and the engineer in charge of the district in which they are located, operate at hours beyond those specified in their license. (Secs. 303 (a), (b) (c) (f), 307 (b) 48 Stat. 1082, 1083; sec. 6 (b) 50 Stat. 191, 47 U. S. C. 303 (a) (b), (c) (f) (r) 307 (b))

Released: December 10, 1948.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 48-11032; Filed, Dec. 17, 1948; 8:52 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 730]

NATIONAL MARKETING QUOTA FOR RICE FOR 1949-50 MARKETING YEAR

DETERMINATION TO BE MADE BY SECRETARY OF AGRICULTURE

The rice marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1351-1356), require that not later than December 31, 1948, the Secretary of Agriculture proclaim a national marketing quota for rice for the marketing year beginning August 1, 1949, if it appears from the latest available statistics of the Department that the total supply of rice exceeds the normal supply thereof for the current marketing year by more than 10 per centum of such normal supply.

Any person interested in the aforementioned determination and proclamation to be made by the Secretary may submit data, views, or recommendations thereon in writing to the Director, Grain Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. All submissions must be postmarked not later than December 25, 1948.

Issued at Washington, D. C., this 16th day of December 1948.

[SEAL] RALPH S. TRIGG, *Administrator, Production and Marketing Administration.*

[F. R. Doc. 48-11034; Filed, Dec. 17, 1948; 9:02 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 52106]

"NO CONSUL" LIST

ST. PIERRE-MIQUELON AND CARTAGENA, COLOMBIA ADDED AND TRIPOLI, LIBYA, REMOVED FROM LIST

DECEMBER 14, 1948.

In accordance with the recommendations from the Department of State, St. Pierre-Miquelon, and Cartagena, Colombia, are hereby added to, and Tripoli, Libya, is hereby removed from, the "No consul" list, (1947) T. D. 51797, as amended.

Consular invoices covering merchandise from St. Pierre-Miquelon, and Cartagena, Colombia, will be accepted by collectors of customs if certified under the provisions of section 482 (f), Tariff Act of 1930.

Invoices certified after the date of publication of this decision in the weekly Treasury Decisions, covering shipments of merchandise from Tripoli, Libya, shall be accepted by collectors of customs only when certified by an American consular officer as provided in section 482 (a) Tariff Act of 1930.

[SEAL] W R. JOHNSON,
Deputy Commissioner.

[F R. Doc. 48-11011; Filed, Dec. 17, 1948; 8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 7192]

CALIFORNIA

RESTORATION ORDER NO. 1265 UNDER FEDERAL POWER ACT

DECEMBER 14, 1948.

Pursuant to the determination of the Federal Power Commission (DA-682, California) and in accordance with 43 CFR 4.275 (a) (16) (Departmental Order No. 2238 of August 16, 1946, 11 F R. 9080) it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the lands hereinafter described so far as they have been withdrawn for Power Site Reserve No. 200 dated October 2, 1911, or reserved on January 13, 1923 for Water-Power Project No. 371, are hereby restored to location and entry under the United States mining laws only, subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075) as amended by the act of August 26, 1935 (49 Stat. 846, 16 U. S. C. 818) and subject to the valid existing rights-of-way.

MOUNT DIABLO MERIDIAN

T. 1 N., R. 25 E.,
Sec. 13, S½S½.
T. 1 S., R. 26 E.,
Sec. 20, E½SE¼,
Sec. 28, W½W½,
Sec. 29, E½E½.
T. 2 S., R. 26 E.,
Sec. 15, S½N½ and S½.

The areas described aggregate 1019.08 acres.

The above-described lands are within the Inyo National Forest.

This order shall become effective 10:00 a. m. on February 15, 1949.

MARION CLAWSON,
Director

[F. R. Doc. 48-10999; Filed Dec. 17, 1948; 8:46 a. m.]

ALASKA

NOTICE FOR FILING OBJECTIONS TO WITHDRAWAL OF PUBLIC LANDS IN AID OF PROPOSED LEGISLATION [1]

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

OSCAR L. CHAPMAN,
Acting Secretary of the Interior

DECEMBER 16, 1948.

[F. R. Doc. 48-11098; Filed, Dec. 17, 1948; 9:03 a. m.]

[1] See Title 43, Chapter I, Appendix, P. L. O. 538, *supra*.

DEPARTMENT OF COMMERCE

Office of Industry Cooperation

PROPOSED VOLUNTARY PLAN UNDER PUBLIC LAW 395, 80TH CONGRESS, FOR ALLOCATION OF STEEL PRODUCTS FOR CONSTRUCTION OF PIPE LINE TO SUPPLY NATURAL GAS TO PLANT OF UNITED STATES ATOMIC ENERGY COMMISSION AT OAK RIDGE, TENN.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held on Wednesday, December 29, 1948, at 10:00 a. m., e. s. t., in the Auditorium on the street floor of the Department of Commerce Building, 14th Street, between E Street and Constitution Avenue NW., Washington, D. C., for the purpose of affording to industry, labor and the public generally an opportunity to present their views with respect to the proposed voluntary plan, under Public Law 395, 80th Congress, for the allocation of steel products for the construction of pipe line to supply natural gas to plant of United States Atomic Energy Commission at Oak Ridge, Tennessee. A draft of the plan is set forth in Exhibit A hereto.

In view of the essentiality of the program represented by this plan, it is proposed to provide for continued assistance beyond February 28, 1949, which will be the termination date specified in the plan itself, as required by Public Law 395. Provision for continuation consists of two procedures developed in consultation with the Attorney General. First, the termination provisions in the plan provide for extension beyond next February in the event that the authority now contained in Public Law 395 is appropriately extended. Second, the Secretary of Commerce proposes to make a request for unilateral action by participants in carrying on the program after that date under the "carry-over" provisions of Public Law 395. A draft of the proposed request is set forth as Exhibit B hereto.

Both Exhibits A and B are subject to revision at or after the public hearing.

The proposed plan has been formulated after consulting with representatives of the steel producing industry and of the United States Atomic Energy Commission.

Any person desiring to participate in said public hearing should file a written notice of appearance with the Director of the Office of Industry Cooperation, Room 5847, Department of Commerce Building, Washington 25, D. C., not later than 5 p. m., e. s. t., on Monday, December 27, 1948. Persons desiring to present written statements or memoranda should submit them, in triplicate, at the hearing.

CHARLES SAWYER,
Secretary of Commerce.

EXHIBIT A—PLAN

PROPOSED VOLUNTARY PLAN UNDER PUBLIC LAW 395, 80TH CONGRESS, FOR ALLOCATION OF STEEL PRODUCTS FOR CONSTRUCTION OF PIPE LINE TO SUPPLY NATURAL GAS TO PLANT OF UNITED STATES ATOMIC ENERGY COMMISSION AT OAK RIDGE, TENNESSEE

[Preamble—To be inserted in final draft]

1. *What this plan does.* This Plan sets up the procedure under which steel producers (hereinafter called Producers) agree voluntarily to make certain steel products available to East Tennessee Natural Gas Company, a Tennessee corporation, of Chattanooga, Tennessee (hereinafter called the Participating Builder), for use in the construction of a 22-inch pipe line to transport natural gas to the plant of the United States Atomic Energy Commission at Oak Ridge, Tennessee, said pipe line to extend from a point, at or near Mitchellville, Tennessee, on the main line of Tennessee Gas Transmission Company, to said plant at Oak Ridge.

2. *Agreement by steel Producers.* During the period this Plan remains in effect, Producers will make available, out of their own production or that of their producing sub-

sidiaries or affiliates, to the Participating Builder, an aggregate total of 25,500 net tons of 22-inch steel line pipe, in monthly deliveries, beginning in January 1949, of approximately 5,000 tons each.

Producers will, from time to time, however, upon request of the Secretary of Commerce, give consideration to making additional quantities available, or to accelerating the monthly deliveries provided for above.

3. *Determination of quantities to be furnished by respective producers.* Unless otherwise specified in its acceptance of this Plan, the quantities to be made available by each Producer, as its commitment under this Plan, will be such as the Secretary of Commerce, after consulting the Steel Task Committee of the Office of Industry Cooperation of the Department of Commerce, determines to be fair and equitable. Producers will take credit against their commitments under this Plan only for quantities delivered to the Participating Builder on orders certified in accordance with paragraph 9 below.

4. *Contractual arrangements.* Such products will be made available under such contractual arrangements as may be made by the respective Producers, or their producing subsidiaries and affiliates, with the Participating Builder. This Plan does not authorize or approve any fixing of prices, and participation in this Plan does not affect the prices or terms and conditions on which any steel products are actually sold and delivered.

5. *Limitations as to types, sizes and quantities.* A Producer need make available under this Plan only those products which are within the type and size limitations of the mill or mills which it may select for the fulfillment of its commitment under this Plan. The quantities which it may have undertaken to make available in any month may be reduced, or, at its option, their delivery may be postponed, in direct proportion to any production losses during the month due to causes beyond its control.

6. *Reports from steel producers.* Each Producer will, if requested by the Office of Industry Cooperation of the Department of Commerce (subject to approval of the Bureau of the Budget under the Federal Reports Act of 1942), submit to that office periodic reports of the total quantities, by types, of products shipped, and accepted for shipment, under this Plan.

7. *Reports from Participating Builder.* The Participating Builder will submit such reports as may be requested from time to time by the Secretary of Commerce (subject to the approval of the Bureau of the Budget under the Federal Reports Act of 1942).

8. *Obligations of Participating Builder.* By participation in this Plan, the Participating Builder shall be obligated as follows: To secure all necessary permits and certificates (including a certificate of public convenience and necessity from Federal Power Commission and any State commission or board having jurisdiction) to authorize and enable it to construct and operate said pipe line; to use all products obtained under this Plan solely for and in the construction of said pipe line; not to resell or transfer any products so obtained under this Plan in the form received by the said Participating Builder and not to build up, beyond current needs, any inventories of products obtained under this Plan. If the Participating Builder for any reason becomes unable to use, for the purposes of this Plan, any products obtained under the Plan, it shall be further obligated to hold them subject to such disposition (including return to the producer from whom purchased) as shall be required and authorized by the Office of Industry Cooperation of the Department of Commerce.

9. *Procedure for placing orders under this plan.* Purchase orders under this Plan are to be placed with participating Producers, or their producing subsidiaries or affiliates. Each such purchase order shall bear the following certification by the Participating Builder:

DEPARTMENT OF COMMERCE VOLUNTARY PLAN, UNDER PUBLIC LAW 395, 80TH CONGRESS, FOR ALLOCATION OF STEEL PRODUCTS FOR CONSTRUCTION OF PIPE LINE TO SUPPLY NATURAL GAS TO PLANT OF UNITED STATES ATOMIC ENERGY COMMISSION AT OAK RIDGE, TENNESSEE

The undersigned certifies to the seller and to the Department of Commerce that the products specified in this order will be used solely for and in the construction of a pipe line to supply natural gas to the plant of United States Atomic Energy Commission at Oak Ridge, Tennessee, and that this order is placed under, and in strict compliance with, the above Voluntary Plan, with which the undersigned is familiar and in which the undersigned is a participant.

EAST TENNESSEE NATURAL GAS COMPANY,

By _____
(Title of duly authorized officer)

_____
(Date)

10. *Procedure for, and effect of, becoming a participant.* After approval of this Plan by the Attorney General and by the Secretary of Commerce, and after requests for compliance with it have been made of steel producers and of the Participating Builder by the Secretary of Commerce, any such producer, and the Participating Builder, may become a participant in this Plan by advising the Secretary of Commerce, in writing, of its acceptance of such request. Such requests for compliance will be effective for the purpose of granting certain immunity from the antitrust laws and the Federal Trade Commission Act, as provided in Section 2 (c) of Public Law 395, only with respect to such participants as notify the Secretary of Commerce in writing that they will comply with such requests.

11. *Effective date and duration.* This Plan shall become effective upon the date of its final approval by the Secretary of Commerce. It shall cease to be effective at the close of business on February 28, 1949, unless the time limitation of March 1, 1949, now specified in Section 2 (b) of Public Law 395, 80th Congress, is extended or otherwise changed by legislative action in a form which permits continuation of this Plan, in which event this Plan shall thereupon automatically continue in effect through September 30, 1949 (or through the date specified in such legislative action if a date earlier than September 30, 1949, is so specified). However, the Plan may be terminated on such earlier date as may be determined by the Secretary of Commerce, upon not less than 60 days notice by letter, telegram, or publication in the FEDERAL REGISTER.

12. *Withdrawal from Plan.* Any Producer or the Participating Builder may withdraw from this Plan by giving not less than 60 days written notice to the Secretary of Commerce.

13. *Clarifying interpretations.* Any interpretation issued by the Secretary of Commerce (after consultation with the Attorney General), in writing, to clarify the meaning of any terms or provisions in this Plan shall be binding upon all participants notified of such interpretation.

[To be signed by the Attorney General and the Secretary of Commerce upon approval.]

EXHIBIT B—REQUEST

PROPOSED REQUEST UNDER PUBLIC LAW 395, 80TH CONGRESS, FOR ALLOCATION OF STEEL PRODUCTS FOR CONSTRUCTION OF PIPE LINE TO SUPPLY NATURAL GAS TO PLANT OF UNITED STATES ATOMIC ENERGY COMMISSION AT OAK RIDGE, TENNESSEE

The Secretary of Commerce, pursuant to the authority vested in him by Public Law 395, 80th Congress, and Executive Order 9919, after consultation with representatives of the steel producing industry, and after expression of the views of industry, labor and the public generally at an open public hearing held on December 23, 1948, has determined that, in order to carry out the program begun under the voluntary plan entered into by steel producers to furnish certain steel products for the construction of pipe line to supply natural gas to plant of United States Atomic Energy Commission at Oak Ridge, Tennessee, it will be necessary, and is practicable and appropriate to the successful carrying out of the policies set forth in said Public Law 395, that steel producers make further deliveries of steel products to such builder after the expiration of the plan on February 28, 1949.

Therefore, the Secretary of Commerce, in accordance with subsections 2 (c) and 2 (f) of Public Law 395, 80th Congress, and with the approval of the Attorney General, hereby requests:

1. That steel producers participating in the above-mentioned voluntary plan continue to make approximately 5,000 net tons of steel products available monthly, during the period March 1, 1949 through June 30, 1949, on certified orders from East Tennessee Natural Gas Company, until an aggregate total of 25,500 net tons of such steel products shall have been delivered; and that such products be made available in accordance with delivery procedures established under the said plan.

2. That East Tennessee Natural Gas Company place purchase orders hereunder only for the quantities and types of steel products established for it by the Secretary of Commerce; that it put identifying certifications on such purchase orders; and that it use all steel products obtained hereunder solely for construction of pipe line to supply natural gas to plant of United States Atomic Energy Commission at Oak Ridge, Tennessee.

In the event that an amendment to the above-mentioned voluntary plan extending its effectiveness beyond February 28, 1949 takes effect pursuant to appropriate legislation, this request will be superseded by said extended plan.

[To be signed by the Attorney General and the Secretary of Commerce upon approval.]

[F. R. Doc. 48-11031; Filed, Dec. 17, 1948; 8:52 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

COMMISSION POLICY ON CONSIDERATION OF APPLICATIONS FOR HIGH POWER VHF STATE POLICE TRANSMITTERS

DECEMBER 9, 1948.

The Commission announced today that it granted on an experimental basis the applications of the States of Missouri, Kansas, and Iowa authorizing operation of a total of nine high power transmitters (5000 watts maximum plate input power to final radio stage). These grants were made on an experimental basis for the purpose of obtaining information regarding the desirability of the use of high power versus medium power for state police base stations and for obtaining additional information regarding area coverage.

The Commission considers that the experimental operation authorized to the States of Missouri, Kansas and Iowa and that previously made to Illinois will provide adequate information on coverage and interference. Accordingly, it does not appear that authorization for addi-

tional operations of this type on an experimental basis would be warranted, pending Commission determination as to whether higher power can be authorized on a permanent basis. This would protect applicants from unnecessary expenditures for experimental equipment and installations and, at the same time, expedite action on rules under which such operation might be authorized upon a regular basis. In view of the volume of work now before the Commission, it is anticipated that it will be at least a year before final study can be completed.

Pending a final determination of the feasibility of adopting rules covering operation of state police radio stations with high power, an extensive study will be made by the Commission's staff of information relating to this matter which is now on file, and of experimental reports hereafter submitted by the four licensees authorized to conduct experimentation in this field. The study will include a review of the present state police assignment plan for the 42 Mc frequencies to determine to what extent this plan requires modification and reassignment of frequencies to certain existing state police systems in order to keep at a minimum the interference that will result from such high power operation. In the event such high power operation is determined to be in the public interest and to be technically feasible, public hearings will be held in order that appropriate rules can be promulgated. On the other hand, if it should develop that such high power operation would not be in the public interest, the licensees authorized to conduct experimentation in this field will be required to reduce power in order to re-license the equipment in the regular service.

Adopted: December 8, 1948.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F R. Doc. 48-11033; Filed, Dec. 17, 1948; 8:52 a. m.]

USE OF APPROVED FREQUENCY AND MODULATION MONITORS IN STANDARD BROADCAST STATIONS

DECEMBER 10, 1948.

Sections 3.55 (b) and 3.60 of the Commission rules require that all standard broadcast stations maintain a constant check on modulation percentage and on frequency deviation by means of monitors which have received formal Commission approval.

For an extended period after the war these monitors were not readily available. Manufacturers were unable to supply the demand resulting from the large number of new standard broadcast stations authorized by the Commission. The Commission has, from time to time, authorized the issuance of waivers of §§ 3.55 (b) and 3.60 of the rules where new stations were unable to obtain delivery of monitors on condition that alternate means were provided for maintaining a check on modulation and frequency.

The Commission has recently made inquiry of the manufacturers of this type of equipment and it appears that monitors are now available to the industry and that delivery can be expected with nothing more than the usual calibration and shipping delays. Waivers of §§ 3.55 (b) and 3.60 no longer appear necessary and, accordingly, stations beginning program tests after March 1, 1949 will not be authorized to operate without approved frequency and modulation monitors.

Stations now operating without monitors will be expected to have monitors installed after March 1, 1949. Because of the present availability of monitors, such waivers as have been granted will no longer be effective after March 1, 1949.

The Commission's Chief Engineer will continue to authorize standard broadcast stations to operate without an approved monitor pending repairs or replacement upon request, when necessary, but will not waive the rules in so doing.

Adopted: December 9, 1948.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-11034; Filed, Dec. 17, 1948; 8:52 a. m.]

[Docket No. 8111]

WILLIAM H. BLOCK CO. (WUTV)

ORDER DESIGNATING APPLICATION FOR HEARING

In re application of: The William H. Block Company (WUTV) Indianapolis, Indiana, Docket No. 8111, File No. BMPCT-364; for additional time in which to complete construction of TV station WUTV Indianapolis, Indiana.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 8th day of December, 1948;

The Commission having under consideration the above-entitled application of the William H. Block Company (File No. BMPCT-364) for additional time in which to complete construction of TV broadcast station WUTV, Indianapolis, Indiana; and

It appearing, that on October 10, 1946 the Commission granted the William H. Block Company a construction permit for a TV broadcast station at Indianapolis, Indiana, File No. BPCT-126; and

It further appearing, that the construction of the TV broadcast station authorized on October 10, 1946 has not been completed, and the Commission being fully advised in the premises;

It is ordered, That, pursuant to sections 309 and 319 of the Communications Act of 1934, as amended, the above-entitled application (File No. BMPCT-364) be, and it is hereby, designated for hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine whether the William H. Block Company has been diligent in proceeding with the construction of the television station at Indianapolis, Indiana as authorized by the construction permit granted October 10, 1946, File No. BPCT-126.

2. To determine whether it would be in the public interest, convenience and necessity to grant the application of the William H. Block Company, File No. BMPCT-364, for additional time in which to construct the TV broadcast station at Indianapolis, Indiana, authorized by the Commission on October 10, 1948, File No. BPCT-126.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-11035; Filed, Dec. 17, 1948; 8:52 a. m.]

[File No. P-C-2014]

MICHIGAN BELL TELEPHONE CO.

ORDER DESIGNATING APPLICATION FOR PUBLIC HEARING

In the matter of the application of Michigan Bell Telephone Company, File No. P-C-2014, Docket No. 9191, for a certificate under section 221 (a) of the Communications Act of 1934, as amended.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 8th day of December 1948;

The Commission, having under consideration the application filed by Michigan Bell Telephone Company for a certificate under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by the Michigan Bell Telephone Company of certain telephone plant and property of Grand Blanc Telephone Company located in Grand Blanc, Genesee County, Michigan, will be of advantage to persons to whom service is to be rendered and in the public interest;

It is ordered, That pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above application is assigned for public hearing for the purpose of determining whether the proposed acquisition will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is further ordered, That the hearing upon the said application be held at the offices of the Commission in Washington, D. C., beginning at 10:00 a. m. on the 10th day of January 1948, and that a copy of this Order be served on the Michigan Bell Telephone Company, and also the Governor of Michigan, the Public Service Commission of Michigan, the Postmaster and the city of Grand Blanc, Genesee County, Michigan;

It is further ordered, That within five days after the receipt from the Commission of a copy of this order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in Genesee County, Michigan, and shall furnish proof of such publication at the hearing herein.

Notice is hereby given that § 1.857 of the Commission's rules and regulations shall not be applicable to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-11036; Filed, Dec. 17, 1948; 8:52 a. m]

[Docket Nos. 7054, 8356]

BAY STATE BROADCASTING CORP. AND WHALING CITY BROADCASTING CORP.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Bay State Broadcasting Corporation, New Bedford, Massachusetts, Docket No. 7054, File No. BP-4201; Whaling City Broadcasting Corporation, New Bedford, Massachusetts, Docket No. 8356, File No. BP-6893; for construction permits.

The Commission has before it the above-entitled applications of Bay State Broadcasting Corporation and Whaling City Broadcasting Corporation, each seeking a construction permit for a new standard broadcast station to operate on the frequency 1230 kc, with 100 w power, unlimited time, at New Bedford, Massachusetts. The Commission also has before it a petition filed September 28, 1948, by Bay State Broadcasting Corporation, requesting a conditional grant of its aforesaid application pursuant to § 1.385 (c) of the Commission's rules and regulations. An opposition to the petition has been filed by Whaling City Broadcasting Corporation.

The Bay State application, as originally filed on November 19, 1945, sought the frequency 1400 kc, with 250 w power, unlimited time, at New Bedford and it was designated for hearing in consolidation with the applications of Southeastern Massachusetts Broadcasting Corporation (File No. BP-4185, Docket No. 7053) and Narragansett Broadcasting Company (File No. BP-4409, Docket No. 7312) which applications requested like facilities at New Bedford and Fall River, respectively. Following a hearing, the Commission on July 1, 1947, announced its proposed decision favoring the grant of the Narragansett application. Bay State thereupon filed a petition to amend its application to request the instant facilities and the petition was granted on August 20, 1947. Southeastern Massachusetts Broadcasting Corporation also petitioned to amend to the same frequency requested by Bay State which petition was granted on September 11, 1947, and both applications, as amended, were designated for consolidated hearing. On July 30, 1948, Southeastern was permitted to dismiss its application without prejudice and the application of Bay State was removed from hearing on the Commission's own motion. An August 9, 1948, Whaling City Broadcasting Corporation filed the above-entitled application for the same facilities which Bay State now requests.

In the petition of Bay State it is alleged that since there is only one station providing primary service to the city, public interest requires the prompt establishment of other radio service in New Bedford since the existing station is owned by the only daily newspaper there. Petitioner then points out that a Max Kramer, who had held a one-third interest in Southeastern Massachusetts Broadcasting Corporation but who had transferred 25 shares of his stock to his son, Charles Kramer, and 75 to his son, Robert Kramer, is providing funds for Robert Kramer who holds 27.77% stock interest in and is president of Whaling City Broadcasting Corporation—the mutually exclusive applicant here. Petitioner further states that "although it is not alleged that the Whaling City Broadcasting Corporation application was not filed in good faith, it is apparent that the continued activity of Max Kramer is delaying or hindering the grant of petitioner's application"

The rule which petitioner invokes for a conditional grant (§ 1.385 (e)) provides that in case of mutually exclusive applications, the Commission "may, if public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing" The rule further provides that such a conditional grant will be made only if it appears:

(1) That some of all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of radio service in a particular community; or

(3) That a grant of one or more applications would be in the public interest and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, or of other statutes, or of the Commission's rules and regulations.

There is no contention that subsections (3) or (4) are applicable here. Petitioner has specifically disavowed the application of subsection (1) of § 1.385 (e) namely, that a conditional grant will be made if a competing application was not filed in good faith. Petitioner does charge that it is apparent that the continued activity of Max Kramer is delaying or hindering the grant of petitioner's application. However, the subsection reads that the delay must be because of the lack of good faith in filing. It is too obvious to require extended discussion that in any comparative hearing one mutually exclusive application delays the grant of another since ex proprio vigore, it has caused a hearing with resulting delay. But mere delay is not sufficient to warrant a conditional grant under the rule.

There remains for consideration the second subsection setting forth a requisite for a conditional grant, namely, that public interest requires the prompt establishment of radio service in a particular community. It should be pointed out that New Bedford already has an existing station and receives service from stations in other communities. Upon these facts the Commission is of the opinion that the showing in this case for a conditional grant falls far short of the standard contemplated by the rule.

For the foregoing reasons,

It is ordered, This 9th day of December, 1948, That the said petition of Bay State Broadcasting Company be, and it is hereby, denied; and that pursuant to section 309 (a) of the Communications Act of 1934, as amended, its application and that of Whaling City Broadcasting Corporation be, and they are hereby, designated for hearing in a consolidated proceeding at New Bedford, Massachusetts on January 13, 1949, each upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders to construct and operate the proposed station.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with any existing broadcast station and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's Rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations particularly with respect to the coverage of the city of New Bedford and the metropolitan district.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-11037; Filed, Dec. 17, 1948; 8:52 a.m.]

FEDERAL DEPOSIT INSURANCE CORPORATION

COMMITTEE ON ADMINISTRATIVE PROCEDURE, REGULATIONS AND FORMS

ABOLISHMENT

Notice is hereby given that the Board of Directors of Federal Deposit Insurance Corporation at its meeting held on December 9, 1948 adopted a resolution abolishing its Committee on Administrative Procedure, Regulations and Forms, effective immediately.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[F. R. Doc. 48-11003; Filed, Dec. 17, 1948; 8:46 a. m.]

FEDERAL POWER COMMISSION

[Project No. 1930]

SOUTHERN CALIFORNIA EDISON CO.

ORDER GRANTING MOTION FOR ORAL ARGUMENT

Pursuant to the provisions of § 1.31 of the Commission's general rules and regulations, Southern California Edison Company, applicant for license for Project No. 1930, filed on October 4, 1948, its exceptions to the decision of the Presiding Examiner in the above-entitled matter and on the same date filed a motion requesting an opportunity to present oral argument before the Commission in support of its exceptions.

The Commission finds that it is appropriate under the circumstances to grant applicant's motion. *It is ordered*, That:

(1) Oral argument in the above-entitled proceeding be had before the Commisison on February 1, 1949 at 10:00 a. m. (e. s. t.) in the Hearing Room of the Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

(2) Counsel for the applicant, for the Secretary of Agriculture and Commission staff counsel may participate in the oral argument, the scope and content of the argument to be as provided by the aforesaid § 1.31.

Date of issuance: December 14, 1948.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-10998; Filed, Dec. 17, 1948; 8:45 a. m.]

INTERDEPARTMENTAL COMMITTEE ON TRADE AGREEMENTS

TRADE-AGREEMENT NEGOTIATIONS WITH COLOMBIA, DENMARK, DOMINICAN REPUBLIC, EL SALVADOR, FINLAND, GREECE, HAITI, ITALY, LIBERIA, NICARAGUA, PERU, SWEDEN, AND URUGUAY

ORIGINAL NOTICE WITH RESPECT TO COLOMBIA AND LIBERIA, SUPPLEMENTARY NOTICE WITH RESPECT TO DENMARK, DOMINICAN REPUBLIC, FINLAND, GREECE, HAITI, ITALY, PERU, SWEDEN, AND URUGUAY; POSSIBLE ADJUSTMENT IN PREFERENTIAL RATES ON CUBAN PRODUCTS

1. Pursuant to section 4 of the Trade Agreements Act approved June 12, 1934 (48 Stat. (pt. 1) 945, ch. 474) as extended and amended by the Trade Agreements Extension Act of 1948 (Pub. Law 792—80th Cong.) and to paragraph 4 of Executive Order 10004 of October 5, 1948 (13 F. R. 5853) notice is hereby given by the Interdepartmental Committee on Trade Agreements of intention to conduct trade-agreement negotiations with Colombia and Liberia. It is proposed to enter into negotiations with these countries with a view to their accession as contracting parties to the General Agreement on Tariffs and Trade.

2. Pursuant to paragraph 4 of Executive Order 10004 of October 5, 1948 (13 F. R. 5853) the Interdepartmental Committee on Trade Agreements hereby gives notice supplementary to the notice issued by the Committee on November 5, 1948 (13 F. R. 6586) with respect to conduct of trade-agreement negotiations with each of the following countries: Denmark, Dominican Republic, Finland, Greece, Haiti, Italy, Peru, Sweden, and Uruguay.

3. There are annexed hereto a list of articles imported into the United States to be considered for possible modifications of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment in the proposed trade-agreement negotiations with each of the countries specified in paragraph 1 of this notice, and a supplementary list of such articles to be considered in the proposed trade-agreement negotiations with each of the countries specified in paragraph 2 of this notice supplementing the lists of articles imported from each of such countries annexed to the notice of November 5, 1948 (there are no supplementary lists with respect to El Salvador and Nicaragua) Each of these lists and supplementary lists has been approved by the President and transmitted to the Tariff Commission in the manner set forth in paragraph 4 of Executive Order 10004. In the case of an article in one or more of these lists or supplementary lists with respect to which the corresponding product of Cuba is now entitled to preferential treatment, a modification of the rate in the negotiations referred to will involve the elimination, reduction, or continuation of the preference, perhaps in some cases with an adjustment or specification of the rate applicable to the product of Cuba.

4. No tariff concession will be considered in the negotiations with any country on any article which is not included in the list relative to such country annexed to the notice of November 5, 1948 or in a list or a supplementary list relative to the country annexed hereto, unless it is subsequently included in a supplementary public list approved by the President and transmitted to the Tariff Commission. No duty or import tax imposed under a paragraph or section of the Tariff Act or Internal Revenue Code other than the tariff paragraph listed with respect to such article will be considered for a possible decrease, although an additional or separate duty on the article, which is imposed under a paragraph or section other than that listed, may be bound against increase as an assurance that the concession under the listed paragraph or section will not be nullified.

5. Pursuant to section 3 of the Trade Agreements Extension Act of 1948, information and views as to the matters specified in that section relating to the articles contained in the lists and supplementary lists annexed hereto may be submitted to the United States Tariff Commission in accordance with the announcement of this date issued by the Commission.[1] Pursuant to section 4 of the Trade Agreements Act, as amended, and paragraph 6 of Executive Order 10004 of October 5, 1948, information and views relating to any aspect of the proposed trade-agreement negotiations with the countries specified in paragraph 1 of this notice, and relating to the articles contained in the supplementary lists annexed hereto, may be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee.[2] Arrangements are being made to coordinate the hearings to be held by the Tariff Commission and the Committee for Reciprocity Information in order to facilitate the convenience of persons desiring to appear at both hearings. Information and views submitted to the Tariff Commission, except those accepted by the Commission as confidential, will be made available to the Committee for Reciprocity Information although, on account of the statutory requirement as to the investigation by the Tariff Commission, persons and groups who wish to be assured that their information and views will be considered by the Tariff Commission should present them directly to the Commission.

By direction of the Interdepartmental Committee on Trade Agreements this 17th day of December 1948.

WOODBURY WILLOUGHBY,
Chairman.

LISTS AND SUPPLEMENTARY LISTS OF ARTICLES IMPORTED INTO THE UNITED STATES WHICH IT IS PROPOSED SHOULD BE CONSIDERED IN TRADE AGREEMENT NEGOTIATIONS WITH THE COUNTRIES SPECIFIED THEREIN

Each of the following lists and supplementary lists contains descriptions of articles imported into the United States which it is proposed should be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment in the trade-agreement negotiations which are proposed with the country specified at the beginning of such list.

For the purpose of facilitating identification of the articles listed, reference is made in each list and supplementary list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930. The descriptive phraseology is frequently limited to a narrower scope than that covered by the numbered tariff paragraph. In such cases only the articles covered by the descriptive phraseology of the list or supplementary list will come under consideration for the granting of concessions.

In the event that an article which as of September 1, 1948 was regarded as classifiable under a description included in one or

[1] See F. R. Doc. 48-11027, United States Tariff Commission, *infra*.

[2] See F. R. Doc. 48-11111, Committee for Reciprocity Information, *infra*.

more of the lists or supplementary lists is excluded therefrom by judicial decision or otherwise prior to the inclusion of such description in a trade agreement, the list or lists will nevertheless be considered as including such article

COLOMBIA

Tariff Act of 1930 Par	*Item*
10	Balsams natural and uncompounded not containing alcohol: Tolu
38	Extracts dyeing and tanning not containing alcohol: Mangrove
753	Cut flowers fresh dried prepared or preserved: Orchids
1530 (a)	Hides and skins of cattle of the bovine species (except hides and skins of the India water buffalo imported to be used in the manufacture of rawhide articles) raw or uncured or dried salted or pickled
1602	Ipecac natural and uncompounded and in a crude state not advanced in value or condition by shredding grinding chipping crushing or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture not containing alcohol
1654	Coffee except coffee imported into Puerto Rico and upon which a duty is imposed under the authority of section 319
1668	Emeralds, rough or uncut and not advanced in condition or value from their natural state by cleaving splitting cutting or other process whether in their natural form or broken not set
1670	Dyeing or tanning materials: Divi divi, whether crude or advanced in value or condition by shredding grinding chipping crushing or any similar process, not containing alcohol, and not specially provided for
1734	Ores of the platinum metals
1744	Platinum, unmanufactured or in ingots bars sheets or plates not less than one eighth of one inch in thickness sponge or scrap

DENMARK

(Supplementary List)

223 (b)	All optical instruments frames and mountings therefor and parts of any of the foregoing; all the foregoing finished or unfinished not specially provided for: Range finders designed to be used with photographic cameras
709	Butter, when entered or withdrawn from warehouse for consumption during the period from April 1 to October 31, inclusive, in any year
802	Aquavit [Note: 802—Compounds and preparations of which distilled spirits are the component material of chief value and not specially provided for", in list of products for negotiation with Denmark dated November 5, 1948, is deleted]

DOMINICAN REPUBLIC

(Supplementary List)

601	Filler tobacco (except cigarette leaf tobacco) not specially provided for, unstemmed or stemmed
603	Scrap tobacco
740	Mangoes
747	Pineapples, candied crystallized, or glace
751	Jellies, jams, marmalades and fruit butters: Guava (except jelly and marmalade); pineapple; mango; papaya; mamey colorado (*calocarpum mammosum*); sweetsop (*annona squamosa*); soursop (*annona muricata*); sapodilla (*sapota achras*) cashew apple (*anacardium occidentale*); and currant and other berry (except jellies)
752	Guavas, prepared or preserved not specially provided for (not including guavas in brine, pickled dried desiccated or evaporated)
752	Mango paste and pulp and guava paste and pulp
705	Black eye cowpeas dried or in brine
777 (b)	Cocoa and chocolate sweetened in any form (other than in bars or blocks weighing ten pounds or more each), whether or not prepared, and valued at less than 10 cents per pound
802	Rum

FINLAND

(Supplementary List)

Tariff Act of 1930 Par	*Item*
412	Manufactures of wood or bark or of which wood or bark is the component material of chief value not specially provided for: Doors

GREECE

(Supplementary List)

10	Balsams natural and uncompounded, not containing alcohol: Styrax
740	Figs fresh dried or in brine
1672	Emery ore

HAITI

(Supplementary List)

746	Mangoes
747	Pineapples candied crystallized or glace
751	Jellies, jams marmalades and fruit butters: Guava (except jelly and marmalade); pineapple; mango; papaya; mamey colorado (calocarpum mammosum); sweetsop (annona squamosa); soursop (annona muricata); sapodilla (sapota achras); cashew apple (anacardium occidentale); and currant and other berry (except jellies)
752	Guavas, prepared or preserved not specially provided for (not including guavas in brine pickled dried desiccated, or evaporated)
752	Mango paste and pulp and guava paste and pulp
802	Rum
1529 (a)	Braids wholly or in chief value of vegetable fiber other than cotton (except braids suitable for making or ornamenting hats, bonnets or hoods), loom woven and ornamented in the process of weaving, or made by hand or on a lace knitting or braiding machine

ITALY

(Supplementary List)

372	Textile machinery finished or unfinished not specially provided for and parts thereof wholly or in chief value of metal or porcelain, not specially provided for: Machinery for making synthetic textile filaments bands, strips or sheets and parts thereof
710	Cheese and substitutes therefor (except cheese having the eye formation characteristic of the Swiss or Emmenthaler type; Gruyere process cheese; Roquefort and other blue mold cheeses, in original loaves; Romano Pecorino, Reggiano, Parmesano, Provoloni Provolette, Sbrinz, and Goya cheeses, in original loaves; Cheddar cheese not processed otherwise than by division into pieces; Bryndza cheese, in casks barrels or hogsheads weighing with their contents more than 200 pounds each; and Edam and Gouda cheeses)
739	Vinegar (except malt vinegar).
739	Fruit peel (not including peel of the orange, grapefruit lemon shaddock or pomelo and citron) candied crystallized, or glace, or otherwise prepared or preserved (not including fruit peel dried or in brine)
757	Filberts not shelled
911 (a)	Blanket cloth, napped or unnapped not Jacquard figured, wholly or in chief value of cotton
923	All manufactures wholly or in chief value of cotton, not specially provided for: Articles of pile construction (except terry woven towels)
1205	Woven fabrics in the piece, exceeding 30 inches in width the fibers of which are chiefly but not wholly of silk, bleached printed, dyed or colored; all the foregoing whether or not Jacquard figured, valued at 65 or less per pound
1205	Woven fabrics in the piece not exceeding 30 inches in width the fibers of which are wholly of silk, bleached, printed dyed, or colored whether woven with fast or split edges; all the foregoing if Jacquard figured and valued at 65 50 or less per pound

ITALY—Continued

(Supplementary List)

Tariff Act of 1930 Par	Item
1205	Woven fabrics in the piece, not exceeding 30 inches in width the fibers of which are chiefly but not wholly of silk, bleached printed dyed or colored, whether woven with fast or split edges including umbrella silk or Gloria cloth; all the foregoing whether or not Jacquard-figured and valued at $5 or less per pound
1302	Filaments of rayon or other synthetic textile not exceeding 30 inches in length other than waste whether known as cut fiber staple fiber, or by any other name
1509	Buttons of vegetable ivory finished or partly finished
1513	Natural grasses grains, leaves, plants shrubs herbs, trees and parts thereof not specially provided for when colored dyed, painted or chemically treated
1529 (a)	Laces lace fabrics and lace articles made wholly by hand without the use of any machine made material or article provided for in paragraph 1529 (a) Tariff Act of 1930 (except laces fabrics and articles if exceeding 2 inches in width and valued at more than $50 per pound); all the foregoing if wholly or in chief value of vegetable fiber other than cotton however provided for in said paragraph 1529 (a)
1529 (a)	Articles made wholly of any handmade lace handmade lace fabrics, or handmade lace articles provided for in paragraph 1529 (a) Tariff Act of 1930 and articles (except wearing apparel) in part of handmade lace handmade lace fabrics or handmade lace articles provided for in said paragraph 1529 (a); all the foregoing if wholly or in chief value of vegetable fiber other than cotton, and if containing no machine-made material or article provided for in said paragraph 1529 (a) however provided for in said paragraph 1529 (a) (except articles valued at more than $50 per pound in which none of the laces lace fabrics or lace articles is 2 inches or less in width)
1529 (a)	Laces lace fabrics, and lace articles made on a machine other than a Levers (including go-through) or bobbinet Jacquard machine, however provided for in paragraph 1529 (a) Tariff Act of 1930 (except articles of wearing apparel nets and nettings veils and veilings made on a lace or net machine and gloves and mittens)
1530 (c)	Leather (except leather provided for in subparagraph (d) of paragraph 1530 Tariff Act of 1930) made from hides or skins of animals * * * in the rough in the white crust or russet partly finished or finished: Glove and garment leather made from goat or kid skins not imported to be used in the manufacture of boots shoes or footwear or cut or wholly or partly manufactured into uppers vamps or any forms or shapes suitable for conversion into boots shoes or footwear
1531	Manufactures of leather (except reptile leather), rawhide or parchment or of which leather (except reptile leather), rawhide, or parchment is the component material of chief value, not specially provided for, (not including bags, baskets belts satchels pocketbooks jewel boxes, portfolios, and other boxes and cases; coin purses change purses billfolds bill cases bill rolls bill purses bank-note cases currency cases money cases cardcases license cases pass cases passport cases letter cases and similar flat leather goods; strops and straps; buckles and other wearing apparel; leads leashes, collars muzzles, and similar dog equipment nor any article permanently fitted and furnished with traveling bottle drinking dining or luncheon sewing manicure or similar sets)
1537 (c)	Combs of whatever material composed, except combs wholly of rubber metal, or compounds of cellulose not specially provided for if valued at $4 50 or less per gross
1541 (a)	Musical instruments and parts thereof not specially provided for: Accordions (including concertinas but not including piano accordions); and parts (except reeds) specially designed for concertinas and other accordions having not more than 32 treble buttons and not more than 25 bass buttons
1552	Cigarette paper (except cork paper and cigarette paper in bobbins or cut to cigarette size and not including cigarette books)

LIBERIA

Tariff Act of 1930 Par.	Item
1684	Textile grasses or fibrous vegetable substances not dressed or manufactured in any manner and not specially provided for: Palm leaf fiber
1697	India rubber crude (not including jelutong or pontianak): Latex
1732	Oils expressed or extracted: Palm

PERU

(Supplementary List)

1117 (c)	Floor coverings including mats and druggets wholly or in chief value of wool not specially provided for: If wholly or in chief value of hair of the alpaca llama guanaco huarizo suri misti or a combination of the hair of two or more of these species and if valued at more than 40 cents per square foot
1670	Dyeing or tanning materials whether crude or advanced in value or condition by shredding grinding, chipping crushing, or any similar process not containing alcohol and not specially provided for: All articles of vegetable origin used for tanning (except tara and not including any article specifically mentioned by name in paragraph 1670 Tariff Act of 1930)

SWEDEN

(Supplementary List)

5	All chemical elements all chemical salts and compounds all medicinal preparations; and all combinations and mixtures of any of the foregoing, all the foregoing obtained naturally or artifically and not specially provided for: Cesium chloride salts known as chrome alums dicyandiamide, ferric chloride zinc arsenate and wood impregnating materials containing salts of arsenic chromium or zinc
27 (a)	Xylidine
28 (a)	Diethylaminoacetoxylidide (Xylocaine)
31 (b) (2)	All compounds of cellulose (except cellulose acetate but including pyroxylin and other cellulose esters and ethers) and all compounds, combinations or mixtures of which any such compound is the component material of chief value: Made into finished or partly finished articles of which any of the foregoing is the component material of chief value not specially provided for (except articles made in chief value from transparent sheets bands or strips not more than three one thousandths of one inch in thickness)
228	Photometers frames and mountings therefor and parts of any of the foregoing; all the foregoing, finished or unfinished
352	Twist and other drills reamers, milling cutters taps dies die heads and metal-cutting tools of all descriptions and cutting edges or parts for use in such tools composed of steel or substitutes for steel all the foregoing, if suitable for use in cutting metal not specially provided for (not including cutting tools of any kind containing more than one-tenth of 1 per centum of vanadium or more than two-tenths of 1 per centum of tungsten molybdenum or chromium)
357	All scissors and other shears (except pruning and sheep shears), and blades for the same finished or unfinished, valued at not more than $1 75 per dozen
358	Razors and parts thereof (not including safety razors, and safety-razor blades handles or frames) finished or unfinished valued at $1 50 or more per dozen
361	Pliers (not including slip joint pliers) pincers and nippers, and hinged hand tools for holding and splicing wire finished or unfinished; all the foregoing valued at not more than $2 per dozen
379	Metallic arsenic
412	Manufactures of wood or bark or of which wood or bark is the component material of chief value not specially provided for: Brush backs
1413	Manufactures of paper or of which paper is the component material of chief value not specially provided for (except ribbon fly catchers or fly ribbons)
1516	Wind matches and all matches in books or folders or having a stained dyed or colored stick or stem
1558	Articles manufactured in whole or in part not specially provided for: Tall oil or liquid rosin.

URUGUAY

(Supplementary List)

Tariff Act of 1930 Par.	Item
19	Casein or lactarene and mixtures of which casein or lactarene is the component material of chief value, not specially provided for.

[F. R. Doc. 48-11112; Filed, Dec. 17, 1948; 11:32 a. m.]

COMMITTEE FOR RECIPROCITY INFORMATION

TRADE-AGREEMENT NEGOTIATIONS WITH COLOMBIA, DENMARK, THE DOMINICAN REPUBLIC, EL SALVADOR, FINLAND, GREECE, HAITI, ITALY, LIBERIA, NICARAGUA, PERU, SWEDEN, AND URUGUAY

ORIGINAL NOTICE WITH RESPECT TO TRADE-AGREEMENT NEGOTIATIONS WITH COLOMBIA AND LIBERIA, SUPPLEMENTARY NOTICE WITH RESPECT TO DENMARK, THE DOMINICAN REPUBLIC, FINLAND, GREECE, HAITI, ITALY, PERU, SWEDEN, AND URUGUAY; POSSIBLE ADJUSTMENT IN PREFERENTIAL RATES ON CUBAN PRODUCTS; SUBMISSION OF INFORMATION TO THE COMMITTEE FOR RECIPROCITY INFORMATION

Closing date for application to be heard, January 18, 1949.

Closing date for submission of briefs, January 18, 1949.

Public hearings open, January 25, 1949.

1. The Interdepartmental Committee on Trade Agreements has issued on this day a notice[1] announcing intention to conduct trade-agreement negotiations with Colombia and Liberia, and making a supplementary announcement regarding the trade-agreements negotiations proposed by the notice issued by that Committee on November 5, 1948 (13 F. R. 6586) with each of the following countries: Denmark, Dominican Republic, Finland, Greece, Haiti, Italy, Peru, Sweden, and Uruguay. Annexed to this public notice are lists of articles imported into the United States to be considered for possible concessions in the negotiations with Colombia and with Liberia, and supplementary lists of such articles to be so considered in the negotiations with each of the other countries specified in this paragraph. (There are no supplementary lists with respect to El Salvador and Nicaragua.)

2. It is stated by the Trade Agreements Committee that it is proposed to enter into these negotiations with Colombia and Liberia with a view to the accession of those countries as contracting parties to the General Agreement on Tariffs and Trade. The Trade Agreements Committee has also announced in such notice that, in the case of an article in one or more of these lists or supplementary lists with respect to which the corresponding product of Cuba is now entitled to preferential treatment, a modification of the rate in the negotiations referred to will involve the elimination, reduction, or continuation of the preference, perhaps in some cases with an adjustment or specification of the rate applicable to the product of Cuba.

3. The Committee for Reciprocity Information hereby gives notice that persons who desire to submit to it information and views in writing in regard to the foregoing proposals with respect to Colombia or Liberia (including areas for which either of these countries has authority to conduct trade-agreement negotiations) or with respect to the articles contained in the supplementary lists annexed to the notice by the Trade Agreements Committee issued today, shall do so not later than 12:00 noon, January 18, 1949, and all persons who desire to submit to the Committee for Reciprocity Information applications for oral presentation of views in regard thereto shall submit such application, including a statement as to the product or products, if any, on which the applicant wishes to be heard, to the Committee not later than 12:00 noon, January 18, 1949.

4. Such communications shall be addressed to "The Chairman, Committee for Reciprocity Information, Department of Commerce, Washington 25, D. C." Ten copies of written statements, either typewritten or otherwise duplicated, shall be submitted, of which one copy shall be sworn to.

5. Public hearings will be held before the Committee for Reciprocity Information, at which oral statements will be heard. The first hearing will be at 10:00 a. m. on January 25, 1949, in the auditorium of Department of Commerce Building at 14th and E Streets N. W., Washington, D. C. Witnesses who make application to be heard will be advised regarding the time and place of their individual appearances. Appearances at hearings before the Committee may be made by or on behalf of those persons who have within the time prescribed made written application for oral presentation of views. Statements made at the public hearings shall be under oath.

6. Persons or groups interested in import products may present to the Committee their views concerning possible tariff concessions by the United States in the proposed negotiations with Colombia and Liberia on any product, whether or not included in the lists with respect to those countries annexed to the notice of intention to negotiate which has been issued by the Trade Agreements Committee, and concerning any other matters relating to the proposed negotiations. Copies of these lists and of the supplementary lists with respect to the other countries specified in paragraph 1 of this notice may be obtained from the Committee for Reciprocity Information at the address designated above and may be inspected at the field offices of the Department of Commerce. As indicated in the notice of intention to negotiate, no tariff concessions will be considered on any product which is not included in a list annexed to the notice by the Trade Agreements Committee of November 5, 1948 or in a list or a supplementary list annexed to the notice by that Committee issued today, unless it is subsequently included in a supplementary public list.

7. Persons or groups interested in export products may present their views regarding any tariff or other concessions that might be requested of Colombia or Liberia.

8. A written statement submitted to the Committee for Reciprocity Information may relate to articles contained in one or more of the lists or supplementary lists annexed to the notice by the Trade Agreements Committee issued today or to other matters relating to the proposed trade-agreement negotiations with Colombia and Liberia, and oral statements may also relate to one or more such lists or negotiations, subject to any scheduling that may be made by the Committee in advising as to the time and place of individual appearances.

9. By direction of the Committee for Reciprocity Information this 17th day of December 1948.

EDWARD YARDLEY
Secretary.

DECEMBER 17, 1948.

[F. R. Doc. 48-11111; Filed, Dec. 17, 1948; 11:32 a. m.]

[1] See F. R. Doc. 48-11112, Interdepartmental Committee on Trade Agreements, *supra*.

UNITED STATES TARIFF COMMISSION

TRADE AGREEMENTS

PUBLIC NOTICE OF INVESTIGATION AND PUBLIC HEARING

Final date for filing request to testify: January 17, 1949. Date of start of hearing: January 25, 1949.

Investigation No. 2 under section 3 of the Trade Agreements Extension Act of 1948. This is a notice of investigation with regard to articles for the proposed trade agreement negotiations included in a letter dated December 17, 1948, from the President to the Tariff Commission. This letter indicates that two new countries (Colombia and Liberia) are to be included in the trade agreement negotiations to commence at Geneva, Switzerland in April. Additional products are listed for nine of the countries for which notice was previously given. No new products are listed for El Salvador and Nicaragua.

The United States Tariff Commission on this 17th day of December 1948, under and by virtue of section 3 of the Trade Agreements Extension Act of 1948 and pursuant to the Commission's rules of practice and procedure, hereby announces an investigation, including a public hearing, with respect to each import article included in the list of articles received by the Commission from the President on December 17, 1948, in connection with proposed negotiations for trade agreements with:

Colombia.	Italy.
Denmark.	Liberia.
Dominican Republic.	Peru.
Finland.	Sweden.
Greece.	Uruguay.
Haiti.	

for the purpose of determining for each said import article (a) the limit to which modification of duties and other import restrictions or imposition of additional

import restrictions, or continuance of existing customs or excise treatment may be extended in order to carry out the purpose of the Trade Agreements Act of 1934, as amended, without causing or threatening serious injury to the domestic industry producing like or similar articles; and (b) the minimum increases in duties or additional import restrictions required in cases where increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or similar articles.

The purpose of the investigation and hearing is to assist the Tariff Commission in the preparation of its report to the President on the question of what concessions may be made in the proposed trade agreements without causing or threatening serious injury to domestic industry. Since the statute specifically imposes on the Tariff Commission the obligation of holding its own hearing, persons who wish to be assured that their information will be considered by the Tariff Commission must present it directly to the Commission either at the hearing or in writing before the close of the hearing, in accordance with § 206.4 of the Commission's rules.

List of articles. A copy of the list of articles to be considered in this investigation may be obtained from the United States Tariff Commission, Washington 25, D. C., or from the Commission's office in Room 437, Custom House, New York 4, N. Y. The list is being published in the FEDERAL REGISTER[1] and is also available for reference in the field offices of the Department of Commerce. The investigation will be limited to articles in the lists transmitted with the President's letter of December 17, 1948. It does not include the articles in the list of November 5, 1948, which have already been the subject of a hearing in investigation No. 1, unless special permission is granted by the Commission, for good cause shown, with respect to particular articles.

Hearing. All parties interested will be given opportunity to be present, to produce evidence, and to be heard at a public hearing to commence at the office of the Commission in Washington, D. C., at 10 a. m. on the 25th day of January 1949.

Request to testify. For the convenience of parties interested and the orderly presentation of evidence it will be necessary to schedule hearings on the various articles at different times. Accordingly, parties desiring to testify must file a request to that effect and indicate the articles on which they desire to be heard on or before January 17, 1949. If possible, also indicate the length of time that will be required by testimony to be presented. The Commission will then notify the parties of the date for presentation of their evidence.

Written statements. Persons unable to attend the public hearings may file written statements of relevant information at any time before the close of the hearings. Five copies of these statements must be filed and one copy sworn to. The statements will then be considered the same as oral testimony and, except for confidential data, will be open for inspection.

Rules. Copies of the Commission's rules of procedure are available upon request from the United States Tariff Commission, Washington 25, D. C.

By order of the United States Tariff Commission this 17th day of December 1948:

[SEAL] SIDNEY MORGAN,
Secretary.

[F. R. Doc. 48-11027; Filed, Dec. 17, 1948; 8:59 a. m.]

[1] See F. R. Doc. 48-11112, Interdepartmental Committee on Trade Agreements, *supra.*

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1619]

PUBLIC SERVICE CORP. OF NEW JERSEY AND SOUTH JERSEY GAS CO.

ORDER RELEASING JURISDICTION OVER LEGAL FEE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 13th day of December 1948.

The Commission having by orders dated October 2, 1947 and October 16, 1947 granted the applications and declaration, as amended, of South Jersey Gas Company ("South Jersey") and its parent, Public Service Corporation of New Jersey, a registered holding company, regarding, among other things, the issue and sale of $4,000,000 principal amount of first mortgage bonds by South Jersey; and

The Commission having by order dated October 16, 1947 released jurisdiction over the payment of all fees and expenses incurred in connection with the transactions except the legal fee of Drinker, Biddle & Reath, as to which supporting data had not yet been furnished; and

The Commission now having been furnished with information in respect to the nature and extent of the legal services rendered by Drinker, Biddle & Reath, for which a request for payment has been made in the amount of $10,000; and

The Commission having considered the record and it appearing to the Commission that the legal fee of Drinker, Biddle & Reath is not unreasonable and that jurisdiction over such fee should now be released:

It is ordered, That the jurisdiction heretofore reserved over the payment of the legal fees of Drinker, Biddle & Reath incurred in connection with the transactions herein be, and the same hereby is released.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-11004; Filed, Dec. 17, 1948; 8:46 a. m.]

[File No. 70-1869]

UNITED LIGHT AND RAILWAYS CO. AND CONTINENTAL GAS & ELECTRIC CORP.

ORDER MODIFYING PREVIOUS ORDER

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 14th day of December A. D. 1948.

The United Light and Railways Company ("Railways") a registered holding company, and its registered holding company subsidiary, Continental Gas & Electric Corporation ("Continental"), having filed an amended joint application-declaration, pursuant to the Public Utility Holding Company Act of 1935 ("act"), and the rules and regulations promulgated thereunder, with respect to the following transactions:

Railways and Continental request a modification of the Commission's order of June 29, 1948 granting and permitting to become effective a joint application-declaration with respect, among other things, to the subscription by Railways for the purchase of 37,500 shares of common stock of Continental at $40 per share. The application-declaration provided that Railways pay to Continental the full subscription price of $1,500,000 immediately upon the entry of the Commission's order authorizing the subscription, but that the common stock of Continental was not to be issued or purchased except pursuant to a further order of the Commission and that if such order were not issued on or before December 31, 1948 the subscription would become void and the subscription price would be regarded as a capital contribution by Railways to Continental.

Applicants-declarants now request that the Commission modify its order of June 29, 1948, to extend to July 1, 1949, the time for the issuance of said 37,500 shares of common stock of Continental.

Applicants-declarants having requested the entry of a modifying order on or before December 31, 1948; and

The Commission finding that the requirements of the applicable provisions of the act and the rules and regulations thereunder are satisfied and deeming it appropriate to grant the requested modification of the Commission's order of June 29, 1948:

It is ordered, Pursuant to the applicable provisions of the act, that the Commission's order of June 29, 1948, be modified to extend from December 31, 1948, to July 1, 1949, the time within which Continental may issue and Railways may acquire the 37,500 shares of common stock of Continental.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-11005; Filed, Dec. 17, 1948; 8:46 a. m.]

[File No. 70-1970]

NEW BEDFORD GAS AND EDISON LIGHT CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION AND GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 14th day of December 1948.

New Bedford Gas and Edison Light Company ("New Bedford"), a subsidiary of New England Gas and Electric Association, a registered holding company, having filed an application and amend-

ments thereto, pursuant to section 6 (b) of the Public Utility Holding Company Act for exemption from the provisions of section 6 (a) of the act, of the issue and sale by New Bedford, pursuant to the competitive bidding requirements of Rule U-50, of $5,000,000 principal amount of unsecured notes, due 1973; and

The Commission by order dated December 2, 1948 having granted said application, as amended, subject to the condition, among others, that the proposed sale of notes shall not be consummated until the results of competitive bidding pursuant to Rule U-50 shall have been made a matter of record in this proceeding, and a further order shall have been entered in the light of the record so completed; and jurisdiction having been reserved over the payment of all legal fees and expenses in connection with the proposed transaction; and

New Bedford having on December 14, 1948, filed a further amendment to said application in which it is stated that it has offered the notes for sale pursuant to the competitive bidding requirements of Rule U-50 and has received the following bids:

Bidder	Price to New Bedford	Interest rate	Cost to New Bedford
	Percent	*Percent*	*Percent*
Halsey, Stuart & Co., Inc.	100.10	3	2.994232
Harriman, Ripley & Co., Inc.	101.837	2¾	3.019703
Coffin & Burr, Inc., and F. S. Mosley & Co.	101.633	2⅞	3.031333
Kidder, Peabody & Co.	101.41	2⅞	3.044038
Whiting, Weeks & Stubbs	101.105267	2⅞	3.061413
The First Boston Corp.	101.65	2¾	3.154103

The amendment further stating that New Bedford has accepted the bid of Halsey, Stuart & Co., Inc., for the notes as set forth above, and that the notes will be offered for sale to the public at a price of 100.50% of principal amount thereof, resulting in an underwriter's spread of .40%, and

The legal fees and expenses proposed to be incurred in connection with the proposed sale of notes having been estimated as follows:

William A. Hill: counsel for New Bedford	$5,500
Choate, Hall & Stewart:	
Counsel for bidders	5,000
Counsel for trustee under trust indenture	1,500
	12,000

The Commission having examined said amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to the price to be received for said notes, the redemption prices thereof, the interest rate thereon and the underwriter's spread; and

It appearing that the proposed legal fees and expenses are not unreasonable and that jurisdiction with respect thereto should be released;

It is hereby ordered, That jurisdiction heretofore reserved in connection with the sale of said notes be, and the same hereby is, released, and that the said application, as further amended, be, and the same hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24 of the general rules and regulations under the act.

It is further ordered, That jurisdiction heretofore reserved over the legal fees and expenses in connection with the proposed transaction be, and the same hereby is, released.

By the Commission.

[SEAL] ORVILLE L. DUBOIS, *Secretary.*

[F. R. Doc. 48-11006; Filed, Dec. 17, 1948; 8:47 a. m.]

[File No. 70-2017]

KINGS COUNTY LIGHTING CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 14th day of December 1948.

Notice is hereby given that a declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by Kings County Lighting Company, a subsidiary of Long Island Lighting Company, a registered holding company. Declarant has designated section 6 (a) of the act as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than December 22, 1948, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after December 22, 1948, said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof.

Declarant proposes to issue and sell for cash at principal amount to The National City Bank of New York an unsecured promissory note in the principal amount of $500,000 which will bear interest at the rate of 2¾% per annum and will mature June 1, 1949. Under the terms of the agreement under which the note will be issued, declarant will be prohibited from declaring or paying any dividend on its common stock until the note is paid. The proceeds of the sale of the note will be used for construction purposes.

Declarant states that the transaction is not subject to the jurisdiction of any commission other than this Commission.

Declarant requests that the Commission enter its order at the earliest date practicable.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-11007; Filed, Dec. 17, 1948; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12485]

ERNA PLUM

In re: Estate of Erna Plum, deceased. File D-28-12414; E. T. sec. 16534.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Wilhelm (Volckening) Volkening, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the Estate of Erna Plum, deceased, is property payable or deliverable to or claimed by the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by John C. Glenn, as administrator, acting under the judicial supervision of the Surrogate's Court, Queens County, New York;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON, *Assistant Attorney General, Director, Office of Alien Property.*

[F. R. Doc. 48-11019; Filed, Dec. 17, 1948; 8:49 a. m.]

[Supp. Vesting Order 12440]

LOUIS HOLLWEG

In re: Trusts under deeds of Louis Hollweg, Grantor, dated June 6, 1923. File No. D-28-376-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Execu-

tive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the issue, names unknown, of Ernst Lochmann, of Auguste Lochmann, of Sophie Lochmann, of Elisabeth Lochmann, of Ida Kuhlmann, of Auguste Kuhlmann, of Dora Kuhlmann, and of Louise Kuhlmann, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to and arising out of or under that certain trust agreement dated June 6, 1923 (known as the Lochmann Trust) made by Louis Hollweg, as Grantor, and that certain trust agreement dated June 6, 1923 (known as the Kuhlmann Trust), made by Louis Hollweg, as Grantor, presently being administered by Ferdinand L. Hollweg, Successor-Trustee, 2445 Park Avenue #4, Indianapolis 5, Indiana,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the persons identified in subparagraph 1 are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,.

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 30, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F R. Doc. 48-11016; Filed, Dec. 17, 1948; 8:49 a. m.]

[Vesting Order 12482]

AGNES F. MAND

In re: Estate of Agnes F. Mand, deceased. File D-28-12279; E. T. sec. 16507.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Arthur Rosel, Gertrude Rosel, Frieda Reidel Else Reidel, Gertrude Reidel, Lucy Shaller, Hulda Rosel, Gertrude Rosel, Martha Rosel, Klare Rosel, Hanny Rosel, Herbert Seiffarth and Martha Weifel, whose last known address was, on October 21, 1948, Germany, were on such date residents of Germany and nationals of a designated enemy country (Germany)

2. That the sum of $1,754.07 was paid to the Attorney General of the United States by J. Olin Horne, Administrator D. B. N. of the Estate of Agnes F Mand, deceased;

3. That the said sum of $1,754.07 was accepted by the Attorney General of the United States on October 21, 1948, pursuant to the Trading With the Enemy Act, as amended;

4. That the said sum of $1,754.07 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof were not within a designated enemy country on October 21, 1948, the national interest of the United States required that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-11017; Filed, Dec. 17, 1948; 8:49 a. m.]

[Vesting Order 12484]

PETER MAURER

In re: Estate of Peter Maurer, deceased. File D-28-8183; E. T. sec. 9131.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johann Maurer, Elizabeth Hiither, Theobald Maurer, Katherine Brick, Elizabeth Maurer, Herman Konig (Koenig), Ida Hiither, Bernhardt Konig (Koenig) Mary Schnur (Schuur) and Eva Bosslet, whose last known address was, on August 26, 1946, Germany, were on such date residents of Germany and nationals of a designated enemy country (Germany),

2. That the sum of $458.56 was paid to the Alien Property Custodian by Mrs. Mildred Smith, Administratrix d. b. n., c. t. a., of the Estate of Peter Maurer, deceased;

3. That the said sum of $458.56 was accepted by the Alien Property Custodian on August 26, 1946, pursuant to the Trading With the Enemy Act, as amended;

4. That the said sum of $458.56 is presently in the possession of the Attorney General of the United States, and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof were not within a designated enemy country on August 26, 1946, the national interest of the United States required that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-11018; Filed, Dec. 17, 1948; 8:49 a. m.]

[Vesting Order 12490]

PHILIP STARK

In re: Estate of Philip Stark, deceased. File: D-28-12102; E. T. sec. 16314.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Tola Mutzenmacher, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the Estate of Philip Stark, Deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by Ben H. Brown, as Administrator, acting under the judicial supervision of the Superior Court, Los Angeles County, California;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-11020; Filed, Dec. 17, 1948; 8:50 a. m.]

[Vesting Order 12492]

ALFRED STUMPP

In re: Estate of Alfred Stumpp, deceased. File D-28-12501, E. T. sec. 16707.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law after investigation, it is hereby found:

1. That Frederich Stumpp, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to the Estate of Alfred Stumpp, deceased, is property payable or deliverable to, or claimed by the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by Ben H. Brown, as administrator, acting under the judicial supervision of the Superior Court of the State of California, in and for the County of Los Angeles;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany),

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-11021; Filed, Dec. 17, 1948; 8:50 a. m.]

[Vesting Order 12502]

HUGO KLEIN

In re: Debt owing to Hugo Klein. F-28-29226-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hugo Klein, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation evidenced by a check drawn by the Comptroller of the Currency on the First National Bank in Yonkers, New York, payable to Hugo Klein in trust for Johann Petry, dated February 21, 1944, numbered Q-126653 and in the amount of $310.19, said check representing the third (final) dividend on Claim No. 20961 against the insolvent First National Bank and Trust Company of Yonkers, New York, presently in the custody of the Division of Insolvent National Banks, Office of the Comptroller of the Currency, Treasury Department, Washington, D. C., together with all rights in, to and under, including particularly, but not limited to, the right to possession and presentation for collection and payment of the aforesaid check, and any and all rights to demand, enforce and collect the aforesaid debt or other obligation,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Hugo Klein, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-10337; Filed, Dec. 16, 1948; 8:54 a. m.]

[Vesting Order 12503]

PAULINE NIECKE

In re: Mortgage participation certificates owned by and debt owing to Pauline Niecke.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Pauline Niecke, whose last known address is Eichwalde, Konigstrasse 2, Berlin, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. One (1) Title Guarantee and Trust Company guaranteed 5½% first mortgage certificate, of $1,000 face value, bearing the number 169839, registered in the name of Pauline Niecke and presently in the custody of The American Express Company, Incorporated, New York Agency, 65 Broadway, New York, New York, in an account in the name of American Express Company m. b. H., together with any and all rights thereunder and thereto,

b. One (1) Title Guarantee and Trust Company guaranteed 5½% first mortgage certificate, of $2,000 face value, bearing the number 169840, registered in the name of Pauline Niecke and presently in the custody of The American Express Company, Incorporated, New York Agency, 65 Broadway, New York, New York, in an account in the name of American Express Company m. b. H., together with any and all rights thereunder and thereto,

c. That certain debt or other obligation owing to Pauline Niecke by Clinton Trust Company, 857 Tenth Avenue, New York, New York, arising out of a blocked account in the name of Pauline Niecke, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-11022; Filed, Dec. 17, 1948; 8:50 a. m.]

[Dissolution Order 84, Amdt.]

JAPAN COTTON CO.

Dissolution Order No. 84, executed on October 11, 1948 (13 F. R. 6071, October 15, 1948) is hereby amended by deleting the subparagraphs numbered c, d and e of said dissolution order and substituting in lieu thereof the following:

c. They shall then pay to the Attorney General of the United States the sum of $805.65 representing expenses incurred by the Office of Alien Property Custodian and by the Office of Alien Property for the benefit of the corporation subsequent to its dissolution; and

d. They shall then set aside the sum of $4,419.72 as a reserve to meet such administrative expenses as may arise in connection with the continued liquidation of the corporation; and

e. They shall then provide for pro-rata payment of 10.5% on each of the above-mentioned accounts payable as follows:

(1) They shall make payment on the account payable to Yamakawa & Co. by paying to the Attorney General of the United States, as owner of said account by virtue of Vesting Order 369, the amount of $21,066.44.

(2) They shall make payment on the account payable to Menka G. m. b. H. by paying to the Attorney General of the United States, as the owner of said account by virtue of Vesting Order 10491, the amount of $11.53.

(3) They shall make payment on account of the claim of the Attorney General of the United States for expenses incurred by the Office of Alien Property Custodian prior to the dissolution of the corporation in the amount of $23.45 by paying to the Attorney General of the United States the amount of $2.46.

(4) They shall make payment on each of the accounts payable to nationals of foreign countries, and each of the accounts payable to nationals of designated enemy countries which shall not have been previously vested by the Attorney General, by making payment into separate accounts to be maintained by the Comptroller's Branch of the Office of Alien Property as follows:

Jean Boeswillwald	$119.26
R. Latham & Ed Gilg	16.25
Maison du Pasquier	54.54

Each of said accounts shall be entitled substantially as follows: "Attorney General of the United States, Account of (Name of Account) in the case of Japan Cotton Company, Vesting Orders 76 and 186." Such payment shall not transfer title to such accounts to the Attorney General but such accounts shall be subject to his authorization. The payments herein directed into such accounts shall, to the extent thereof, be a full acquittance and discharge for all purposes of the obligations of Japan Cotton Company.

(5) They shall set aside as a reserve, to cover pro rata payment on the account payable to Yokohama Specie Bank, Ltd., New York, in the amount of $300,399.14, the sum of $31,541.91, to be paid, in the event such account payable is determined to be valid, to the Attorney General of the United States by virtue of his acquisition of said account payable by Vesting Order 915 and assignment from the Superintendent of Banks of the State of New York, pursuant to that vesting order.

All other provisions of said Dissolution Order No. 84 are hereby confirmed.

Executed at Washington, D. C., this 15th day of December 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-11023; Filed, Dec. 17, 1948; 8:50 a. m.]

MRS. MADELEINE RUOFF

Termination of supervision of certain property of Mrs. Madeleine Ruoff, also known as Mrs. Madeleine duPont Ruoff.

Whereas, by Vesting Order 12073, as amended, dated October 1, 1948, certain property described in Exhibit A, attached thereto and by reference made a part thereof, was vested and the direction, management, supervision and control of all property in the United States of Mrs. Madeleine Ruoff, also known as Mrs. Madeleine duPont Ruoff, was undertaken to the extent deemed necessary or advisable from time to time, without limitation on the power to vary the extent of, or terminate, such direction, management, supervision or control; and

Whereas, pursuant to demand therefor, an inventory of all property within the United States of Mrs. Ruoff not vested by Vesting Order 12073 has been furnished; and

Whereas, it appearing from an examination of such inventory that the continued direction, management, supervision and control of such non-vested property is not at this time necessary or advisable in the national interest,

Now, therefore, under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, it is hereby found and determined:

That, without prejudice to the vesting of the property described in Exhibit A of said Vesting Order 12073, the continued direction, management, supervision and control of the remaining property in the United States of Mrs. Madeleine Ruoff, also known as Mrs. Madeleine duPont Ruoff, referred to in subparagraph 2 of Vesting Order 12073, is not at this time necessary or advisable in the national interest, and

It is hereby ordered, That the direction, management, supervision and control of said property be and it hereby is terminated.

Executed at Washington, D. C., on December 8, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-11024; Filed, Dec. 17, 1948; 8:50 a. m.]

[Return Order 218]

SIEGMUND CHAMBRE AND MAX CHAMBRE

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant and Claim Number Notice of Intention to Return Published, and Property

Siegmund Chambre, Los Angeles, Calif., Claim No. 33766, and Max Chambre, San Francisco, Calif., Claim No. 6280; November 6, 1948 (13 F. R. 6660); two-thirds (⅔) of the all right, title, interest, and claim of any kind or character whatsoever, of Lina Chambre Meyer and Klara Chambre, and each of them, in and to the Trust Estate of Meier Katten, deceased, one-half (½) thereof to each claimant. $3,036.78 in the Treasury of the United States, one-half (½) thereof to each claimant.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on December 13, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-10988; Filed, Dec. 16, 1948; 8:54 a. m.]

PART II

FEDERAL REGISTER

VOLUME 13 NUMBER 246

Washington, Saturday, December 18, 1948

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

REPUBLICATION OF CHAPTER

In order to conform Chapter I of Title 19 to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulations of the Administrative Committee of the Federal Register and approved by the President effective October 12, 1948 (13 F. R. 5929) the codification of Part 100—Organization, Functions, and Procedures of the Bureau of Customs, is hereby discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.

Because of the numerous amendments which have been made in this chapter, it is reprinted in its entirety for convenient reference. All amendments which have been published in the FEDERAL REGISTER through November 18, 1948, and which are currently effective, have been incorporated in this reprint.

This reprint was prepared by the Division of the Federal Register with the concurrence of the Acting Commissioner of Customs.

Part
1 Customs districts and ports.
2 Measurement of vessels.
3 Documentation of vessels.
4 Vessels in foreign and domestic trades.
5 Customs relations with contiguous foreign territory.
6 Air commerce regulations.
7 Customs relations with insular possessions and Guantanamo Bay Naval Station.
8 Liability for duties; entry of imported merchandise.
9 Importations by mail.
10 Articles conditionally free; subject to a reduced rate, etc.
11 Packing and stamping; marking; trademarks and trade names; copyrights.
12 Special classes of merchandise.
13 Sugars, sirups, and molasses; petroleum products; wool and hair.
14 Appraisement.
15 Relief from duties on merchandise lost, stolen, destroyed, injured, abandoned, or short-shipped.
16 Liquidation of duties.
17 Protests and reappraisements.
18 Transportation in bond and merchandise in transit.
19 Customs warehouses and control of merchandise therein.
20 Disposition of unclaimed and abandoned merchandise.
21 Cartage and lighterage.
22 Drawback.
23 Enforcement of customs and navigation laws.
24 Customs financial and accounting procedure.
25 Customs bonds.
26 Disclosure of information.
51 Imports and exports subject to the provisions of Executive Order 8389, as amended, and Proclamation 2497, regarding "Blocked Nationals."
52 Regulations under Trading With the Enemy Act.
53 Importation free of duty of food, clothing, and medical, surgical, and other supplies under emergency proclamations of the President.
54 Certain importations free of duty during the war.
55 Changes in customs requirements and procedure due to the war.
56 Extensions of time pursuant to Proclamation of the President under section 318, Tariff Act of 1930.
59 Importation of surplus Government property.

PART 1—CUSTOMS DISTRICTS AND PORTS

Sec.
1.1 Customs collection districts and ports.
1.2 Customs stations; requirements for transaction of customs business at places other than ports of entry.
1.3 Customs stations in Canada.
1.4 Assignments of districts to comptrollers of customs.
1.5 Customs agency districts.
1.7 Customs laboratories.
1.8 Hours of business.
1.9 Customs seal.
1.21 Delegation of power to Commissioner of Customs.

§ 1.1 *Customs collection districts and ports.* (a) A customs collection district is the geographical area under the customs jurisdiction of a collector of customs.

(b) The terms "port" and "port of entry," as used in this part, refer to any place designated by Executive Order of

(Continued on next page)

CODIFICATION GUIDE

Title 19—Customs Duties — Page
Chapter I—Bureau of Customs, Department of the Treasury
Part 1—Customs districts and ports — 7831
Part 2—Measurement of vessels — 7887
Part 3—Documentation of vessels — 7909
Part 4—Vessels in foreign and domestic trades — 7925
Part 5—Customs relations with contiguous foreign territory — 7945
Part 6—Air commerce regulations — 7950
Part 7—Customs relations with insular possessions and Guantanamo Bay Naval Station — 7957
Part 8—Liability for duties; entry of imported merchandise — 7958
Part 9—Importations by mail — 7975
Part 10—Articles conditionally free; subject to a reduced rate, etc — 7978
Part 11—Packing and stamping; marking; trade-marks and trade names; copyrights — 8010
Part 12—Special classes of merchandise — 8017
Part 13—Sugars, sirups, and molasses; petroleum products; wool and hair — 8030
Part 14—Appraisement — 8034
Part 15—Relief from duties on merchandise lost, stolen, destroyed, injured, abandoned, or short-shipped — 8043
Part 16—Liquidation of duties — 8045
Part 17—Protests and reappraisements — 8052
Part 18—Transportation in bond and merchandise in transit — 8057
Part 19—Customs warehouses and control of merchandise therein — 8063
Part 20—Disposition of unclaimed and abandoned merchandise — 8075
Part 21—Cartage and lighterage — 8077
Part 22—Drawback — 8079
Part 23—Enforcement of customs and navigation laws — 8084
Part 24—Customs financial and accounting procedure — 8105

CODIFICATION GUIDE—Con.

Title 19—Customs Duties—Con.	Page
Chapter I—Bureau of Customs, Department of the Treasury—Continued	
Part 25—Customs bonds	8111
Part 26—Disclosure of information	8116
Part 51—Imports and exports subject to the provisions of Executive Order 8389, as amended, and Proclamation 2497, regarding "Blocked Nationals"	8117
Part 52—Regulations under Trading With the Enemy Act	8117
Part 53—Importation free of duty of food, clothing, and medical, surgical, and other supplies under emergency proclamations of the President	8119
Part 54—Certain importations free of duty during the war	8120
Part 55—Changes in customs requirements and procedure due to the war	8121
Part 56—Extensions of time pursuant to Proclamation of the President under section 318, Tariff Act of 1930	8121
Part 59—Importation of surplus Government property	8122

the President[1] or by act of Congress at which a customs officer is assigned with authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws.

(c) There are 46 customs collection districts of the United States.[2] The following is an alphabetical list of customs collection districts with their numbers and with a list of the ports in each district.[3] The first-named port in each district (in capital letters) is the headquarters port, and the asterisk preceding the name of a port indicates that marine documents may be issued at such port.[4] The districts and ports were created by the President's message of March 3, 1913, by which he communicated to Congress his reorganization of the Customs Service pursuant to the act of August 24, 1912 (37 Stat. 434, 19 U. S. C. 1, as added by 5 U. S. C. 281–281b), except that certain changes in such organization have been made by subsequent Executive orders. In the following list the Executive orders issued since March 3, 1913, that affect existing districts or ports are cited in parentheses following the name of the district or port affected.

District No.	Name of district	Area of district	Ports of entry
31	Alaska	The Territory of Alaska	*JUNEAU. Craig (E. O. 3321, Sept. 1, 1920). *Eagle. *Fairbanks (E. O. 8064, Mar. 9, 1939; 4 F. R. 1191) Hyder (E. O. 3803, Mar. 23, 1923). *Ketchikan. Petersburg (E. O. 4132, Jan. 21, 1925). *Sitka (E. O. 4517, Oct. 2, 1926). *Skagway. *Wrangell.
26	Arizona	The State of Arizona	NOGALES (E. O. 9382, Sept. 25, 1943, 8 F. R. 13083). Douglas (E. O. 9382, Sept. 25, 1943, 8 F. R. 13083). Naco. San Luis (E. O. 5322, Apr. 9, 1930). Sasabe (E. O. 5608, Apr. 22, 1931). Sonoyta (E. O. 8624, Dec. 31, 1940; 6 F. R. 13).
9	Buffalo	The counties of Niagara, Erie, Cattaraugus, and Chautauqua in the State of New York.	*BUFFALO (including Lackawanna, Tonawanda, North Tonawanda, and east bank of Niagara River between Buffalo and Tonawanda) (E. O. 7767, Dec. 11, 1937; 2 F. R. 2773). Niagara Falls (including Lewiston) (E. O. 5320, Apr. 7, 1930).
39	Chicago (E. O. 8225, Aug. 24, 1939; 4 F. R. 3721) (E. O. 9297, Feb. 1, 1943, 8 F. R. 1479) (E. O. 9531, Mar. 15, 1945, 10 F. R. 2951).	The State of Illinois lying north of 39° north latitude, that part of the State of Indiana north of 41° north latitude; the State of Iowa and the State of Nebraska.	*CHICAGO, ILL. *Peoria, Ill. *Omaha, Nebr. (including territory described in E. O. 9297, Feb. 1, 1943; 8 F. R. 1479).
47	Colorado (E. O. 9531, Mar. 15, 1945, 10 F. R. 2951).	The State of Colorado and the State of Wyoming	DENVER.
6	Connecticut	The State of Connecticut	*BRIDGEPORT. *Hartford. *New Haven. *New London.
34	Dakota	The States of North and South Dakota and the county of Kittson in the State of Minnesota.	*PEMBINA, N. DAK. Ambrose, N. Dak. (E. O. 5835, Apr. 13, 1932). Antler, N. Dak. Carbury, N. Dak. (E. O. 5137, June 17, 1929). Crosby, N. Dak. Dunseith, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Fortuna, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Hannah, N. Dak. Hansboro, N. Dak. Maida, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Neche, N. Dak. Noonan, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042.) Northgate, N. Dak. Noyes, Minn. (E. O. 5835, Apr. 13, 1932) Portal, N. Dak. Sarles, N. Dak. Sherwood, N. Dak. St. John, N. Dak. (E. O. 5835, Apr. 13, 1932). Walhalla, N. Dak. Westhope, N. Dak. (E. O. 4236, June 1, 1925).

[1] "The President is authorized from time to time, as the exigencies of the service may require, to rearrange, by consolidation or otherwise, the several customs-collection districts and to discontinue ports of entry by abolishing the same or establishing others in their stead: *Provided*, That the whole number of customs-collection districts, ports of entry, or either of them, shall at no time be made to exceed those established and authorized as on August 1, 1914, except as the same may thereafter be provided by law * * *" (19 U. S. C. 2)

[2] This does not include the customs collection district of the Virgin Islands which, although under the jurisdiction of the Secretary of the Treasury, has its own customs laws. (See Sec. 36, 49 Stat. 1816; 48 U. S. C. 1406i.)

[3] In addition to the customs collection districts listed which are within the customs territory of the United States, there is the customs collection district of the Virgin Islands (No. 51), the headquarters port of which is Charlotte Amalie, St. Thomas, and the subports of which are Cruz Bay, Coral Bay, Christiansted, and Frederiksted. See appendix for a list of the customs collection districts by numbers and an alphabetical list of the ports of entry.

[4] Marine documents may be issued at Charlotte Amalie, St. Thomas, headquarters port of the customs collection district of the Virgin Islands (No. 51); at Washington, N. C., a customs station in the customs-collection district of North Carolina (No. 15); at Biloxi, Miss., a customs station in the customs collection district of Mobile (No. 19); and at Morgan City, La., a customs station in the customs collection district of New Orleans (No. 20).

District No.	Name of district	Area of district	Ports of entry
36	Duluth and Superior	The State of Minnesota, except the county of Kittson, lying north of 49° north latitude, the State of Wisconsin lying north of said latitude, and the island of Isle Royale in the State of Michigan.	*DULUTH, MINN., and SUPERIOR, WIS. (including West Superior). Ashland, Wis. Baudette, Minn. (E. O. 4422, Apr. 19, 1926). International Falls, Minn. Pigeon River Bridge, Minn. (E. O. 7032, June 15, 1937; 2 F. R. 1042). Pine Creek, Minn. (E. O. 7032, June 15, 1937; 2 F. R. 1042). Ranier, Minn. Roseau, Minn. (E. O. 7032, June 15, 1937; 2 F. R. 1042). Warroad, Minn.
24	El Paso (E. O. 2702, Sept. 7, 1917)	The State of New Mexico and that part of the State of Texas lying west of the Pecos River.	EL PASO, TEX. (E. O. 2702, Sept. 7, 1917). Columbus, N. Mex. Fabens, Tex. (E. O. 4309, May 1, 1926). Presidio, Tex. (E. O. 2702, Sept. 7, 1917). Valentine, Tex. (E. O. 7032, June 15, 1937; 2 F. R. 1042).
18	Florida	The State of Florida, the north bank of the St. Marys River, and the city of St. Marys, Ga.	*TAMPA (including Port Tampa). *Apalachicola. Boca Grande. Carrabelle (E. O. 7003, Dec. 11, 1936; 1 F. R. 2149). *Fernandina (including St. Marys, Ga.) *Jacksonville. *Key West. *Miami. Panama City (E. O. 3619, Nov. 1, 1923). *Pensacola. Port Everglades (E. O. 5770, Dec. 31, 1931). Port St. Joe (E. O. 7018, Feb. 17, 1936; 3 F. R. 503). *St. Augustine. St. Petersburg (E. O. 7023, July 14, 1936; 3 F. R. 1740). West Palm Beach (E. O. 4324, Oct. 15, 1925).
22	Galveston (E. O. 2702, Sept. 7, 1917) (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691).	That part of the State of Texas lying east of 97° west longitude, except territory, embraced in district 21 (Sabine). Also those portions of the counties of Dallas, Aransas, and Refugio, lying west of 97° west longitude and the counties of Tarrant, San Patricio, and Nueces, State of Texas.	*GALVESTON (including Fort Bolivar and Texas City) *Corpus Christi (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691). Dallas. Freeport (E. O. 7032, June 15, 1937; 2 F. R. 1042). *Houston.
17	Georgia	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.	*SAVANNAH (including territory described in E. O. 8207, Mar. 5, 1940; 5 F. R. 780). Atlanta. *Brunswick.
32	Hawaii	The Territory of Hawaii	*HONOLULU. Hilo. Kahului.
40	Indiana	The State of Indiana lying south of 41° north latitude	Fort Allen (E. O. 4335, Feb. 25, 1926). INDIANAPOLIS. *Evansville. Lawrenceburg (including Greendale) (E. O. 6324, Mar. 7, 1934).
42	Kentucky	The State of Kentucky	*LOUISVILLE.
23	Laredo (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691).	That part of the State of Texas lying west of 97° west longitude and east of the Pecos River except the territory included in district 22 (Galveston).	LAREDO. *Brownsville. Del Rio. Eagle Pass. Hidalgo. Rio Grande City. Roma. San Antonio.
27	Los Angeles (E. O. 3220, Feb. 2, 1920) (E. O. 3779, Jan. 23, 1923) (E. O. 4543, Nov. 13, 1926).	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial.	*LOS ANGELES (including San Pedro, Wilmington, and Long Beach) (E. O. 4243, Nov. 16, 1925). *Port San Luis.
1	Maine and New Hampshire (E. O. 4709, Aug. 19, 1927),	The State of Maine and the State of New Hampshire except the county of Coos.	*PORTLAND, MAINE (including territory described in E. O. 6297, Feb. 1, 1943; 8 F. R. 1470). *Bangor, Maine (including Brewer, Maine) (E. O. 6297, Feb. 1, 1943; 8 F. R. 1470). *Bar Harbor, Maine (including Mt. Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, and Winter Harbor) (E. O. 4572, Jan 27, 1927). *Bath, Maine (including Booth Bay and Wiscasset) (E. O. 4359, Dec. 15, 1925). *Belfast, Maine (including Searsport) (E. O. 6754, June 23, 1934). Bridgewater, Maine (E. O. 8079, Apr. 4, 1939; 4 F. R. 1475). *Calais, Maine (including townships of Calais, Robbinston, and Baring) (E. O. 6284, Sept. 13, 1933). *Eastport, Maine (including Lubec and Cutler) (E. O. 4359, Aug. 20, 1925). Fort Fairfield, Maine. Fort Kent, Maine. Houlton-Jackman, Maine (E. O. 3909, Jan. 9, 1922) (E. O. 4359, Dec. 8, 1925). Houlton, Maine (E. O. 4153, Feb. 14, 1925). *Jonesport, Maine (including the towns (townships) of Beals, Jonesboro, Roque Bluffs, and Machiasport) (E. O. 4359, Aug. 20, 1925, E. O. 8795, Feb. 25, 1941). Limestone, Maine. Madawaska, Maine. *Portsmouth, N. H. (including Kittery, Maine). *Rockland, Maine. Van Buren, Maine. Vanceboro, Maine.
13	Maryland (E. O. 3234, Feb. 27, 1920).	The State of Maryland and the District of Columbia	*BALTIMORE, MD. (including Sparrow's Point (E.O. 8223, Sept. 6, 1939; 4 F. R. 3839). *Annapolis, Md. *Cambridge, Md. (E. O. 3933, Aug. 13, 1923). *Crisfield, Md. *Washington, D. C.
4	Massachusetts	The State of Massachusetts	*BOSTON (including Cambridge, Chelsea, Medford, Everett, Quincy, Somerville, Braintree, Weymouth and Hingham, and waters adjacent thereto) (E. O. 6347, May 16, 1933) (E. O. 6936, Apr. 19, 1939). *Fall River. *Gloucester. Lawrence (E. O. 4444, Sept. 16, 1926). *New Bedford. *Plymouth. Provincetown. *Salem (including Beverly, Marblehead, Lynn, and Peabody) (E. O. 9297, July 29, 1942). Springfield. Worcester.

District No.	Name of district	Area of district	Ports of entry
38	Michigan	The State of Michigan except the island of Isle Royale and the city of Menominee, Mich.	*DETROIT (including territory described in E. O. 6073, Feb. 25, 1942; 7 F. R. 1588). Bay City. Cheboygan. *Muskegon (E. O. 8315, Dec. 22, 1939; 4 F. R. 4941). *Port Huron. Saginaw. *Sault Ste. Marie. South Haven (E.O. 7632, June 15, 1937; 2 F.R. 1042).
35	Minnesota	The State of Minnesota lying south of 46° north latitude	*MINNEAPOLIS (E. O. 4295, Aug. 23, 1935). St. Paul (E. O. 4295, Aug. 26, 1935) (E. O. 7564, Feb. 27, 1937; 2 F. R. 462).
19	Mobile	The State of Alabama and that part of the State of Mississippi lying south of 31° north latitude.	*MOBILE, ALA. Birmingham, Ala. *Gulfport, Miss. Pascagoula, Miss.
33	Montana and Idaho	The States of Montana and Idaho	*GREAT FALLS, MONT. Del Bonita, Mont. (E. O. 7947, Aug. 9, 1938; 3 F. R. 1965). Eastport, Idaho. Morgan, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Opheim, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Piegan, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Porthill, Idaho. Raymond, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Roosville, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Scobey, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Sweetgrass, Mont. Turner, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Whitetail, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Whitlash, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042).
20	New Orleans	The State of Louisiana except the parishes of Cameron and Calcasieu, and that part of the State of Mississippi lying north of 31° north latitude.	*NEW ORLEANS, LA. (including territory described in E. O. 5130, May 29, 1929). *Baton Rouge, La. (E. O. 6993, Jan. 13, 1933).
10	New York	That part of the State of New York not expressly included in the districts of Buffalo, Rochester, and St. Lawrence, and also the counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth in the State of New Jersey.	*NEW YORK, N. Y. (including territory described in E. O. 4205, Apr. 15, 1925). *Albany, N. Y. *Newark, N. J. *Perth Amboy, N. J.
15	North Carolina	The State of North Carolina	*WILMINGTON (including townships of Northwest, Wilmington, and Cape Fear) (E. O. 7761, Dec. 3, 1937; 2 F. R. 2679). *Beaufort. Durham (E. O. 4876, May 3, 1928) (E. O. 9433, Apr. 6, 1944, 9 F. R. 3761). *Elizabeth City. Morehead City (E. O. 7482, Oct. 30, 1936; 1 F. R. 1703). Reidsville (E. O. 5153, July 18, 1929) (E. O. 9433, Apr. 6, 1944, 9 R. F. 3761). Winston-Salem (E. O. 2366, Apr. 24, 1916).
41	Ohio	The State of Ohio, and the county of Erie in the State of Pennsylvania.	*CLEVELAND, OHIO. Akron, Ohio (E. O. 4597, Feb. 25, 1927). Ashtabula, Ohio. *Cincinnati, Ohio. Columbus, Ohio. Conneaut, Ohio. Dayton, Ohio. *Erie, Pa. *Sandusky, Ohio. *Toledo, Ohio.
29	Oregon (E. O. 2307, Feb. 7, 1916)	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude.	*PORTLAND, OREG. (including territory described in E. O. 3390, Jan. 24, 1921; E. O. 5193, Sept. 14, 1929). *Astoria, Oreg. (E. O. 1593, Sept. 14, 1929). Longview, Wash. (E. O. 4956, Aug. 31, 1929) (E. O. 5193, Sept. 14, 1929). *Coos Bay (E. O. 4094, Oct. 28, 1924) (E. O. 5193, Sept. 14, 1929) (E. O. 5445, Sept. 16, 1930) (E. O. 9533, Mar. 23, 1945, 10 R. F. 3173). Newport, Oreg.
11	Philadelphia	That part of the State of Pennsylvania lying east of 79° west longitude, the State of Delaware, and that part of the State of New Jersey not included in district 10 (New York).	*PHILADELPHIA, PA. (including Camden and Gloucester City, N. J., and territory described in E. O. 7810, Mar. 15, 1938; 3 F. R. 687). Chester, Pa. (E. O. 7706, Sept. 11, 1937; 2 F. R. 1849). Lewes, Del. *Wilmington, Del. (E. O. 4496, Aug. 12, 1926).
12	Pittsburgh	The State of West Virginia and that part of the State of Pennsylvania lying west of 79° west longitude, except the county of Erie.	*PITTSBURGH, PA.
49	Puerto Rico	The Territory of Puerto Rico	*SAN JUAN. Aguadilla. Arecibo. Arroyo. Fajardo. Guanica. Guayanilla (E.O. 9162, May 13, 1942). Humacao. Jobos (E.O. 9162, May 13, 1942). Mayaguez. Ponce.
5	Rhode Island	The State of Rhode Island	*PROVIDENCE. *Newport.
8	Rochester (E.O. 5455, Oct. 1, 1930)	The counties of Oswego, Oneida, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Herkimer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, and Tioga in the State of New York.	*ROCHESTER. *Oswego. Sodus Point. Syracuse. Utica.
21	Sabine (E.O. 5392, July 9, 1930)	That part of the State of Texas from Sabine Pass north along State line to north boundary line of Shelby County; west to Neches River; down western shore of said river to north boundary of Jefferson County; westerly along said boundary to east boundary of Liberty County; south to Gulf; also the parishes of Cameron and Calcasieu in the State of Louisiana.	*PORT ARTHUR, TEX. *Beaumont, Tex. (E.O. 4502, Sept. 1, 1923). *Lake Charles, La. (E.O. 5475, Nov. 3, 1930). Orange, Tex. (E.O. 7495, Nov. 14, 1936; 1 F. R. 1867). Sabine, Tex.
25	San Diego (E.O. 3779, Jan. 26, 1923) (E.O. 5350, May 22, 1930).	The counties of San Diego and Imperial in the State of California.	*SAN DIEGO. Andrade (E.O. 4780, Dec. 13, 1927). Calexico. San Ysidro (E.O. 4518, Oct. 2, 1926). Tecate (E.O. 4780, Dec. 13, 1927).
23	San Francisco (E.O. 4543, Nov. 13, 1926) (E.O. 8324, Jan. 22, 1940; 5 F. R. 271).	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the States of Utah and Nevada.	*SAN FRANCISCO-OAKLAND, CALIF. (including all points on San Francisco Bay). *Eureka, Calif. Note: Collector of Customs located at San Francisco.

District No.	Name of district	Area of district	Ports of entry
16	South Carolina	The State of South Carolina	*CHARLESTON (including territory described in E.O. 8335, Jan. 31, 1941; 5 F. R. 429). *Georgetown. *OGDENSBURG. Alexandria Bay. *Cape Vincent. Champlain. Chateaugay. Clayton. Fort Covington. Malone. Mooers. Morristown. Rooseveltown (E.O. 6545, Jan. 2, 1934). *Rouses Point. Waddington.
7	St. Lawrence	The counties of Clinton, Essex, Franklin, St. Lawrence, Jefferson, and Lewis in the State of New York.	
45	St. Louis (E.O. 3879, June 27, 1923).	The States of Missouri, Kansas, and Oklahoma, and that part of the State of Illinois lying south of 39° north latitude.	*ST LOUIS, MO. (including East St. Louis, Ill.). *Kansas City, Mo. (including Kansas City, Kans., and North Kansas City, Mo.) (E.O. 8523, Aug. 27, 1940). St. Joseph, Mo.
43	Tennessee (E.O. 3879, June 27, 1923).	The States of Tennessee and Arkansas	*MEMPHIS, TENN. *Chattanooga, Tenn. *Nashville, Tenn.
2	Vermont (E.O. 4709, Aug. 19, 1927).	The State of Vermont and the county of Coos in the State of New Hampshire.	ST. ALBANS, VT. (including township of St. Albans and Swanton) (E.O. 2525, Nov. 13, 1923) (E.O. 7632, June 15, 1937; 2 F.R. 1042). Alburg, Vt. Beecher Falls, Vt. *Burlington, Vt. Derby Line, Vt. Highgate Springs, Vt. (including township of Highgate) (E.O. 7632, June 15, 1937; 2 F. R. 1042). Island Pond, Vt. Newport, Vt. North Troy, Vt. Richford, Vt.
14	Virginia (E.O. 3234, Feb. 27, 1920).	The State of Virginia	*NORFOLK and *NEWPORT NEWS (including the waters and shores of Hampton Roads). *Alexandria. *Cape Charles City. Petersburg. *Reedville. Richmond.
30	Washington (E.O. 2307, Feb. 7, 1916).	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude.	*SEATTLE. *Aberdeen. Anacortes. *Bellingham. Blaine (E.O. 6535, Apr. 13, 1933) Danville. Everett. Ferry. Friday Harbor (E.O. 9433, Apr. 6, 1944, 9 F.R. 3761). Laurier. Lynden (E.O. 7632, June 15, 1937; 2 F.R. 1042). Metaline Falls (E.O. 7632, June 15, 1937; 2 F.R. 1042. Nighthawk. Northport. Olympia (E.O. 4760, Dec. 13, 1927). Oroville (E. O. 5206, Oct. 11, 1929). *Port Angeles. *Port Townsend. South Bend. Spokane. Sumas. *Tacoma.
37	Wisconsin	The State of Wisconsin lying south of 46° north latitude, and the city of Menominee, Mich.	*MILWAUKEE. Green Bay. Manitowoc. Marinette (including Menominee, Mich.). Racine. Sheboygan.

(Sec. 1, 37 Stat. 434; 19 U. S. C. 1, sec. 1, 38 Stat. 623, sec. 1 (19) 45 Stat. 987; 19 U. S. C. 2. President's Message March 3, 1913)

§ 1.2 *Customs stations; requirements for transaction of customs business at places other than ports of entry.* (a) Places, other than ports of entry, at which customs officers or employees are stationed under the authority contained in article IX of the President's message referred to in § 1.1 [5] to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the customs and navigation laws shall be known as customs stations.

(b) A vessel shall not be entered or cleared at a customs station, or other place that is not a port of entry, unless entry or clearance is authorized by the collector of customs for the district in which such station or place is located pursuant to the provisions of section 447, Tariff Act of 1930.[6] Such authorization shall be granted by the collector only upon the condition that the vessel will be under such customs supervision as he may deem to be necessary; that compliance will be had with all applicable customs and navigation laws and regulations; that the salary and expenses of the customs officer for such time as is required to be devoted to entry and clearance work, together with any expense incurred by such officer in connection with the entry or delivery of merchandise, shall be reimbursed to the Government as provided in paragraph (c) of this section; and that the collector shall be notified in advance of the arrival of the vessel concerned. (R. S. 251, sec. 624, 46

[5] "Merchandise shall not be entered or delivered from customs custody elsewhere than at one of the ports of entry hereinbefore designated except at the expense of the parties in interest, upon express authority from the Secretary of the Treasury and under conditions to be prescribed by him. When it shall be made to appear to the Secretary of the Treasury that the interests of commerce or the protection of the revenue so require, he may cause to be stationed at places in the various collection districts, though not named as ports of entry, officers or employees of the customs with authority to enter and clear vessels, to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws." Art. IX, President's message of March 3, 1913; T. D. 33249.

[6] "It shall be unlawful to make entry of any vessel or to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: *Provided*, That upon good cause therefor being shown, the Secretary of Commerce [Commissioner of Customs] may permit entry of any vessel to be made at a place other than a port of entry designated by him, under such conditions as he shall prescribe: *And provided further*, That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unloading such cargo, under the supervision of customs officers if the collector shall consider the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest." (46 Stat. 714, 60 Stat. 1037; 19 U. S. C. 1447, Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV.)

Stat. 759; 19 U S. C 66 1624 President s message of March 3, 1913; T D. 33249 Sec 102 Reorg Plan No 3 of 1946; 3 CFR 1946 Supp Ch IV)

(c) The salary and expenses of a customs officer or employee stationed at or sent to a customs station or other place which is not a port of entry for service in connection with the entry or clearance of a vessel shall be reimbursed to the Government by the owner master or agent of the vessel Except as otherwise provided for in this part the expenses including any per diem allowed in lieu of subsistence but not the salary of such customs officer or employee for service in connection with the entry or delivery of merchandise shall be reimbursed to the Government by the interested persons (R S 251; 19 U S C 66 sec 624 46 Stat 759; 19 U S C 1624 President s message of March 3 1913; T D 33249 Sec 102, Reorg Plan No 3 of 1946 3 CFR 1946 Supp Ch IV)

§ 1 3 *Customs stations in Canada* There are listed below the places in the Dominion of Canada where United States customs officers are stationed, the customs districts under which they function, and the comptrollers of customs having jurisdiction over such districts:

Customs station	Customs district having supervision	Comptroller having supervision
Halifax, Nova Scotia (winter)	Maine and New Hampshire	Boston Mass
Lac Frontiere, Quebec	do	Do
St Andrews, N. B. (summer)	do	Do
St John, New Brunswick (winter)	do	Do
St Pamphile, Quebec	----do--	Do
Montreal, Quebec	Vermont	Do
Quebec, Quebec	----do-	Do.
Crystal Beach, Ontario (summer)	Buffalo	New York N Y
Port McNicoll, Ontario	do	Do
Toronto, Ontario	----do-----	Do.
Vancouver, British Columbia	Washington	San Francisco Calif
Prince Rupert British Columbia	Alaska	Do

(Sec 624, 46 Stat 759; 19 U S C 1624)

§ 1 4 *Assignment of districts to comptrollers of customs.* Customs districts are assigned to comptrollers of customs as follows:

Comptroller of customs Boston, Mass—
- No 1 Maine and New Hampshire
- No 2 Vermont
- No 4 Massachusetts
- No 5 Rhode Island

Comptroller of customs New York N Y.—
- No 6 Connecticut
- No 7 St Lawrence
- No 8 Rochester
- No 9. Buffalo.
- No 10 New York
- No 49 Puerto Rico
- No 51. Virgin Islands

Comptroller of customs Philadelphia Pa.—
- No 11 Philadelphia
- No 12 Pittsburgh
- No 38 Michigan
- No 40 Indiana
- No 41 Ohio
- No 42 Kentucky
- No 43. Tennessee

Comptroller of customs Baltimore Md.—
- No 13 Maryland.
- No 14 Virginia.
- No 15 North Carolina.
- No 16 South Carolina
- No 17 Georgia
- No 18. Florida

Comptroller of customs New Orleans La—
- No 19 Mobile
- No 20 New Orleans
- No 21 Sabine.
- No 22 Galveston
- No 23 Laredo
- No 24 El Paso
- No 26. Arizona

Comptroller of customs San Francisco Calif.—
- No 25 San Diego
- No 27 Los Angeles
- No 28 San Francisco
- No 29 Oregon
- No 30 Washington
- No 31 Alaska
- No 32 Hawaii

Comptroller of customs, Chicago Ill.—
- No 33 Montana and Idaho
- No 34 Dakota
- No 35 Minnesota
- No 36 Duluth and Superior.
- No 37 Wisconsin.
- No 39 Chicago
- No 45 St Louis
- No 47 Colorado

(Sec 523 46 Stat 740; 19 U S C 1523)

§ 1 5 *Customs agency districts* The customs agency districts and their respective headquarters are as follows:

No	Headquarters at—	Area (customs collection districts and foreign countries)
1	Boston Mass	1 (Maine and New Hampshire) 2 (Vermont) 4 (Massachusetts) 5 (Rhode Island), 6 (Connecticut).
2	New York N. Y	7 (St. Lawrence), 8 (Rochester), 9 (Buffalo), 10 (New York).
5	Baltimore Md	11 (Philadelphia) 12 (Pittsburgh) 13 (Maryland) 14 (Virginia) 15 (North Carolina).
6	Miami Fla	16 (South Carolina), 17 (Georgia), 18 (Florida) 49 (Puerto Rico) 51 (Virgin Islands), the Republic of Cuba.
7	New Orleans La	19 (Mobile), 20 (New Orleans) 21 (Sabine) 22 (Galveston)
9	Chicago, Ill	34 (Dakota), 35 (Minnesota), 36 (Duluth and Superior), 37 (Wisconsin), 38 (Michigan), 39 (Chicago), 40 (Indiana) 41 (Ohio) 42 (Kentucky) 43 (Tennessee), 45 (St. Louis), 46 (Omaha), 47 (Colorado)
10	El Paso, Tex.	23 (Laredo), 24 (El Paso) 26 (Arizona).
14	San Francisco Calif	25 (San Diego), 27 (Los Angeles) 28 (San Francisco), 32 (Hawaii).
15	Seattle, Wash	29 (Oregon) 30 (Washington) 31 (Alaska) 33 (Montana and Idaho)
16	Paris, France	Europe and the Near East
19	Montreal, P. Q., Canada	Dominion of Canada
20	Mexico D. F Mexico	Republic of Mexico

(Sec 624 46 Stat 759; 19 U S C 1624)

§ 1 7 *Customs laboratories* The addresses of the several customs laboratories and the customs collection districts served thereby are as follows:

Address	Customs collection districts
408 Atlantic Ave., Boston Mass	1 2 4 and 5.
201 Varick St New York, N. Y	6, 7, 8, 9, 10, and 49.
Customhouse, Philadelphia, Pa	11 12 and 41.
103 South Gay St., Baltimore Md	13 14, 15, 42, and 43.
Customhouse Savannah, Ga	16 17 and 18
Customhouse, New Orleans, La	19 20 21 22, and 23.
1232 Palmetto St , Los Angeles Calif.	24 25 26 and 27.
Old Mint Bldg., 5th and Mission Sts., San Francisco, Calif.	28 29 30 31 32 33 and 47
Branch laboratory: King and Richards Sts Honolulu T H	
Customhouse Chicago Ill	34 35 36 37 38, 39 40 45 and 46.

(Sec 624 46 Stat 759; 19 U S C 1624)

§ 1 8 *Hours of business* (a) Except as specified in paragraphs (b)–(g) of this section each customs office shall be open for the transaction of general customs business between the hours of 8:30 a m and 5 p. m on all days of the year except Saturdays Sundays and national holidays.[1]

(b) Different but equivalent hours shall be observed if a difference is required for the maintenance of adequate service because of local conditions, is approved by the Commissioner of Customs and a notice of the hours of business is prominently displayed at the principal entrance and in each public room of the customs office

(c) At each port or station where there is no full-time customs employee the hours during which the customs office will be open for the transaction of general customs business shall be fixed by the collector of customs concerned with the approval of the Commissioner of Customs and notice thereof shall be displayed prominently at the principal entrance of the office

(d) A state or local holiday shall not be cause generally for closing a customs office but if such a holiday interferes with the performance of work in a particular customs office or by particular customs employees the employees affected may be excused from work

(e) Customs services required to be performed outside a customs office shall be furnished between the hours of 8 a. m and 5 p m. (or between the correspond-

[1] The national holidays are January 1, February 22 May 30, July 4, the first Monday in September November 11, the fourth Thursday in November, and December 25 If a holiday falls on Sunday the following day will be observed. (E. O No 1076 May 22 1909) Other days may be designated as national holidays by Executive order of the President.

ing hours at ports where different but equivalent hours are required for the maintenance of adequate service and are approved by the Commissioner of Customs) on all days when the customs office is open for the transaction of general customs business. In accordance with such instructions as the Commissioner of Customs shall have issued from time to time and upon reasonable advance notice to the principal local officer concerned, such services may be furnished between the same hours on Saturdays.

(f) Where there is a regularly recurring need for customs services outside the above prescribed hours, and the volume and duration of the required services are uniformly such as to require, of themselves or in immediately consecutive combination with other essential customs activities of the port, the full time of one or more customs employees, the necessary number of regular tours of duty to furnish such services on all days of the year except Sundays and national holidays may be established with the approval of the Commissioner of Customs.

(g) Customs services shall be furnished private interests otherwise than as specified in this section only in accordance with the provisions of § 24.16 of this chapter. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

§ 1.9 *Customs seal.* (a) The customs seal of the United States, consisting of the national arms within a circle according to the design furnished by the Treasury Department, shall be impressed upon all official documents requiring the impress of a seal.

(b) The impress of the seal is not necessary on documents passing within the Customs Service. The seal shall be impressed on marine documents, and on landing certificates, certificates of weight, gauge, or measure, and similar classes of documents for outside interests.

(c) The official seal shall not be used in the manner of a notary seal to indicate authority to administer oaths.

(Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

§ 1.21 *Delegation of powers to Commissioner of Customs.* (a) There are hereby conferred and imposed upon the Commissioner of Customs, subject to the general supervision and direction of the Secretary of the Treasury, all the rights, privileges, powers, and duties in respect of the importation or entry of merchandise into, or the exportation of merchandise from, the United States, vested in or imposed upon the Secretary of the Treasury by the Tariff Act of 1930, as amended, or any other law, subject to the following exceptions and conditions:

(1) Whenever in the opinion of the Commissioner of Customs any question pending for decision is of exceptional importance, he shall submit the question to the Secretary of the Treasury, and the decision thereon shall be made by the Secretary of the Treasury and not by the Commissioner of Customs.

(2) All regulations shall be prescribed by the Commissioner of Customs, with the approval of the Secretary of the Treasury, except that regulations and instructions, not inconsistent with the general rules and regulations of the Treasury Department, which are effective only against persons in their capacity as officers, agents, or employees of the Customs Service, and which do not prescribe procedure which the public should know or follow in dealing with the Customs Service, may be prescribed by the Commissioner of Customs without the approval of the Secretary of the Treasury.

(3) Requirements of regulations which may be waived in accordance with law may be waived by the Commissioner of Customs, but if any new question or unusual circumstance is involved the waiver must be approved by the Secretary of the Treasury.

(4) The ascertainment, determination, or estimation, and declaration of bounties or grants under section 303, Tariff Act of 1930 (46 Stat. 687; 19 U. S. C. 1303) shall be made by the Commissioner of Customs, with the approval of the Secretary of the Treasury.

(5) Any order under section 511, Tariff Act of 1930 (46 Stat. 733; 19 U. S. C. 1511), prohibiting the importation of merchandise or instructing a collector to withhold delivery of merchandise shall be made by the Commissioner of Customs, with the approval of the Secretary of the Treasury.

(6) No claim, fine, or penalty in excess of $20,000 shall be compromised, remitted, or mitigated without the approval of the Secretary of the Treasury.

(7) Any authority which may be vested in the Secretary of the Treasury by proclamation of the President made pursuant to section 318, Tariff Act of 1930 (46 Stat. 696; 19 U. S. C. 1318), shall be exercised by the Secretary of the Treasury and not by the Commissioner of Customs.

(8) Awards of compensation to informers under section 619, Tariff Act of 1930 (46 Stat. 758; 19 U. S. C. 1619), shall be made by the Commissioner of Customs, with the approval of the Assistant Secretary of the Treasury.

(9) Fines and penalties not exceeding $1,500 in the aggregate in any one case may be remitted or mitigated by the Deputy Commissioner of Customs designated for the purpose by the Secretary of the Treasury.

(10) Fines or other pecuniary penalties aggregating less than $100 in respect of any one offense may be remitted or mitigated by the collector of customs concerned on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate, and the right and power so to do is hereby conferred upon the several collectors and their successors in office.

(11) Any forfeiture not involving merchandise subject to duty in excess of $50 (or valued at not more than $200 if not subject to duty) may be remitted or mitigated by the collector of customs concerned on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate, and the right and power so to do is hereby conferred upon the several collectors and their successors in office.

(12) Duties accruing under section 3114, Revised Statutes of the United States, as amended by section 466, Tariff Act of 1930 (46 Stat. 719; 19 U. S. C. 257), relating to equipment and repairs of vessels, may be remitted or refunded by the collector of customs concerned, under the conditions specified in section 3115, Revised Statutes of the United States, as amended by section 466 of the tariff act, upon the receipt of an appropriate application for relief from such duties, but his refusal to remit or refund any such duties pursuant to a claim for relief under said section 3115, Revised Statutes, shall be subject to review by the Commissioner of Customs upon application therefor. The right and power so to remit or refund such duties is hereby conferred upon the several collectors and their successors in office.

(b) There is hereby conferred and imposed upon the Commissioner of Customs, subject to the general supervision and direction of the Secretary of the Treasury, the authority vested in the Secretary of the Treasury by section 32 of the act of Congress entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909 (Sec. 32, 35 Stat. 1083; 17 U. S. C. 32), to permit the exportation of books imported in violation of the provisions of that act and subject to forfeiture under its terms.

(c) There is hereby conferred and imposed upon the Commissioner of Customs, subject to the general supervision and direction of the Secretary of the Treasury, the authority vested in the Secretary by section 36 of the act of June 22, 1936 (49 Stat. 1816, 48 U.S.C. 1406i) to make rules and regulations for the administration of the customs laws in the Virgin Islands, but the authority so conferred and imposed shall be subject to the same limitations as those contained in paragraph (a) (2) of this section.

(d) The Secretary of the Treasury will from time to time designate officers of the Bureau of Customs in Washington to act as Commissioner, Assistant Commissioner, or Deputy Commissioner of that Bureau during the absence or disability of any such officer or when there is a vacancy in the office of any such officer.

(e) This section shall be effective on and from the date of its approval.

(f) This section supersedes the orders of the Secretary of the Treasury published in T. D. 49047 and T. D. 49818 and any instructions and regulations in conflict herewith.

(g) The right to amend or supplement this section, or any part thereof, from time to time, or to revoke this section or any provision thereof, at any time, is expressly reserved. (Secs. 1, 2, 3, 44 Stat. 1381, 1382, secs. 643, 650, 46 Stat. 430, 761, 762, 1009; 5 U. S. C. 281, 281a, 281b, 19 U. S. C. 1643)

PART 2—MEASUREMENT OF VESSELS

Sec.
2.0 Effective date.
2.1 Authority of Director.
2.2 Officials authorized to admeasure vessels.

Sec.
2.3 Purpose for which measurements are taken.
2.4 Register ton.
2.5 Gross register tonnage.
2.6 Net register tonnage.
2.7 The marine document.
2.8 Application for measurement.
2.9 Drawings.
2.10 Measurements to be taken at an early stage.
2.11 Uniform system required.
2.12 Forms.
2.13 Measuring instruments.
2.14 Stem.
2.15 Stern.
2.16 Masts.
2.17 Ceiling, cargo battens, etc.
2.18 Register length.
2.19 Register breadth.
2.20 Register depth.
2.21 Deck to the hull.
2.22 Enumerating the decks.
2.23 Register height.
2.24 Round of beam.
2.25 Pitch of beam.
2.26 Tonnage deck.
2.27 Tonnage length.
2.28 Depth of a transverse section.
2.29 Tonnage depth.
2.30 Tonnage breadths.
2.31 Measuring the tonnage length.
2.32 Divisions of tonnage length.
2.33 Transfer of location of sections to keelson.
2.34 Transverse areas, rule for finding.
2.35 Breaks in double bottom.
2.36 Vessels having side tanks may be measured in parts.
2.37 Outside shaft tunnel.
2.38 Square end vessels having head blocks.
2.39 Between decks.
2.40 Superstructures.
2.41 Hatchways.
2.42 Record of exempted spaces.
2.43 Enclosed spaces exempted from inclusion in gross tonnage.
2.44 Passenger cabins.
2.45 Open superstructures on or above the upper deck.
2.46 Open shelter deck space.
2.47 An open structure on small craft.
2.48 Open vessels.
2.49 Deductions from gross tonnage.
2.50 Navigation spaces.
2.51 Propelling machinery space.
2.52 Spaces included in engine room.
2.53 Length of engine room.
2.54 Boilers and engine in same compartment.
2.55 Engine room measured in parts.
2.56 Rule for measuring engine room.
2.57 Engine room in small boats.
2.58 Deduction for propelling power.
2.59 Light and air spaces.
2.60 Calculations, diagrams of areas, marking net tonnage and official number.
2.60a Marking net tonnage and official number on vessel.
2.61 Appendix to certificate of registry.
2.62 Measurement of government vessels.
2.63 Foreign vessels.
2.64 Adjustment and correction of tonnage.
2.65 Figures.
2.66 Table of decimal equivalent of inches, etc.
2.67 Table A of common intervals when tonnage depth is 16 feet or less.
2.68 Table B of common intervals when tonnage depth exceeds 16 feet.
2.69 Definitions of enclosures on or above upper deck.
2.70 Definitions of items of deduction.
2.71 Definitions of structural terms, etc.
2.72 Suez and Panama Canal certificates.

AUTHORITY: §§ 2.0 to 2.72, issued under secs. 2, 3, 4, 23 Stat. 118, 119, 743, as amended; 46 U. S. C. 2, 3, 79.

§ 2.0 *Effective date.* The regulations in this part are not retroactive, i. e., they do not apply to vessels the keels of which were laid prior to the date the rules in this part become effective. The regulations in this part become effective March 1, 1940.

§ 2.1 *Authority of Director* (a) The Director of the Bureau of Marine Inspection and Navigation is charged with the supervision of the laws relating to the admeasurement of vessels, and on all questions of interpretation growing out of the execution of the laws relating to this subject his decision is final.

(b) The Director of the Bureau of Marine Inspection and Navigation shall, in the following sections, be referred to as the Director.

(c) Doubts arising in the minds of the admeasurers concerning decks to the hull, enclosures on or above the upper deck, shelter decks, method of procedure, etc., shall be submitted to the Director for his decision, and shall be accompanied by blueprints or sketches of the spaces in question giving all the facts bearing on same.

§ 2.2 *Officials authorized to admeasure vessels.* (a) Before any vessel shall be registered, enrolled, or licensed she shall be measured by an officer of the customs at the port or place where she may be.

(b) A vessel is not to be measured unless she is required by law to be registered, enrolled or licensed, or otherwise specially provided for.

§ 2.3 *Purpose for which measurements are taken.* (a) Tonnage measurements are taken for the purpose of ascertaining the internal capacity of measurable spaces.

(b) All measurements are to be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

§ 2.4 *Register ton.* A register ton is a volume of 100 cubic feet.

§ 2.5 *Gross register tonnage.* (a) The gross tonnage referred to in the following sections is the gross register tonnage; that is, the gross tonnage exclusive of all permissible exempted spaces.

(b) The gross register tonnage of a vessel shall consist of the sum of the following items:

(c) The cubical capacity below the tonnage deck, excluding exemptible water ballast spaces within the measureable portion of the vessel.

(d) The cubical capacity of each between deck space above the tonnage deck;

(e) The cubical capacity of the permanent closed-in spaces on the upper deck available for cargo or stores, or for the accommodation of passengers and/or crew.

(f) All permanent closed-in spaces situated elsewhere available for cargo or stores, or for the accommodation of the crew, or for the charts, except cabins or staterooms for passengers constructed entirely above the first deck which is not a deck to the hull;

(g) The excess of hatchways.

§ 2.6 *Net register tonnage.* (a) The tonnage of a vessel remaining after the authorized deductions have been made from the gross register tonnage shall be deemed the net register tonnage.

(b) In ascertaining the net tonnage no space may be deducted unless it has previously been included in the gross tonnage and certified, showing the purpose for which used.

§ 2.7 *The marine document.* The marine document of every vessel shall show the date and place of build; the register length, breadth, depth, and, in vessels of more than two decks, the height of the upper deck to the hull above the tonnage deck; the number of decks and masts; build as to her head and stern; capacity under the tonnage deck, that of the between decks, and also separately, permanently enclosed spaces on or above the upper deck to the hull available for cargo or stores or for the accommodation of passengers (provisionally) or crew, and the omitted spaces, whether open or closed in, on, above, or below the upper deck; the gross tonnage; items of deduction; and net tonnage.

§ 2.8 *Application for measurement.* The builder of a new vessel required to be admeasured, or the person having supervision of changes and/or alterations affecting a vessel's register tonnage, is obliged to make application for admeasurement or tonnage adjustment as the case may be, in writing, to the collector of customs of the district in which the vessel is located. Such application shall be made before cargo or ballast is taken on, and in case of a new vessel, before boilers or engine is installed or compartments partitioned off.

§ 2.9 *Drawings*—(a) *Plans to be filed by builder* The builder of a vessel of over 100 gross tons, approximately, is requested, if practicable, in order to facilitate measurement, to furnish, at a reasonable time before the vessel is launched, to the principal customs official nearest to the place where the vessel is building, the following plans:

(1) A drawing of the cross section in which is shown the construction of the double bottom, if there be one;

(2) An inboard view of the longitudinal section, showing the double bottom, its use or uses, if existing, otherwise the floors, the compartments for water ballast, other than the double bottom, the decks, the superstructures, hatchways, etc.,

(3) Deck plans showing the arrangement and uses of different compartments and deductible spaces;

(4) Drawings showing the arrangement of the engine, boiler, and fuel compartments; and

(5) A tonnage plan showing half breadths of the sections at the points of division of the tonnage length of the vessel into a certain number of equal parts in accordance with the rules for the measurement of spaces under the tonnage deck. The scale or scales of these drawings are to be indicated thereon.

The collector of customs is to be advised of any subsequent changes in the vessel and furnished copies of the corrected plans, or a statement of such changes.

(b) *Sketches.* When admeasuring a small craft for which there are no blueprints, the admeasurer should make a rough sketch of the inboard profile, hull and deck plans (arrangement plans) recording all necessary dimensions thereon. From such sketches neater ones may be prepared and filed with the tonnage admeasurement (Form 1410). Sketches should show the following details: The inboard profile should show the depth of bottom frames or floor timbers if fitted, superstructures, position and use of spaces in the hull and those above deck; the midship cross section, the floors or floor timbers, thickness of inner and outer skin, depth of side frames, etc., and the arrangement plans, the plane outline of hold and deck erections and use of spaces. (See Figure 1 (§ 2.65) and definition of depth of frame (§ 2.69).)

§ 2.10 *Measurements to be taken at an early stage.* Admeasurement should begin as soon as the vessel is sufficiently advanced in construction to permit its being done, usually when the decks are laid, the hold cleared of encumbrances to admit the required depths and breadths being properly taken; before the engine and boilers are installed and accommodations are partitioned off.

§ 2.11 *Uniform system required.* (a) The following directions are given showing the progressive steps to be followed in the process of admeasurement. It is important not only that the rules be followed, but that required measurements be taken and calculations made in a uniform and correct manner that one general system may prevail throughout the service respecting this subject.

(b) Measurements taken aboard are to be recorded in the "Memorandum of Dimensions" known as Form 1413.

§ 2.12 *Forms.* The following forms will be furnished the measuring officers upon request:

Master Carpenter's certificate (book form), Form 1261.

Master Carpenter's certificate (for loose leaf binder), Form 1261A.

Special appendix to certificate of registry of American passenger vessels when trading to foreign ports, Form 1265A.

Application of owner for official number, Form 1320.

Notice of award of official number to vessel, Form 1321.

Inspector's certificate of official number, Form 1322.

Memorandum of dimensions (taken on vessels the tonnage length of which exceeds 100 feet), Form 1413.

Memorandum of dimensions (taken on vessels the tonnage length of which is 100 feet or under), Form 1413A.

Tonnage admeasurement (for vessels having a tonnage length exceeding 100 feet), Form 1410.

Tonnage admeasurement (for vessels having a tonnage length not exceeding 100 feet), Form 1410A.

Certificate of admeasurement, Form 1414.

Card index (5" x 8") for large vessels, Form 1415.

Card index (5" x 8") for smaller vessels (100'), Form 1415A.

Suez Canal special tonnage certificate, Form 1417.

For other forms required see Bureau of Marine Inspection and Navigation Catalogue.

§ 2.13 *Measuring instruments.* (a) The measurements should be made with a waterproof tape, graduated into feet and tenths of a foot, and as nearly inelastic as possible.

(b) Sliding rods which are of three sizes: One 3 feet long for taking depths from 3 to 5.8 feet; another 6 feet long for taking depths from 6 to 11 feet, or, with the extension piece attached, to 16 feet; and a third one 11 feet long for taking depths from 11 to 21 feet, or, with the extension piece attached, to 26 feet. The movable or index rod in each has an arrow index traversing a decimal scale on the fixed rod. Greater depths may be taken by inserting into the ends of the index rods, an extension piece, provided with sockets for this purpose one or more joints of lift rods described below.

The fixed rod is graduated in feet (in red) and tenths and half-tenths (in black), and when the ends of the rods are well together the arrow on the index rod points to the figure indicating the constant length of the fixed rod, and as the index rod is moved up the arrow indicates the length from the upper end thereof to the lower end of the fixed rod. Bear in mind, however, that when you use any of the attachments referred to above you must add to the reading on the fixed rod the net length of the attachment used; e. g., if the 5-foot rod is extended to its limit, 11 feet, which is reached when the arrow on the index rod is fair with the upper end of the fixed rod, and the extension piece is attached, which is done by slipping the bands on the lower end of it over the upper end of the index rod until the upper edge of the upper band is fair with the upper end of the index rod, and by fastening (on the groove side of the index rod) with set screws in the said bands, the length will not be 11 feet, as shown by the reading, but 16 feet, the reading plus the increment due to the attachment (11 feet+5 feet). This increment may be further increased by inserting into the end of the extension piece one or more joints of lift rods, each of which is about 3.95 feet when adjusted.

At the station of the area to be measured in single-deck vessels the rod is to be placed on the ceiling, or floor beam or timber when no ceiling is present, alongside the keelson or line of the keel, perpendicular or square thereto; and also parallel to the middle longitudinal plane of the ship, and forced up firmly under the deck and fixed in such position by the set screws; from the depths thus found take one-third of the round or one-half of the pitch of beam to get the depth of the area.

The depth of an area taken as above is to be divided into the required number of equal parts. (See § 2.29 (d).) With the rod fixed in position as above, set off on it from its lower end one of these equal parts, or common interval between the breadths, using white or other colored chalk or material that will make a visible mark, which gives the position of the first breadth above the bottom breadth, and from this when the rod is taken down the positions of the remaining breadths are to be set off at the said common interval.

The positions of all the breadths being thus severally marked on the rod, it is then to be set up again and firmly fixed or held in position, and the breadths may be readily and correctly measured by means of the tape held at right angles across the rod at each of the positions marked thereon.

In measuring vessels with more than one deck, where the second deck from the bottom is the tonnage deck, it will be necessary to use two of these rods in combination, one directly over the other, one in the hold under the first deck, as directed for single-deck vessels, and the other in the space between this deck and the tonnage deck. In this combination the tonnage depth is found by adding together the two depths and the thickness of the deck between the rods and deducting from this combined depth one-third of the round or one-half pitch of beam; then proceed as before directed.

(c) A 2-foot rule with a hinge joint is required for taking the rake of the bow and stern and for other purposes.

(d) A carpenter's square will be found useful for setting the sliding rod perpendicular to the keelson.

(e) For taking the breadths in the hold which are beyond the reach of the measuring officers two lift rods will be needed, each about 8 feet long (made by joining two sections) one having a pulley at the end over which the tape may be drawn when the rods are held in position and the other an attachment for holding the ring at the end of the tape.

(f) For transferring the location of the stations or ordinates of the transverse sections from the deck to the keelson, and sometimes, for finding registered breadth, a plumb line and bob are needed.

(g) For measuring laden vessels for Panama or Suez Canal tonnage certificates, a girting galvanized chain of an approved make is required.

§ 2.14 *Stem.* A vessel's stem is to be described according to its contour; i. e., straight, raked, curved or square.

§ 2.15 *Stern.* Describe the stern according to its shape at the after end below the upper deck or line of same, as round, elliptical, square or sharp.

§ 2.16 *Masts.* In addition to what are commonly known as masts, spars set up at the center line of the bridging at the top of king-posts of certain vessels for signals and wireless antennae, etc., are to be considered as masts. The number of king-posts and derrick posts, etc., independent of the supported masts are to be separately stated after the number of said masts; e. g., "Two masts and eight king-posts," or as the case may be.

§ 2.17 *Ceiling, cargo battens, etc.*— (a) *Ceiling.* Ceiling hereafter referred to is considered the permanent planking fitted directly on the inboard side of the frames, or floors, or the top of the double bottom. The maximum allowance for ceiling is 3 inches on the bottom and 3 inches on each side. When ceiling is found to be less than 3 inches thick, allow the actual thickness thereof; that is take dimensions to the face of the ceiling so found. Depths and breadths shall not be decreased due to grounds supporting ceiling nor shall allowance be made for ceiling on the under side of deck beams.

(b) *False ceiling.* In small vessels with "false ceiling" in a portion of their cabins, in their holds, or forming a part of their seats or lockers, etc., therein,

and which stands off from their frames—that is, not fitted to them as ordinary ceiling—take the breadths through the said "false ceiling" to the inner faces of the vessel's frames, deducting therefrom the thickness of the "false ceiling" on each side. If, however, there is a ceiling fitted on the frames in addition to the "false ceiling," take the breadths to the ceiling on the frames, making no allowance for the "false ceiling."

(c) *Cargo battens, insulation.* This section applies to cargo battens (spar ceiling) and refrigeration insulation.

§ 2.18 *Register length.* (a) The length measured on the tonnage deck, from the fore part of the outer planking (where it is rabbeted) on the side of the stem of wooden vessels, or fore end of lap of outer plating of steel or iron vessels, to the after side of the main sternpost, shall be accounted the vessel's register length. (See Figures 2 and 3 (§ 2.65).)

(b) In the case of screw vessels with no sternpost, take the length to the forward side of the rudder-stock or line of same extended through the deck.

(c) The register length of scows and barges, with a square bow and stern sloping up from the bottom to the deck, and with neither stem nor sternpost, is to be taken on the deck from the extreme point of the hull at the bow to the extreme point of the hull at the stern; that is, the over-all length of the hull, not including guards or rubbing strakes, is to be considered the register length of such vessel.

§ 2.19 *Register breadth.* (a) A measure from the outboard face of the outer skin on one side to the same point opposite, taken at or below the upper deck and at the widest part of the hull is the register breadth. (See Figure 4 (§ 2.65).)

(b) A practical method for finding the register breadth is, to add twice the sum of the depth of the vessel's side frames and thickness of outer skin, plus an allowance for thickness of ceiling, insulation or cargo battens if fitted, to the greatest tonnage breadth.

§ 2.20 *Register depth.* (a) The register depth is taken at the middle of the tonnage length from the under side of the tonnage deck, or line of same, down to the top of the floors at the side of the keelson; or to the ordinary floor timbers or plates when fitted; or to the inner bottom plating (tank top) of a cellular double bottom; as the case may be, in a direction perpendicular to the keel.

(b) Should ceiling be fitted on the above mentioned bottom members, the register depth shall be measured to the top of same and to this dimension shall be added the height of grounds, battens or other type of support for the ceiling. (See Figures 4 and 5 (§ 2.65).)

(c) If the vessel is measured in parts, as explained later; the register depth is taken at one-half the tonnage length of the vessel.

§ 2.21 *Deck to the hull.* The uppermost complete deck, which extends from stem to stern and from side to side at all points of its length and below which there are no openings through the hull as required in shelter deck spaces and also having its hatchways or other openings provided with means for closing them against the action of the sea and weather upon the space below enclosed by the sides of the vessel, making the said space a fit place for the stowage of general cargo, is to be considered the upper deck to the hull.

§ 2.22 *Enumerating the decks.* In enumerating the number of decks, only those which are without such openings as exempt the spaces beneath from being included in the tonnage under the upper deck are to be considered. Other decks, if any, containing such openings as exempt the spaces beneath from inclusion in tonnage should be separately described after the number of decks proper; e. g., "Two decks and shelter deck," or as the case may be. Partial decks, forward or aft, such as orlop decks, are not considered as decks.

§ 2.23 *Register height.* If the vessel has three or more decks to the hull, then the height from the top of the tonnage deck planking and/or plating to the under side of the planking and/or plating of the uppermost deck shall be deemed the register height of the uppermost deck above the tonnage deck.

§ 2.24 *Round of beam.* (a) The round of beam (camber) is the perpendicular distance down from the crown of the under side of the tonnage-deck plank or plating at the center to a line stretched athwart the vessel from end to end of the top of the beam and is to be ascertained at every place where it is to be used in the measurement. (See Figures 6 and 16 (§ 2.65).)

(b) The round of beam of the tonnage-deck, which must be known before taking the tonnage length, as well as before measuring the depths of the tonnage sections, may be taken either at the under side of the deck by stretching a small line tightly from end to end at the top of the beam, which will show the round or camber of the beam at the center; or it may be taken, if more convenient, at the upper side of the deck by stretching a line tightly across, held at equal heights from the deck at each side of the vessel, so as just to touch the crown of the deck at the middle line; then the distance from the deck to the line at the vessel's sides gives the round of beam. (See Figure 6 (§ 2.65).) It is necessary to take the round of beam at each point of division of the length except when the vessel has a flat deck or one practically so. In lieu of the above methods, it may be ascertained on the basis of one-fourth of an inch to the foot of beam at each section in iron or steel vessels of the usual camber of beam. This method is more accurate and easier of application than the others.

(c) When the round of beam is .15' or less, it may be ignored.

§ 2.25 *Pitch of beam.* (a) In vessels whose tonnage deck has a pitch instead of a round from its side at the shell plating to its center, find the height of the pitch of the beam at each tonnage section. It may be done in any practical manner.

(b) The height of the pitch of the beam is the perpendicular distance from the apex at the under side of the tonnage deck plank or plating at the center of the deck down to a straight line from end to end of the top of the beam. (See Figure 7 (§ 2.65).)

§ 2.26 *Tonnage deck.* (a) The tonnage deck is the upper deck to the hull in vessels having not more than two decks, and the second deck from the keel in vessels having more than two decks.

(b) If the tonnage deck consists of several partial decks extending with breaks from stem to stern, and if the partial decks are at different heights, the line of the lowest deck will be taken as the tonnage deck, and the headroom above such line under the higher deck or decks will be measured as a break.

(c) Engine and boiler casings, peak tanks and cofferdams are not considered as breaking the continuity of a deck. (See Figures 8 and 9 (§ 2.65).)

§ 2.27 *Tonnage length.* The tonnage length is the longitudinal distance on the under side of the tonnage deck, or line of same from a point where the line of the inboard faces of the side frames, or ceiling thereon if any, intersects the side of the stem, to a point aft on the inboard face of the stern timber or cant frame, or ceiling if fitted thereon. (See Figures 10 and 11 (§ 2.65).)

§ 2.28 *Depth of a transverse section—*(a) *Method for finding.* The depth of a tonnage section is a measurement taken at its proper point of division of the tonnage length, from a point at a distance below the tonnage deck equal to one-third of the round or one-half of the pitch of the beam, down to the upper side of the floor timbers or floor plates; or bottom floors alongside the keelson; or longitudinals; or the tank top of a cellular double bottom, as the case may be.

(b) *Ceiling.* If ceiling is fitted on the bottom floor members, depths of transverse sections terminate on the upper face of the ceiling of average thickness. (See Figure 4 (§ 2.65).) For tonnage depths where ceiling is fitted on tank top, see Figure 5 (§ 2.65)

(c) *Raised platform.* In vessels with a raised platform in the bottom and no ceiling fitted on the bottom frame members, the depths are to be taken down through the platform to the upper side of the floor timbers or floor plates as described above, deducting therefrom the thickness of the ceiling of the platform in question.

(d) *Depths in way of interruptions to tonnage deck.* Should depths of transverse sections fall where the tonnage deck is interrupted, due to a break, hatches, etc., then depths are taken from the line of continuation of the tonnage deck.

(e) *Rise of double bottom.* In vessels having a double bottom the tank top of which, in way of tonnage sections, rises from the center line to the wings, the tonnage depth of each section will terminate at one-half height of the dead rise. (See Figure 12 (§ 2.65).)

(f) *Fall of double bottom.* In vessels having a double bottom the tank top of which, in way of tonnage sections, has a straight fall from the center line to the wings the tonnage depth of each section will terminate at one-half height of fall. (See Figure 13 (§ 2.65).)

§ 2.29 *Tonnage depth*—(a) *Location.* The depth generally referred to as "the tonnage depth" is located at the middle point of division of the tonnage length and is found in a manner similar to the other depths of transverse sections.

(b) *Tonnage depth in a vessel measured in parts.* Should a vessel be required to be measured in parts, and each part measured as a separate unit; then a tonnage depth shall be found for each part or unit at one-half its tonnage length. (See Figure 14 (§ 2.65).)

(c) *Tonnage depth is the first depth measured.* The tonnage depth governs the number of parts into which it and all the remaining depths of the part in which said depth is located, is divided.

(d) *Divisions of tonnage depth.* If the tonnage depth at the middle of the tonnage length of the vessel or part of same does not exceed 16 feet, divide each depth into 4 equal parts; but if the depth at the middle of said length exceeds 16 feet, divide each depth into 6 equal parts.

(e) *Intervals.* The common intervals between the points of division of depths, also one-third common intervals are to be carried to the nearest hundredth of a foot.

(f) *Purpose for dividing tonnage depths.* Depths are divided to indicate points at which tonnage breadths are to be measured.

§ 2.30 *Tonnage breadths*—(a) *Breadths.* An inside horizontal breadth is to be measured at each point of division of the depth marked on the sliding rods placed in position as directed in § 2.13 (b) and also at the upper and lower points of the depth. Extend each measurement to the inboard face of the ordinary frames, or line of same, or inboard face of ceiling, or battens, or insulation of average thickness if fitted. (See Figure 15 (§ 2.65).) Care must be taken that the sections shall be parallel to each other and at right angles to the axis of the vessel.

(b) *Upper breadth.* In finding the upper breadth of each transverse section make no allowance for the excess of the deck-beam shelves, etc., over the permissible thickness of ceiling, if any, thereunder.

Referring to Figure 16 (§ 2.65) observe that after the deck is laid the upper breadth (represented by the line U. B.) passes through the deck on each side. Hence, it is impossible to take it at its true position. In such cases take it on the deck, allowing within the extended line of frames the thickness of the ceiling if any on the frames under deck, as shown by line T. B. in the figure.

Owing to deck-beam shelves or other obstructions, it can be more conveniently and accurately taken here than under the deck, and, besides it will be only a few inches from its true position. In vessels which have upright sides the said breadth so taken will be correct, but in the case of vessels with inclining sides the necessary allowance must be made for the deviation of the sides from the upright in the few inches above the true position of the said breadth.

(c) *Bottom breadths.* Bottom breadths are taken only so far as the flat of the floor extends. (See B. B. Figures 4 and 5; Figures 15 and B. B. Figures 17 and 18 (§ 2.65).)

When bottom frames rise immediately from the keelson, or combined keel and keelson, and bona fide floor timbers or floor plates are not fitted, bottom breadths are equal to the breadth of keelson, or combined keel and keelson as the case may be. (See B. B. Figure 19 (§ 2.65).)

The bottom breadths of transverse sections of vessels of longitudinal construction falling in the hold where there is no double bottom and where there is a dead rise of the bottom out to the sides of the vessel may be considered to be equal to that part of the bottom plating not affected by dead rise.

(d) *Bottom breadths in case of rise or fall of double bottom.* Bottom breadths falling in way of a double bottom the top of which rises or falls from the midship longitudinal plane to the wings are measured from and to the inboard end of the frame brackets (or ceiling thereon if fitted), connecting the double bottom with the frames. (See B. B. Figures 12 and 13 (§ 2.65).)

§ 2.31 *Measuring the tonnage length.* (a) The cubic capacity of the space below the tonnage deck is determined by use of the tonnage length together with the areas of a prescribed number of transverse sections as hereinafter described.

(b) To determine the extreme points of the tonnage length as indicated by § 2.27 and T. L. in Figures 10 and 11 (§ 2.65) observe the following:

(1) *Vertical bow and stern.* In vessels having a vertical bow, also a vertical stern, both above and below the tonnage deck, measure horizontally the depth of frames, also the thickness of ceiling thereon if any, at the extreme forward and after ends immediately under the tonnage deck. Mark these measurements on the upper side of the tonnage deck, from the outer shell and in the direction in which the frames were measured. Then draw through the points thus obtained, lines parallel to the shell. The forward and after points of intersection of these lines indicate the points from and to which the tonnage length is to be measured.

(2) *Raked bow or stern.* In the case of vessels having a raked bow or stern at the level of the tonnage deck, the extreme points of the tonnage length are, when practicable, to be determined at the under side of the tonnage deck. The distance from these points to a hatch coaming, bulkhead, etc., should be measured and transferred to the upper side of the tonnage deck as indicated in Figure 20 (§ 2.65)

(c) Should it be impracticable to determine the extreme points of the tonnage length at the under side of the tonnage deck, and should the thickness of this deck be considerable, as in the case of a wooden deck, the rake of the bow or stern within the thickness of the deck is to be taken into account. This is done after having first proceeded as indicated in paragraph (b) (1) of this section by measuring the thickness of the tonnage deck and determining by means of a hinged rule, or any other instrument for finding angles under similar circumstances, the angle of the rake which the bow or the stern forms with the tonnage deck. Transfer thereafter this angle on the deck by drawing the lines A, B, C shown in Figure 21 (§ 2.65), A, B, represents the upper side of tonnage deck and B, C, the after side of the stem or the inside of the shell at the stern, as the case may be. The perpendicular B, D, represents the thickness of the tonnage deck. The points T, L, in Figures 10 and 11 (§ 2.65) marked on the upper side of the tonnage deck are then to be moved forward at the stern or aft at the stem, as the case may be, for a distance equal to D, E, representing the rake within the thickness of the deck.

(d) It should be borne in mind that the condition for applying the method of setting out the angles on the upper side of the tonnage deck is that the stem or stern have the same angle of rake above and immediately below the tonnage deck. If the angle of rake at or immediately below the tonnage deck is a different one, then this last angle must be used.

(e) Should a vessel as referred to in paragraph (b) (2) of this section have a square bow or stern, it will be necessary to make a correction for camber where such exists. This is done by increasing the thickness of the deck B, D, in Figure 21 (§ 2.65) by one-third of the round or one-half of the pitch of beam at the extreme point of the tonnage length.

§ 2.32 *Divisions of tonnage length.* (a) The tonnage length is to be divided into an even number of equal parts as required by the following table, according to the class in such table to which the vessel belongs:

Class	Tonnage length	Divisions
1	50 ft. or less	6
2	Above 50 ft., not exceeding 100 ft.	8
3	Above 100 ft., not exceeding 150 ft.	10
4	Above 150 ft., not exceeding 200 ft.	12
5	Above 200 ft., not exceeding 250 ft.	14
6	Above 250 ft.	16

(b) The points of division of the tonnage length, also each end of the length indicate the common intervals at which the depth is measured.

Intervals and one-third intervals are to be carried to the nearest thousandth of a foot.

§ 2.33 *Transfer of location of sections to keelson.* (a) The tonnage length having been ascertained and the number of sections to be measured and the interval between them determined, a line is then to be extended down the main hatchway, at the middle line of the vessel, in a perpendicular direction.

(b) The distance of the midship tonnage section is then to be set off from this line in the same direction on the keelson, which gives the position of the midship section on the keelson, and the positions of the other sections are ob-

tained on the keelson by setting off forward and abaft the midship section the common interval between sections as already determined.

The position of the midship tonnage section may be determined by any other practical means.

§ 2.34 *Transverse areas, rule for finding.* (a) Assuming the tonnage length exceeds 250 feet requiring that it be divided into 16 equal parts, and the tonnage depth at the middle of the tonnage length exceeds 16 feet, requiring it to be divided into 6 equal parts:

(b) Measure the depth at each of the 15 points of division of the length as required, also at the extreme forward point (Section 1) and at the extreme after point (Section 17) of the length. (See Figure 22 (§ 2.65).)

(c) The extreme points of the length at the bow and stern, though described as being the positions of the first and last areas, do not in vessels of usual form yield any area for practical purposes. Therefore, in the computation for tonnage, where the first and last sections yield no areas, a cipher must be employed in their places. In vessels of unusual form, as, for instance, in barges or other craft in which the bow and stern are upright, with breadth also at those places, sections at the extreme points of the length will yield areas; in which cases such areas must be measured and used in the computation.

(d) Then measure the inside horizontal breadth at each of the five points of division of the depth, also at the upper and lower points of the depth.

(e) Number the breadths from above, numbering the upper breadth 1 and so on down to the lowest or 7th.

(f) Multiply the second, fourth and sixth by 4, and the odd numbered breadths by 2, except the first and last which are multiplied by 1.

(g) Add these products together.

(h) Multiply the sum thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area.

(i) This process will be repeated for every section.

(j) Having thus ascertained the transverse area at each point of divison of the length of the vessel, also at each end of the length if they yield areas, as required above, proceed to ascertain the register tonnage of the vessel in the following manner:

(k) Number the areas successively 1, 2, 3, etc., No. 1 being at the extreme limit of the length at the bow and the last number at the extreme limit of the length at the stern.

(l) Then multiply the second and every even numbered area by 4 and the third and every odd numbered area by 2, except the first and last which are multiplied by 1.

(m) Add these products together and multiply the sum thus obtained by one-third of the common interval between the areas, and the product will be the contents in cubic feet of the spaces under the tonnage deck.

(n) Divide this product by 100, and the quotient, being the tonnage under the tonnage deck shall be deemed the register tonnage of the vessel, subject to the additions hereinafter mentioned.

(o) In every case when finding the capacity under tonnage deck, or a part thereof; whether the length be divided according to the table into 6 or 16 parts, as in classes 1 and 6, or in 2 or 4 parts as provided for in § 2.35 (a) and the depths into 4 or 6 parts, thus requiring 5 or 7 breadths respectively to be taken; the above formula shall be used; i. e., even numbered breadths shall be multiplied by 4, and odd numbered ones by 2 except the first and last which are multiplied by 1. Similarly when running areas through the multipliers, the even numbered ones shall be multiplied by 4 and odd numbered ones by 2, except the first and last, which are multiplied by 1.

§ 2.35 *Breaks in double bottom.* (a) The tonnage length of a vessel having a break exceeding one-half of a foot in height, or a number of such breaks in the line of her double bottom, is to be divided into longitudinal parts establishing transverse vertical planes at such breaks. The length of each such part so found is then to be divided into a number of equal parts according to the class in the above table to which it belongs, just as if it were the length of a separate vessel: *Provided,* That such parts as are 20 feet or under in length may be divided into 2 equal parts, and those above 20 feet and not exceeding 40 feet in length may be divided into 4 equal parts instead of into 6, as indicated in the table in § 2.32 (a)

(b) When a vessel is required to be measured in parts, and each part measured as a separate vessel, the sum of the tonnages of the several parts is the capacity under the tonnage deck.

§ 2.36 *Vessels having side tanks may be measured in parts.* Vessels having side tanks extending above the floor line or double bottom, and through which tanks tonnage breadths normally pass, may be measured in parts. The length of the first part will extend aft to the line of the forward bulkheads of the side tanks. See Figures 23 and 24 (§ 2.65) The length of the second part is equal to the length of side tanks, and the depths extend, at proper intervals under the tonnage deck, down to the athwartship lines forming continuation of the side tank tops. See Figure 25 (§ 2.65) The third length immediately below the second part should equal that of the second. The breadths are taken between the inboard faces of the side tank bulkheads, and depths from athwartship lines forming continuation of the side tank tops. The fourth part will extend from a line athwart the after bulkhead of side tanks to a point aft where tonnage lengths usually terminate. Measure separately a side tank, the tonnage of which is to be doubled, assuming both tanks are identical as they usually are; then the sum of the tonnage of the several parts thus found shall be deemed the capacity under tonnage deck.

§ 2.37 *Outside shaft tunnel.* To find the under deck tonnage of a vessel having an outside shaft tunnel, the shape of a section of which is usually the segment of a circle, measure the portion of the tunnel space included by the process of measurement in the under deck tonnage and subtract it therefrom. See Figure 26 § 2.65)

Divide the length of such tunnel into a convenient number of equal parts, then find an area at the points of division of the length, also at the ends, if the end ones yield an area, by the following formula.

$$\text{AREA} = \frac{2h}{3}(c)$$

c=chord of the segment of a circle.
h=height of segment (from chord to crown of arc).

Having found the required areas, proceed in the manner provided for using the areas as ordinates in determining under deck tonnage, finding the sum of even numbered areas multiplied by 4; the odd numbered areas multiplied by 2, except the first and last which are multiplied by 1. Then multiply the sum so found by one-third common interval between sections. The result divided by 100 gives the tonnage of the tunnel to be subtracted from the under deck tonnage found by ignoring initially the projection of the crown of the tunnel into the hold.

§ 2.38 *Square end vessels having head blocks.* (a) In the case of vessels with square ends having head blocks extending from the deck to the bottom longitudinals on the rake of the bottom, the termini of the tonnage length will be at the inboard face of said block, and the area of the first and last section will equal the area of the inboard face of said block. See Figure 27 (§ 2.65)

(b) Should the head blocks extend inboard of the inboard face of the end frames, (see Figures 28 and 29), or should the head plates be excessive, (see Figure 30 (§ 2.65)) consider the termini of the tonnage length to be at points inboard from the ends of the vessel, equal in distance to the thickness of the shell plating, depth of side frame, plus ceiling if fitted. Rubbing strakes to be excluded.

§ 2.39 *Between decks.* (a) If the vessel has a third deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:

(b) Measure the inside length of the space at the middle of its height, from the ceiling at the side of the stem to the ceiling on the midship stern timber; or, if there is no ceiling take the length from a point forward where a continuation of the lines of inboard faces of the side frames intersect the center line of the vessel aft to the inboard face of the midship stern timber. Divide the length into the same number of equal parts into which the length of the tonnage deck is divided.

(c) Measure also at the middle of its height the inside breadth of the space at each of the points of division of the length, the breadth at the stem, and the breadth at the stern (if round, as in the case of poops of similar form) Number the breadths successively 1, 2, 3, etc., commencing at the stem.

(d) Multiply the second and all other even numbered breadths by 4 and the odd-numbered breadths by 2, except the

first and last which are multiplied by 1. Multiply the sum of these products by one-third of the common interval between the points at which the breadths were taken; the result will give, in superficial feet, the horizontal area at the mean height of such space.

(e) Multiply the mean horizontal area by the average height taken between the planks of the two decks and the product will be the cubical contents of the space; which, divided by 100 shall be deemed the tonnage to be included among the items comprising the vessel's gross tonnage.

(f) If the vessel has more than three decks, the tonnage of each of the between decks above the tonnage deck shall be severally ascertained in the manner above described and shall be added as items comprising the vessel's gross tonnage.

§ 2.40 *Superstructures*—(a) *Permanent erections.* Permanent erections; i. e., forecastle, bridge, poop, break, etc., on or above the upper deck, shall be measured tier by tier, and, exclusive of closed-in exemptible spaces, and open spaces, shall be included in the gross tonnage.

(b) *Length.* Measure at half height the mean length of such a space along its center longitudinal line, from and to the line of the inboard faces of the frames, or stiffeners, or ceiling if fitted. Divide the length into an even number of equal parts the common intervals of which shall be most nearly equal to that of the parts into which the tonnage length was divided. (See Figure 31 (§ 265).)

(c) *Breadths.* Measure at the middle of its height the inside breadths; namely, one at each end and one at each point of division of the length, numbering them successively 1, 2, 3, etc., the number one breadth being at the extreme forward end of the length.

(d) *Round-end erections.* If the after end of an ordinary poop or a house is in the form of a continuous arc of a curve, its breadth at the extreme after end of its length shall be one-half of the preceding breadth. If the after end of such a poop or house is in the form of an arc of a curve which is broken at its extreme after end by a decided flat, its breadth at the extreme after end of its length shall be two-thirds of the preceding breadth. See figures 32 and 33.

(e) *Round-end erections.* If the forward end of a house is in the form of a continuous arc of a curve, its breadth at the extreme forward end of its length shall be one-half of the succeeding breadth. If the forward end of such a house is in the form of an arc of a curve which is broken at its extreme forward end by a decided flat, its breadth at the extreme forward end of its length shall be two-thirds of the succeeding breadth.

(f) *Computation.* Multiply the even numbered breadths by 4, and the odd numbered ones by 2, except the first and last which are multiplied by 1.

(g) *Horizontal area.* Multiply the sum of the products by one-third of the common interval between the points at which the breadths were taken; the result will give the horizontal area at the mean height of such space.

(h) *Height.* Multiply the mean horizontal area by the average height measured between the decks, or the extended line of same. (See B and C in Figure 9 (§ 2.65).) Divide the product by 100 and the quotient shall be deemed the tonnage of such space.

(i) *Superstructures having breaks.* Superstructures having breaks in their covering deck or side lines shall be measured in parts. (See Figure 34 (§ 2.65).)

(j) *Superstructures on small craft.* Superstructures on small craft shall be measured similar to the method for finding the gross tonnage of larger structures. When a superstructure is erected over a cut-away portion of the tonnage deck the height of such superstructure is to be taken from the under side of its covering deck to a line of continuation of the tonnage deck. Should there be no camber to the tonnage deck, allow for same, in the covering deck of the erection if it exceeds .15' After subtracting the tonnage of exemptible spaces in the superstructure, the remainder shall be listed under a name describing the erection, among the items comprising the gross tonnage.

(k) *Height of a turtle back.* The mean height of a superstructure referred to as a "turtle back" may be found by taking a height at each point of division of its length, at the after terminal of its length and at one-third common interval abaft the forward end of the length. The sum of the heights so taken, divided by the number of heights, will give a sufficiently accurate mean height.

§ 2.41 *Hatchways.* The cubical contents of the hatchways shall be obtained by multiplying the length and breadth together and the product by the mean depth taken from the top of the beam to the under side of the hatch cover. From the aggregate tonnage of the hatchways there shall be deducted one-half of 1 percent of the gross tonnage of the vessel exclusive of the tonnage of the hatchways, and the remainder only shall be added to the said gross tonnage as excess hatchways.

The hatchways referred to are the ones out in the open or in open spaces on the upper deck to the hull and on closed-in deck erections. Hatchways on between decks and on the deck of open erections are not to be measured and included in the aggregate of hatchways from which the statutory deduction is to be made. The total hatchways on between decks and on the portion of the decks within closed-in erections on the upper deck to the hull are automatically included in the between deck spaces and in the said erections by the process of measurement; and, of course, the hatchways on decks of open erections are not to be considered, serving as they do spaces not entering into the tonnage of the vessel.

§ 2.42 *Record of exempted spaces.* The tonnage measurement of all spaces on or above the upper deck that the measurer has not included in the gross tonnage of the vessel must be recorded in detail on Form 1410, "Tonnage admeasurement," which, when forwarded to the Bureau for examination and appropriate action must be accompanied by suitable plans or sketches drawn to scale, or a complete explanation for the proper consideration of the exemption of such spaces.

§ 2.43 *Enclosed spaces exempted from inclusion in gross tonnage.* The following closed-in spaces situated on or above the upper deck shall not be included in the gross tonnage provided they are reasonable in extent, adapted and used exclusively for the purposes outlined:

(a) *Companions.* Companions and bobby-hatches serving as a protection for companion-ways (stairways or ladderways) leading to spaces below, whether such spaces are exempted or not. (See a, b, c and 4 in Figure 35 (§ 2.65).)

(b) *Galleys.* Spaces fitted with ranges or ovens (bakeries), without regard to the category of the persons they serve.

(c) *Light and air.* Spaces forming part of the propelling machinery space, or serving for the admission of light and air to such machinery shall be exempt under the heading of light and air. When no part of the propelling machinery extends below the upper deck, the space occupied by same is exemptible in its entirety together with such fuel bunkers as are located on or above the upper deck. Where fuel bunkers or tanks are located wholly or in part below the upper deck the space so occupied below the upper deck is not deductible.

(d) *Light and air on small boats.* A house of reasonable size, into which the propelling machinery projects above the deck line, or a similar house used exclusively for light and air over such machinery on small boats is exempted, in its entirety, as light and air.

A compartment of reasonable size, bulkheaded off and similarly used, located in a house serving other purposes is likewise so treated.

When propelling machinery and/or light and air space, not bulkheaded off, is in a house serving other purposes, the actual length and breadth of the engine plus 2 feet each side and each end for working space, if such space is available, projecting up into the house becomes the length and breadth of exempted light and air, exclusive of such part as may be decked over and available for other purposes.

If bunks, galley, supplies, etc., are located in the hull abreast the engine and under a house open to same, as described in preceding paragraph, and the 2-foot allowance for working space on each side of the engine base, overlaps working space at galley, or as the case may be, allow one-half the actual breadth on each side the engine, which breadths plus the actual engine breadth projecting up into the house becomes the permissible breadth of light and air exemption.

(e) *Machinery spaces.* Spaces occupied by machinery other than propelling machinery.

The spaces occupied by dredging machinery on the upper deck of dredging vessels which are not self propelled but which are required to be documented are to be exempted. No allowance is to be

made for spaces occupied by such machinery below the upper deck.

(f) *Skylights.* Skylights and domes affording ventilation and light to the erection thereunder, except skylights over propelling machinery. None of the space below the covering deck of such erection shall be exempted from inclusion in tonnage unless an opening is left in the deck of the superstructure immediately under such skylight or dome to give ventilation and light to spaces below such deck line. See exempted skylight and a, b, c and d in Figure 36 (§ 2.65) This additional exemption is to be approved by the Director, and the request for such approval must be accompanied by a blueprint or sketch of said space. For treatment of skylights over propelling machinery see paragraph (c)

(g) *Special exempted water ballast spaces.* Any space other than the double-bottom space adapted only for water ballast, certified by the collector not to be available for the carriage of cargo, stores, supplies, or fuel, shall be deducted from the gross tonnage as measured to get gross register tonnage.

Adaptation for water ballast consists of having the space or spaces properly constructed and tested as ballast tanks; that the pumps, pipes, etc., for filling and emptying such tanks must be of suitable dimensions, connected to the ballast system, and completely independent of the cargo, fuel oil, feed or domestic water pumping apparatus. Access shall be only through oval or circular manholes, whose greatest diameter must not exceed 2 feet in the water-tight deck. Where a hatch exists over a space now to be used for the carriage of water ballast, plating shall be fitted and riveted or welded to form a watertight cover and a manhole as above described may be fitted in this cover plate. Such manholes except when fitted on the weather deck may be provided with a coaming not exceeding 6 inches in height. If these spaces are found being used for purposes other than water ballast, they are to be added to the gross tonnage of the vessel, and so included until such changes have been made as will definitely preclude their use for purposes other than for water ballast.

(h) *Water closets.* Any public room or compartment, if of reasonable size, fitted with hopper or hoppers, is, for admeasurement purposes, a water closet. This definition includes a room or a compartment designated as a toilet, fitted with urinal, or urinals, shower bath or shower baths, in addition to the hopper or hoppers. A crew W C., is considered public if it serves more-than one member of the crew.

(i) *Wheelhouse.* The space for sheltering the man or men at the wheel. If the space is a combined wheelhouse and chart room, only such space as is necessary for the proper steering of the vessel shall be exempted. Should the space be partly above and partly below the upper deck, such part above the line of continuation of said deck is exemptible.

§ 2.44 *Passenger cabins.* Passenger cabins and staterooms immediately on the upper deck to the hull, permanently "closed-in" and fitted up for permanent use of passengers, are to be included in the gross tonnage. They will be exempted only when they have no berthing accommodations and have only temporary arrangements to protect passengers on short voyages from rain and the shipment of seas, constituting sheltered spaces under cover and open to the weather; that is, not enclosed.

Cabins and staterooms when assigned for use of passengers only, constructed entirely above the first deck which is not a complete deck to the hull, (see § 2.21) may be exempted from inclusion in tonnage. In the case of Army transports, colliers, supply ships, hospital ships, etc., the term "passengers" shall include all officers, enlisted men, and other persons who are not assigned to ship's duties and not entered on the ship's articles, and no deductions for spaces occupied by such persons shall be made, nor are cabins and staterooms occupied by them when situated on a deck not a deck to the hull to be included in gross tonnage.

For admeasurement purposes a cabin is defined as an apartment of a vessel, or the portion of the apartment that is assigned for the exclusive use of passengers. A cabin may consist of staterooms, bathrooms, toilets, libraries, writing rooms, lounges, dining rooms, saloons, smoking rooms, play rooms, etc., individually or collectively. The following spaces,—smoking room, lounge, foyer, library and similar public spaces, with or without a stateroom,—would, for instance be considered cabins. In short, any passenger stateroom or public space reserved entirely for the use of passengers is to be considered as coming under the meaning of the word "cabin"

A passenger stateroom is defined as an apartment, or one of the units of an apartment on a vessel, intended primarily to afford sleeping and/or other accommodations for passengers traveling alone or together.

§ 2.45 *Open superstructures on or above the upper deck*—(a) *No addition to gross tonnage.* Nothing shall be added to the gross tonnage for any sheltered space on or above the upper deck which is under cover and open to the weather that is, not enclosed.

(b) *Determination as to inclusion in gross tonnage.* In deciding whether or not superstructures are permanent closed-in spaces and should be included in tonnage, the measurer should have regard to the character and structural condition of such erections.

(c) *Tonnage openings.* A forecastle, bridge, poop, or any other permanent superstructure on or above the upper deck to the hull, with one or more openings in its sides or ends, not fitted with doors or other permanently attached means (except as provided for below) of closing them, shall be exempted from inclusion in gross tonnage if the opening or openings are in conformity with the following provisions:

(1) *Two 3 x 4 foot tonnage openings.* When there are in one of the end bulkheads, two tonnage openings, each 3 feet wide by 4 feet high in the clear, one on each side of the center line of the end bulkhead.

(2) *One 4 x 5 foot tonnage opening.* When there is in one of the end bulkheads, as near as is practicable t the center line of the space, one tonnage opening at least 4 feet wide by 5 feet high in the clear, or its equivalent. An equivalent opening is considered to be one of at least 20 square feet in the clear, resulting from a breadth in excess of 4 feet and a height of not less than 3 feet. In such cases the owner's application for exemption and also a sketch of the space drawn to scale must be forwarded to the Director for examination, and exemption must not be allowed without the Bureau's approval.

(d) *Intermediate bulkheads.* If the space is subdivided by intermediate bulkheads, such bulkheads shall have an opening or openings of the same dimensions as prescribed above.

(e) *Coamings.* If coamings are fitted to tonnage openings, their height must not exceed 2 feet at any part.

(f) *Permissible temporary closures for exterior bulkhead tonnage openings.* Tonnage openings prescribed for the above-mentioned superstructures may be temporarily closed by shifting boards dropped into channel sections at the sides of such openings, or by plates or boards held in place by hook bolts, spaced not less than 1 foot apart, fitting over the stiffener bar at the sides, top and bottom, of such openings, or by a plate or boards held in place by bolts and cross pieces so arranged as not to be held in place by cleats or other attachments to, or bolts through the bulkhead. (See Figures 37 to 43 inclusive (§ 2.65).) Cover plates, etc., must fay against the bulkheads.

(g) *Battening, gaskets, etc.* In no case is the use of battening, caulking, or gaskets of any material permitted.

(h) *Permanent fixtures.* Cleats, stud bolts, hinges attached to, or bolts in bulkheads at the edges of tonnage openings are prohibited as they are considered to be part of the means, in conjunction with the plate or boards, of closing the tonnage opening.

(i) *Closures for interior bulkhead tonnage openings.* The same temporary means of closing, except by plates, the tonnage openings in interior bulkheads are permitted.

(j) *Enclosure within an open space.* An enclosure within an exempted space must be treated according to its use.

§ 2.46 *Open shelter deck space.* (a) No space between the upper and shelter decks of a vessel shall be exempted from inclusion in gross tonnage as open shelter deck space unless there is in that shelter deck a permanent middle-line tonnage opening which, except as provided in this paragraph, is at least 4 feet long in the clear and at least as wide, in the clear, as the after cargo hatch on that deck. If any such opening is less than the minimum size in the clear specified in this paragraph solely because one or more corners of that opening are rounded, that space shall be exempted, upon compliance with all applicable provisions of this section, in any case in which the radius of curvature of each such corner is not greater than 9 inches, or in any case in which a greater radius of curvature is required in writing by the United States Coast Guard or by a recognized classification society. In the

latter case, a copy of that written requirement shall be filed in the office of the collector of customs by whom the vessel is admeasured.

(b) *Position of middle line tonnage opening.* The distance between the after edge of this tonnage opening and the aft side of the sternposts must not be less than one-twentieth the register length of the vessel, or if the tonnage opening is forward, its fore side must not be less than one-fifth the register length of the vessel from the stem.

(c) *Coamings.* The coamings of the middle line tonnage opening must not exceed 12 inches extreme mean height above the deck, including the beading, etc., at the top for confining the hatch covers. If any such opening is guarded by rails or stanchions they shall be so arranged that they may not be used to secure or assist in securing a cover over that opening.

(d) *Cover.* When portable wood covers are fitted they may be held in place by lashings fitted to the under side of the covers; lashings may be of hemp, manila or other similar material.

When a metal cover is used, it may be held in place by hook bolts spaced not less than 18 inches apart, passing through the cover plate and hooked over angle stiffeners or flanges fitted on the outside of the coamings; i. e., the bolts must not pass through the stiffeners or flanges on the coaming, nor must there be any other attachments on the coaming for fastening the cover.

(e) *Opening not to be enclosed.* The middle line tonnage opening in a shelter deck must not be within a superstructure of any type.

(f) *Tonnage openings in shelter deck space.* When the permanent deck opening is situated aft, there must be at least two openings, each 3 feet wide by 4 feet high in the clear, in each of the transverse bulkheads within the shelter deck space forward of said deck opening; or should the deck opening be forward, the same requirements apply to transverse bulkheads abaft such forward deck opening.

(g) *Coamings.* Coamings, if fitted, must not exceed 2 feet in height at any part.

(h) *Temporary closure.* Excluding plates, the same temporary means of closing tonnage openings in the bulkheads of the well under the middle line tonnage opening in the shelter deck and in the intermediate bulkheads, if any, in the shelter deck space are permitted as described in § 2.45 (h)

(i) *Well under middle line tonnage opening.* The well under the middle line tonnage opening (in the shelter deck) must have a minimum length of 4 feet throughout its entire breadth and height, and shall be kept clear at all times.

(j) *Scuppers.* A scupper, having a 5-inch minimum inside diameter, fitted with a screw down non-return valve geared to and operated from the shelter deck, must be fitted on each side of the upper deck in way of the permanent middle line tonnage opening in the shelter deck. (See Figure 44 (§ 2.65).)

(k) *Means for closing.* All openings in the upper deck to the hull must be provided with proper means for closing and battening down.

(l) *Closed-in spaces.* Any closed-in space within an open shelter deck space shall be treated according to its usage.

§ 2.47 *An open structure on small craft.* A house on a small craft is considered open to the weather and exempted from inclusion in tonnage provided the after end of such house is entirely open, from the under side of its roof beam down to a coaming not exceeding 3 inches in height, if there be a coaming, otherwise to the deck or line of same; and open in an athwartship direction from and to the inboard face of the end side stiffeners. (See Figures 45 and 46 (§ 2.65).) Closed-in spaces within an open erection will be treated according to their usage.

Such an opening may be guarded by wire mesh screens and/or temporarily closed by canvas secured at the top and lashed down or buttoned in place at the sides and bottom.

§ 2.48 *Open vessels.* (a) In ascertaining the tonnage of open vessels the upper edge of the upper strake shall form the boundary line of measurement, and a tonnage depth shall be taken from a line athwart the upper edge of said strake, at each point of division and each end of the tonnage length.

(b) An open vessel is one of any length without a deck, or with only a partial deck or partial decks, the total length of which is less than one-half her tonnage length.

(c) Further, a vessel having a tonnage length of less than 50 feet and a partial deck of any length or a single full length deck, which, in either case, lies more than one-sixth of the midship depth below the line of the upper edge of the upper strake to the usual point in the hold for taking the register depth, shall, for admeasurement purposes, be deemed an open vessel.

§ 2.49 *Deductions from gross tonnage*—(a) *Ascertaining net tonnage.* To ascertain the net tonnage, the tonnage of the following spaces meeting certain requirements shall be deducted from the gross tonnage.

(b) No space shall be deducted unless it has been included previously in the vessel's gross tonnage; is reasonable in extent for the purpose to which it is appropriated; and is certified by marking as prescribed in paragraph (c) of this section showing that it is used exclusively for such purpose.

(c) The marking required by paragraph (b) of this section shall read: "Certified for the accommodation of Master," "Certified to accommodate____ seamen," "Certified for boatswain's stores," "Certified chart house," or "Certified W. C.," as the case may be. Certifications for other deductible spaces shall read: "Certified ____," inserting an appropriate designation of the space. The following abbreviations may be used: "Cert. Accom. Master," "Cert. Accom. ____ Seamen," "Cert. Boatswain's Stores," "Cert. Chart House," "Cert. W. C.," or "Cert. ____," inserting the space designation. The marking shall at all times be center-punched or otherwise cut at least one-eighth of an inch in metal, or carved or branded at least three-eighths of an inch in wood over the doorway on the inside of the deductible space. Roman letters and Arabic numerals of at least one-half of an inch in height shall be used and shall be readily legible at all times. If desired, the marking may be made on a plate of metal (but not of other material) permanently fastened in place by means of welding, riveting, or lock-type screws.

(d) *Crew spaces.* The tonnages of the spaces or compartments exclusively occupied by and appropriated to the use of the officers and crew of the vessel including:

Bathrooms. A bathroom is a compartment or a room containing (1) a bath tub, or (2) a bath tub and a water closet, or (3) a shower bath or showers without a water closet regardless of its location.
Clothes drying room.
Drinking water filtration or distilling plant below deck.
Hospital.
Crew mess rooms.
Officers' mess rooms.
Office of chief engineer.
Oil skin locker.
Pantry.
Recreation room.
Shower baths.
Sleeping rooms.
Smoking room.
Water closets, private. A private water closet is defined as one intended to serve not more than one member of the crew, whose stateroom or bedroom affords the only means of entrance thereto and is treated as part of the room served by it. Other water closets are considered to be public water closets for admeasurement purposes.
Water closets, public—below the upper deck.
Passageways and companionways serving the above spaces.

But none of these spaces when used by the passengers on a passenger vessel are to be deducted nor is the clerk's, purser's or paymaster's office deductible.

(e) *Nondeductible spaces on deductible passageway.* Lockers of less than 2 tons each, containing medicine, linen, mops, etc., for the free use of the crew; the ship's office, also spare rooms, not exceeding two in number and used as required by a pilot, customs officer, reserve engineer, a company official or employee shall not invalidate the deduction of a passageway serving as sole access to their location.

(f) *Master's cabin.* Any space exclusively for the use of the master. This space includes sleeping room, dressing room, bathroom, office and passageways serving the master's accommodations.

(g) *Measuring deductible spaces.* Deducted spaces, rectangular in shape, are to be measured by taking the product of the three dimensions, but when bounded by curved surfaces conforming to the sides of the vessel below the tonnage deck exceeding 15 feet in length, they are to be measured according to the formula on the back of Form 1410 for measuring peak tanks. When the space is less than 15 feet in length it may be measured by any practical method.

(h) *Platforms.* When there is a platform, not more than 1 foot above the top of the bottom frames, to give a flat sur-

face at the bottom of deductible spaces, and the space between the platform and said frames is not used for the stowage of gear, stores, etc., or for any other purpose, take depths of transverse sections to the top of the bottom frames and find areas as in the case of transverse sections for finding the tonnage below the tonnage deck. (See Figure 47 (§ 2.65).) P represents the platform 1 foot above the top of the bottom frames. A, B, and C are the positions of the sections. The forward section A, being sharp, yields no area.

When the platform is more than a foot above the bottom frames, then find the areas only of the portion of the sections above the platform. (See Figure 48 (§ 2.65).)

The depth of deducted spaces extending from the top to bottom of a deck erection may be taken between the same points as the depths used in finding the tonnage of the erection. In other words, if the erection was measured before the deck covering, if any, was laid and the ceiling or panneling, if any, overhead was fitted, and depths were taken from the underside of the covering planks or plating of the deck over as required by the law and regulations to the deck beneath, the deck covering and overhead ceiling are to be disregarded in obtaining depths of the various deducted spaces. In determining the number of men that may be berthed in a space the act of March 4, 1915, (38 Stat. 1165; 46 U. S. C. 660–1) is to govern.

(i) *Spaces in the between decks, etc.* Deducted spaces in the between decks or erections on or above the upper deck having curved sides are to be measured according to § 2.40.

§ 2.50 *Navigation spaces*—(a) *Spaces used exclusively for navigation.* Spaces used exclusively for maneuvering or navigating the ship shall be deducted from the gross tonnage to the extent of what is considered reasonable. When the steering gear, anchor gear, helm, etc., are situated within a room unnecessarily large for the purpose, or are not partitioned off at all, a 2 foot allowance on every side of the apparatus may be made for working space. The height to be allowed should, as a rule, be the mean height of the 'tween deck space.

(b) *Anchor gear* The spaces below, occupied by anchor gear, include the capstan, windlass, and chain locker. When the fore peak is used exclusively as the chain locker, it is to be measured in the manner prescribed for measuring fore peak tanks when used for water ballast.

(c) *Boatswain's stores.* Subject to the restrictions stated below, any space exclusively appropriated to and used for keeping the boatswain's stores may be deducted.

The allowance for boatswain's stores shall be 1 percent of the gross tonnage in vessels of 100 gross tons and over, but this allowance shall in no case exceed 100 tons. In the case of vessels of less than 100 gross tons this deduction shall not exceed 1 ton.

(d) *Chart room.* The space for keeping the charts, nautical instruments and for plotting the course. When the space is a combined wheel and chart room, such part as is not exempted as wheelhouse shall be deducted.

In small vessels requiring the use of navigation charts, and where the cabin or saloon is the only space available for filing or use of such charts, one-half of the cabin or saloon, may be allowed for this purpose provided the allowance does not exceed 1½ tons.

(e) *Donkey engine and boiler* The space occupied by a donkey engine and boiler, if situated within the boundary of the engine room or the casing above it, and if the donkey engine is used as an auxiliary in connection with the main machinery for propelling the vessel and this space forms part of the actual engine room it shall not be subject to a separate allowance.

When the donkey engine and/or boiler is in a house above the upper deck and not used in connection with the main propelling machinery as described above, the space thus occupied is an exemption and therefore must not be included in the gross tonnage of the vessel.

In all other cases the space occupied by the donkey engine and boiler, if same are connected with the main pumps (except cargo pumps) of the vessel, is to be allowed as a deduction from the gross tonnage, if reasonable in extent. It must be certified in the same manner as other deductible spaces.

(f) *Dynamo spaces.* The space or spaces when reasonable in extent, occupied by dynamos, switchboards and apparatus necessary for the operation of same, when located below the upper deck shall be deducted regardless of the service for which the dynamo or dynamos are used.

(g) *Pump room.* A pump room or space below the upper deck containing the pumps of the vessels which are used solely for handling ballast, feed water, water for cleansing purposes, and for freeing the ship of water entering her hold, etc., shall be deducted as pump room. A pump room or space below the upper deck containing pumps primarily used for handling cargo, as in the case of bulk-oil carriers, shall not be deducted. The portion of either of the above pump spaces above the upper deck is exemptible as machinery space.

(h) *Radio house.* The space set apart for sending and receiving wireless messages.

(i) *Storage of sails.* In the case of a vessel propelled wholly by sails, any space not exceeding 2½ percent of the gross tonnage of the vessel when such space is used exclusively for storage of sails.

§ 2.51 *Propelling machinery space*—(a) *Engine room must be measured.* Notwithstanding the ratable allowance for propelling power for which the act of March 2, 1895 (28 Stat. 741, 46 U. S. C. 77) provides, it is necessary to measure the engine room, regardless of size, in order to ascertain whether the allowance to be deducted for propelling power shall be regulated by a percentage of the gross tonnage or by the actual tonnage of the engine room ascertained by measurement.

(b) *Spaces included in engine room must be in gross tonnage.* No space shall be included in the tonnage of the engine room unless it has first been included in the vessel's gross tonnage.

(c) *Deductions from engine room.* Conversely the spaces occupied by cabins, storerooms, etc., and any space not used in connection with propelling the vessel but included in the tonnage of the engine room through process of measurement must be subtracted therefrom.

§ 2.52 *Spaces included in engine room.* The space occupied by the engine room is to be understood to include not only that occupied by the engine room itself but also the space occupied by the boiler room, together with the spaces strictly required for the working of the engines and boilers, and consisting of the following items:

(a) The crown or top of the main space of the actual engine room, from which the depths of the main space are to be taken, will either be at the under side of a deck, or, if the side bulkheads are sloping, at the point or height at which the slope terminates. (See Figures 49 and 50 (§ 2.65).)

(b) Space between the crown and the upper deck framed in for the machinery or for admission of light and air thereto.

(c) Space similarly framed in above the upper deck when permitted under paragraph (i) act of March 2, 1895 (28 Stat. 741, 46 U. S. C. 77)

(d) The shaft tunnel or tunnels and the thrust block recess.

(e) The trunked ladderway leading from the after end of the shaft tunnel to the deck, provided that it is no larger than is necessary for the purpose of access to and escape from the shaft tunnel. The part of an escape shaft above the upper deck line, also the companion sheltering the escape shaft is accorded the treatment of light and air space.

(f) When the fuel oil transfer pump is located in a separate space, this space, if reasonable in size, may be considered propelling machinery space provided said pump is not used for bunkering the vessel.

Should such pump perform the dual service of handling both ballast and transferring fuel oil to the settling tanks, one-half the space may be credited to propelling machinery space.

(g) Fuel oil settling tanks used solely for rendering crude oil fit for consumption in the main boilers are considered as part of the propelling machinery space provided such tanks are within the confines of same. If such tanks are situated elsewhere, the case must be referred to the Director for his decision.

The permissible allowance for settling tanks is based on a 4 days' supply under full steam, which allowance must not exceed 1 percent of the vessel's gross tonnage.

(h) The engineers' stores, and/or workshops are regarded as part of the engine room, up to three-quarters of 1 percent of the gross tonnage, if in the engine room, open to same, or separated therefrom only by a screen bulkhead and located below the upper deck.

§ 2.53 *Length of engine room.* As a rule, the length of the engine room extends from the bulkhead forward of the boilers to the one aft of the engines; but if these bulkheads limit a space considered excessive in length for the proper working of the boilers and engines,

then that length only which is requisite for containing and operating the boilers and machinery, is to be allowed, with the addition of such length as is necessary for the stoking or working of the fires when the furnaces are in a fore-and-aft direction.

No such additional length is, however, required when the boilers are placed with the furnaces athwartship. The clear central space allowed between the boilers when the stoking is athwartship should be sufficient for this purpose. The point to which the after boundary of the length of the engine room is to be measured should be such as to provide sufficient space for the safe operation of the engine.

The measurer should allow such length between the engines and boilers as may appear to him necessary for the safe working of the machinery.

§ 2.54 *Boilers and engine in same compartment.* The boilers and engine are considered to be in the same compartment when there is a transverse bulkhead, screen or otherwise, through which the boilers project into the engine space, and where there is only sufficient space between the boilers and engine for the safe working of the machinery.

§ 2.55 *Engine room measured in parts.* If the boilers and engine are entirely in separate rooms, or if there is a break or breaks in the bottom or side lines of the propelling machinery space resulting from a break or breaks in the double bottom or varying height of floors thereunder, or from side bunkers or other spaces not considered propelling machinery spaces, measure each room separately as a whole or in parts, according to the number of breaks in its bottom or side lines, and the sum of the several results shall be deemed to be the tonnage of the said spaces.

§ 2.56 *Rule for measuring engine room*—(a) *In hold amidships.* When the propelling machinery (boilers and engine) space is in the hold amidship, and without a break in its bottom or side lines, measure its length between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, not actually occupied by or required for the proper working of the machinery. Divide the length by 2 and measure 3 depths of the space, one at each end and one at the middle of the length, taking the depths from the crown, or line of same, to the ceiling on the bottom frames or floor timbers, or to the inner plating (tank top) of the double bottom in the case of a steel vessel. Measure also a breadth at each end and at the middle of the length, the said breadths to be taken at one-half their respective heights. Find the product of the length, mean breadth and mean depth, which product divide by 100 and the result shall be deemed the tonnage of the main space below the crown.

(b) *Spaces between the crown and upper deck.* Find the cubical contents of the space or spaces, if any, between the crown aforesaid and the upper deck, or line of same, which are framed in for the propelling machinery or admission of light and air thereto, by multiplying together the length, breadth and depth thereof. Divide the product by 100; add the quotient to the tonnage of the space below the crown and the result shall, subject to the provisions hereinafter contained, be deemed the tonnage of the space.

(c) *Engine room in after end.* When the propelling machinery space is located in the after end of the hold of a vessel and extends from side to side of same and has a continuous bottom line, divide its length into such an even number of parts as will give a common interval most nearly equal to that used in finding the tonnage of the hold in that part of the vessel; then proceed to find its contends by the use of areas of transverse sections taken at each end and at each point of division of its length. In other words, measure it by the same method as was used for finding the tonnage of that part of the hold in which it lies.

(d) *Shaft tunnel and thrust recess.* In the case of screw propelled vessels in which the top of the shaft tunnel is flat, the tonnage of such tunnel shall be ascertained by dividing the product of its length, breadth and depth by 100.

In like manner find the tonnage of the thrust recess or entrance to the shaft tunnel.

If the space abaft the shaft tunnel extends from side to side of the vessel, find its tonnage by using the formula for measuring peak tanks. (See Figures 47 and 48 (§ 2.65).)

(e) *Round top shaft tunnel.* When the top of the tunnel is practically semi-circular in shape, find the area of a transverse section in two parts; first the lower part from the bottom of the trunk up to where the curve begins by multiplying the breadth by the applicable height, and then the semicircular part by taking half the area of a circle whose diameter equals the breadth of the tunnel. Multiply the sum of the two areas by the length and divide the product by 100. See Figure 51 (§ 2.65) wherein B and H equal the breadth and height respectively of the lower part, and R equals the radius of the semicircular top.

(f) *Shaft space and thrust recess not cased.* When the shaft is not enclosed by a tunnel, the following rules should be observed in the case of a vessel with a single screw. The thrust-block space should be of such length and breadth as will permit of the proper care of the thrust-block and the height should not exceed 7 feet. The shaft space allowed should be of the dimensions of the usual tunnel suitable for the vessel and the height of this space should not exceed 6 feet.

When the vessel is a twin screw and the space aft of the engines is open from side to side, the space should not be included in the engine room measurement for a greater height than 6 feet mean, and any space therein appropriated for stores or for any purposes other than the propelling machinery should be subtracted from the space to be included in the engine room.

§ 2.57 *Engine room in small boats*—(a) *When not bulkheaded off.* In the case of a motorboat not having an engine room bulkheaded off from the rest of the hold, allow as engine space the space occupied by the engine and sufficient space on each side and end of it—say, about 2 feet—to permit the operator to handle it safely and efficiently. If sufficient space does not exist for such allowance then allow whatever space there is. Fuel tanks are not to be included in the said engine space.

(b) *When bulkheaded off.* If the engine room is bulkheaded off from the rest of the hold and is larger than is strictly required for safe and efficient handling of the engine, limit the engine space according to the said requirements and as indicated in (a) above.

(c) *Engine on a bed.* If the engine sits on a bed located on the vessel's bottom timbers, take depths when measuring the propelling machinery space from the under side of the deck, or line of same down to the top of the bottom frames or floor timbers as the case may be, or to the ceiling thereon when fitted.

(d) *Boxed-in engine.* When the portion of the engine extending above a cockpit platform is boxed in such boxed-in portion is considered to be all of the space available for the installation and operation of the engine above the line of said platform in that part of the vessel.

In the case of a wholly boxed-in engine in the hold of a motorboat, the tonnage of the boxed-in space, plus the shaft, engine auxiliaries, etc., that may be outside the boxing is considered the propelling machinery space.

The above restrictions may invalidate light and air exemption when the boxing does not extend above the line of the upper deck. However, when such boxing does extend above said deck line, the height of light and air exemption is from the upper deck line to the under side of the top of the boxing.

§ 2.58 *Deduction for propelling power.* In the case of a vessel propelled by steam or other power, a deduction for the actual propelling machinery space shall be as follows, according to its percentage of the vessel's gross tonnage:

In screw propelled vessels:

13% or less	deduct 175% of the propelling machinery space.
Above 13% Below 20%	deduct 32% of the gross tonnage.
20% or more	deduct 32% of the gross tonnage; or, at owner's option deduct 175% of the propelling machinery space.

In paddle propelled vessels:

20% or less	deduct 150% of the propelling machinery space.
Above 20% Below 30%	deduct 37% of the gross tonnage.
30% or more	deduct 37% of the gross tonnage; or, at owner's option deduct 150% of the propelling machinery space.

§ 2.59 *Light and air spaces*—(a) *Spaces above crown of engine room.* On a request in writing to the Director by the owner of a vessel, the tonnage of such portion of the space or spaces above the crown of the engine room and

above the line of the upper deck as is framed in for the machinery, or for the admission of light and air, and not required to be included in the gross tonnage, shall, for the purpose of ascertaining the tonnage of the space occupied by the propelling machinery be added to the said machinery space; but it shall then be included in the gross tonnage. Such space or spaces must be reasonable in extent, safe, and seaworthy and cannot be used for any purpose other than the machinery or for the admission of light and air to the propelling machinery space of the vessel. To get this benefit the request must be accompanied with a description and sketch or tracing of the spaces, the measurement thereof, and the collector's certificate that such space or spaces conform to the requirements stated above.

(b) *Reasonable in extent.* In construing the words "reasonable in extent" the measurer should note that the length should not exceed the length of the propelling machinery space, and if any portion is plated over, the length of such part must be deducted from the full length and whatever the breadth of the casing may be, the breadth allowed must not exceed one-half the extreme inside midship breadth of the vessel.

(c) *Purpose for including light and air spaces.* The purpose of adding a part of the framed-in light and air spaces (above the crown of the boiler and engine room and above the upper deck) of a vessel to her machinery space below the upper deck is to entitle the vessel to a greater deduction for propelling power, and consequently obtain a smaller net tonnage than would otherwise result. To get this benefit, it does not always require the addition of the total of such light and air spaces. In such cases only such portion need be added as hereinafter explained.

(d) *Rule for computing addible light and air space.* Below is given a simple rule for finding the amount of light and air space or spaces required to be added to the gross tonnage and also to the propelling machinery space of a mechanically propelled vessel to entitle her to 32 percent of her gross tonnage for propelling-power deduction when granted by the Director upon request of her owner or owners:

Find 13.1 percent of the gross tonnage inclusive of excess hatchways. Find the difference between this percent and the tonnage of the propelling machinery space below the upper deck to the hull. Increase this difference by 15 percent of itself, which gives approximately the amount of light and air space or spaces to be added to the gross tonnage defined above, and also to the propelling machinery space below said upper deck. The gross register tonnage in such a case is the gross tonnage as defined above, plus light and air addition, less one-half of 1 percent of said light and air addition, which one-half percent is additional allowance for excess hatchways due to addition of light and air to gross tonnage.

EXAMPLE.

Gross tonnage, exclusive of light and air and hatchways	5,675.95
Excess of hatchways (based on the above)	67.87
Gross tonnage, inclusive of excess hatchways and exclusive of light and air	5,743.32
13.1 percent of 5,743.32	752.37
Machinery space below the upper deck to the hull	680.55
Difference	71.82
15 percent of difference	10.77
Difference plus 15 percent of itself (amount of light and air to be added to gross tonnage and machinery space)	82.59
Gross tonnage inclusive of light and air and excess of hatchways	5,825.91
Additional exemption for hatchways; amount of light and air addition equals one-half 1 percent of 82.59=82.59/200	.41
Gross registered tonnage	5,825.50
Proof:	
13.1 percent of 5,825.50	763.14
680.55 plus 82.59	763.14

§ 2.60 *Calculations, diagrams of areas, marking net tonnage and official number*—(a) *Calculations to be verified and diagram of areas made.* Calculations must be verified at least twice and a diagram of half breadths for areas made. (See Figures 52 and 53 (§ 2.65).)

(b) *Report of surveyor or measuring officer* The deductions having been made from the gross tonnage and the remainder or net tonnage having been properly marked on the main beam, the surveyor or measuring officer will certify the result to the collector on Form 1322.

§ 2.60a *Marking net tonnage and official number on vessel.* (a) The official number of a vessel, preceded by the abbreviation "NO.", and the net tonnage, preceded by the word "NET" shall be marked in a conspicuous place on her main beam at the expense of the owner or master, in Arabic numerals of the block type at least three inches in height, when the size of the main beam will permit. If the main beam is of wood, it shall be carved or branded in figures not less than three-eighths of an inch in depth. If the main beam is of iron or other metal, the official number and net tonnage shall be outlined by punch marks and painted over with oil paint in a light color on a dark background or a dark color on a light background.

(b) The beam at the forward end of the largest hatch on the weather deck which is generally located forward of amidships shall be considered the main beam for the purposes of these regulations. In the case of a vessel which does not have a hatch on the weather deck, any structural member which is integral to the hull may be considered the main beam.

(c) The official number awarded to a vessel shall pertain only to that vessel. If a vessel, having once received an official number, is rebuilt or redocumented, the number originally awarded shall be retained. (Sec. 102, Reorg. Plan No. 3 of 1946, CFR, 1946 Supp., Ch. IV)

§ 2.61 *Appendix to certificate of registry.* When a vessel of the United States carries passengers to a foreign port or ports the collector of customs will issue to each such vessel admeasured in this district a "Special Appendix to Certificate of Registry of American Passenger Vessels" (Form 1265–A), showing the tonnage of passenger spaces on a deck not a deck to the hull and exempted from inclusion in tonnage by the regulations in this part.

The same requirement applies to vessels operating from his district not previously furnished such an appendix.

At the end of each quarter, the collector must report to this Bureau the official number and name of every vessel in his district to which such appendix has been issued during that period.

§ 2.62 *Measurement of government vessels.* When the tonnage of Government colliers, transports, supply ships, repair ships, etc., is requested this tonnage shall be ascertained in accordance with the rules in this part, but the following requirement will be waived: The marking of the vessel's name and home port, official number (none required), and net tonnage; the requirements as to size and conditions of crew space, and the certifications of deducted spaces on the beam over the doorway. The plate over the door designating its use is sufficient for such certifications.

§ 2.63 *Foreign vessels.* A similar mode of measurement having been adopted by Belgium, Denmark, Esthonia, Finland, France, Free City of Danzig, Germany, Great Britain, Italy, Japan, Latvia, the Netherlands, Norway, Panama, Poland, Portugal, Russia, Spain and Sweden, and the like courtesy having been extended to vessels of the United States, it is directed that merchant vessels of these countries, the registers of which indicate their gross and net tonnage under their present laws, shall be taken in the ports of the United States to be of the tonnage so expressed in their documents. Vessels of foreign countries other than the aforesaid are to be measured according to the laws of the United States.

§ 2.64 *Adjustment and correction of tonnage.* (a) The tonnage shown in the document of a vessel of the United States shall not be changed except as provided in this section.

(b) If there has been a change of structure or use of space that affects tonnage, application for adjustment of such tonnage shall be made as provided in § 2.8. If the owner claims that the tonnage shown in the vessel's document is erroneous, he shall make application in writing to the collector of customs of the district in which the vessel is located for adjustment of such tonnage. Any application for adjustment of tonnage shall be accompanied by appropriate drawings as required by § 2.9 and by a precise statement of the changes made or assignments of error.

(1) The collector shall not readmeasure unaltered spaces or spaces for which

no error is claimed, but shall use the figures shown on the latest record of tonnage admeasurement (Form 1410 or Form 1410–A) unless there is an obvious error thereon. If the vessel was previously admeasured at a port other than the port at which application for adjustment of tonnage is made, the latest record of tonnage admeasurement shall be forwarded to the collector at the latter port upon his request. Such record shall be returned without alteration after a final decision has been reached.

(2) The collector shall make such admeasurement as is necessary to determine the proper tonnage of the vessel. Where the tonnage is found to be different from that shown in the vessel's document, he shall prepare a new record of admeasurement.

(3) If the change of tonnage is due to a change in structure or use of space, the outstanding document shall be surrendered in accordance with the provisions of law and regulations applicable to the surrender of documents. Any document thereafter issued shall show the adjusted tonnage.

(4) If the application for adjustment of tonnage is based on a claim of error, the application and all papers referred to in subparagraphs (1) and (2) of this paragraph shall be forwarded to the Commissioner of Customs. The Commissioner will review the application and advise the collector of his decision.

(c) If an error in the tonnage shown on the document is detected by a collector he shall proceed as though the owner had made application to him for adjustment of tonnage because of the error.

(d) If there is an obvious typographical error in the tonnage shown on the document, the collector shall make the necessary correction. (Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. II)

§ 2.65 *Figures.*

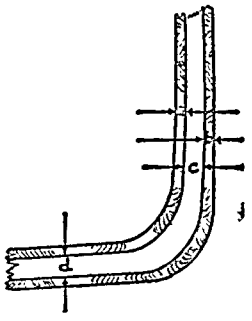


FIGURE 1.

a: THICKNESS OF CEILING
b: THICKNESS OF OUTER PLANKING
c: DEPTH OF SIDE FRAMES
d: DEPTH OF BOTTOM FRAMES OR FLOORS

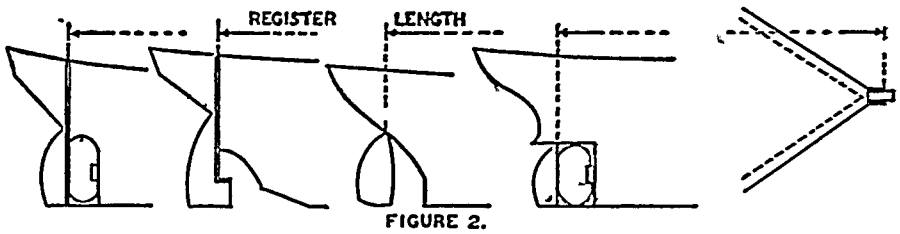


FIGURE 2.

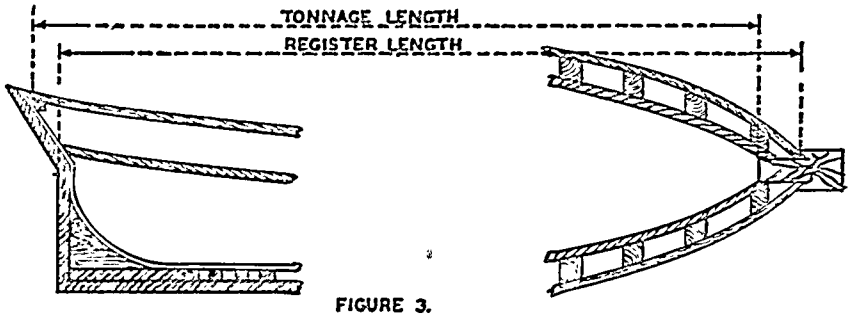


FIGURE 3.

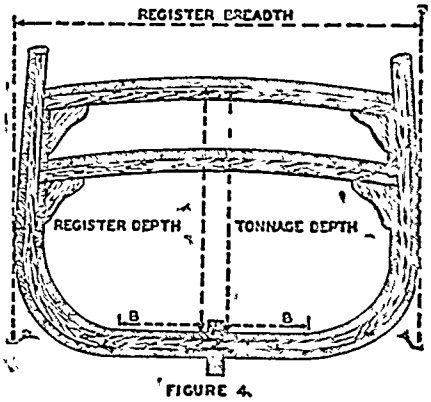


FIGURE 4.

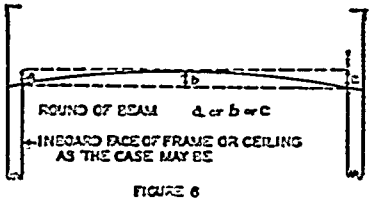


FIGURE 6

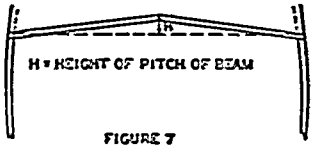


FIGURE 7

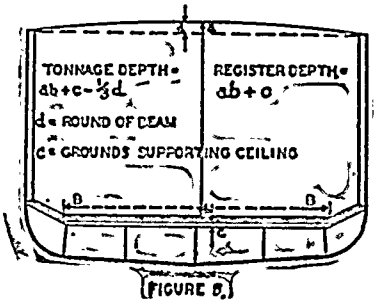


FIGURE 5.

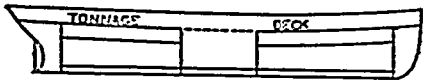
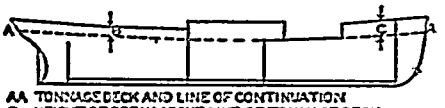


FIGURE 8



AA TONNAGE DECK AND LINE OF CONTINUATION
B HEIGHT OF BREAK ABOVE LINE OF TONNAGE DECK
C HEIGHT OF RAISED FORECASTLE

FIGURE 9

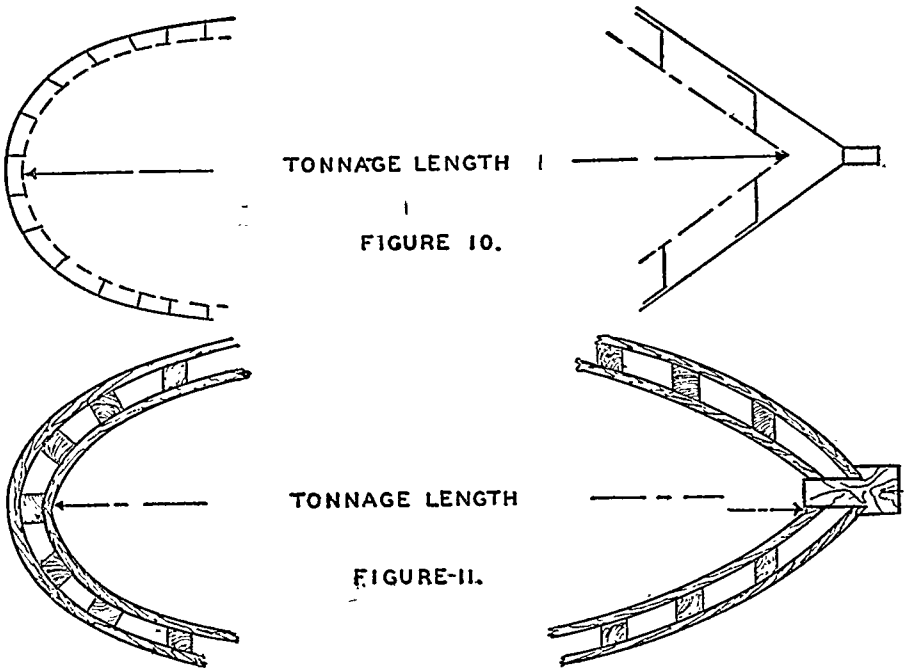


FIGURE 10.

FIGURE 11.

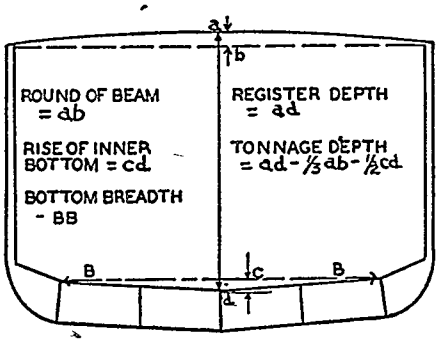


FIGURE 12.

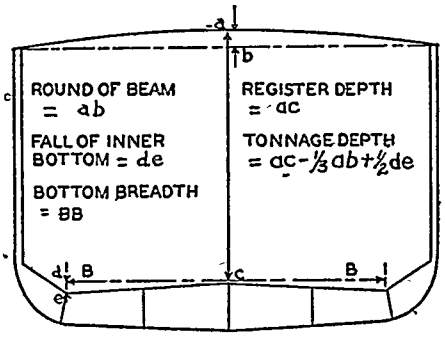


FIGURE 13.

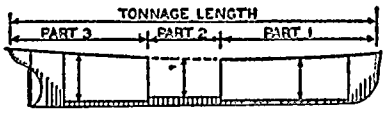


FIGURE 14.

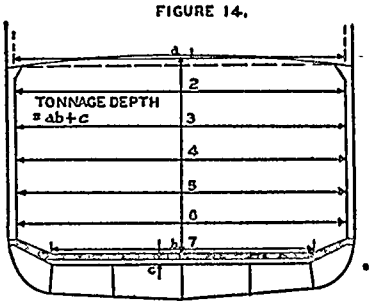


FIGURE 15.

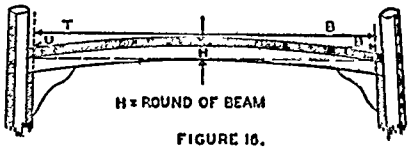


FIGURE 16.

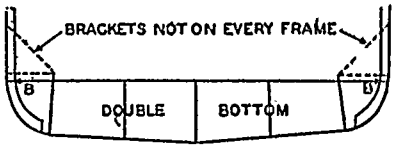


FIGURE 17.

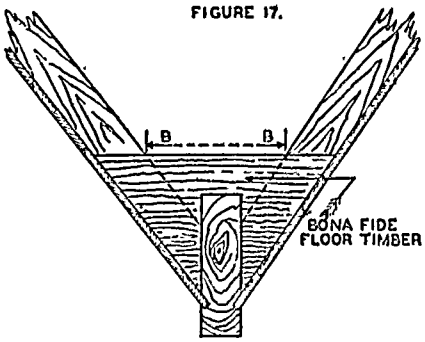


FIGURE 18

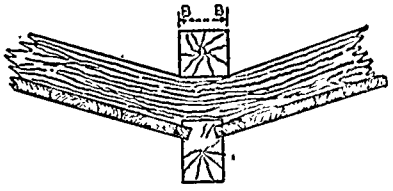


FIGURE 19.

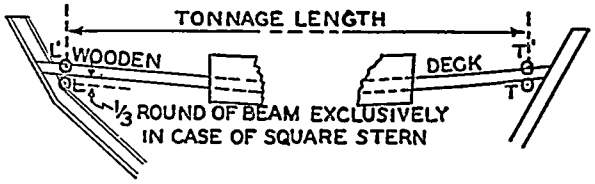


FIGURE 20.

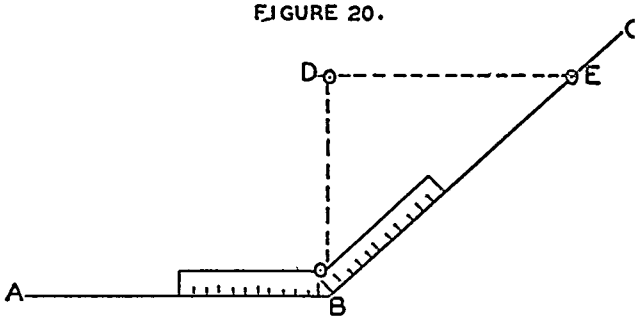


FIGURE 21

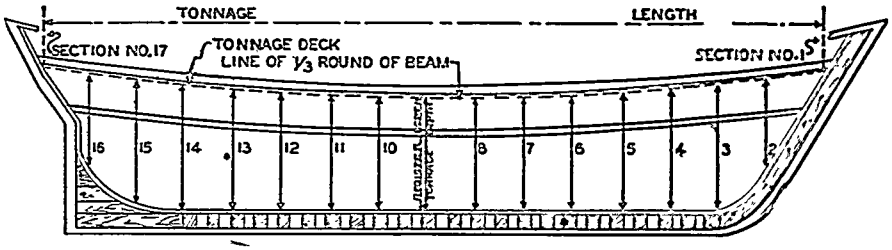
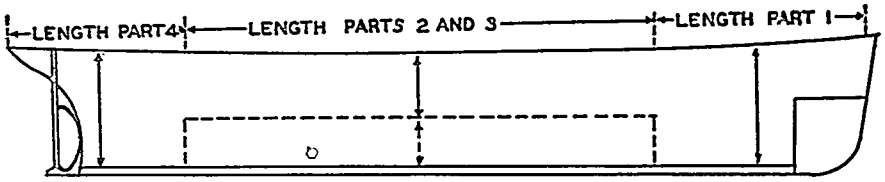


FIGURE 22



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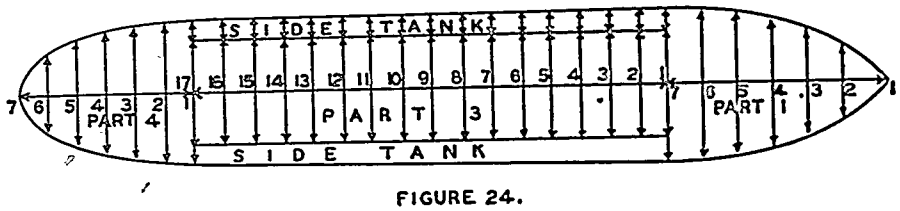

FIGURE 24.

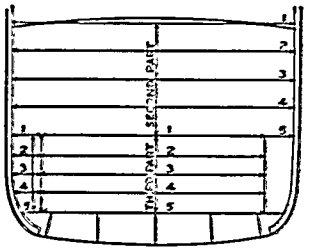

FIGURE 25

FIGURE 26

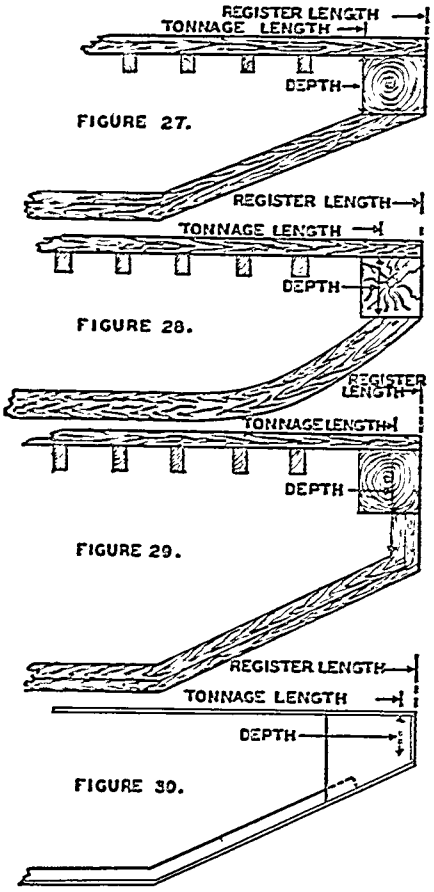

FIGURE 27.

FIGURE 28.

FIGURE 29.

FIGURE 30.

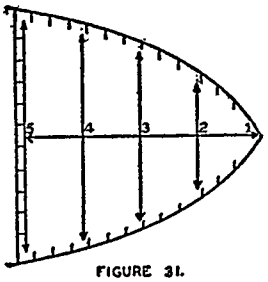

FIGURE 31.

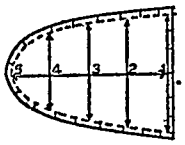

FIGURE 32.

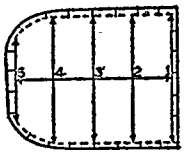

FIGURE 33.

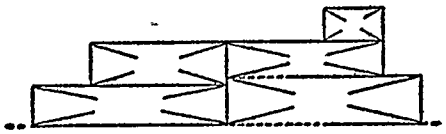

FIGURE 34.

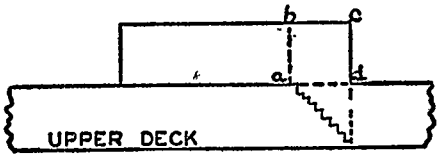

FIGURE 35.

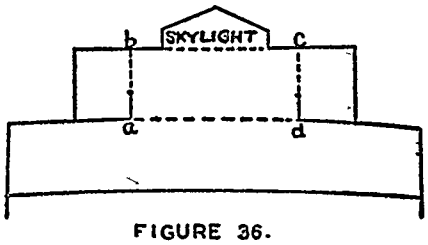

FIGURE 36.

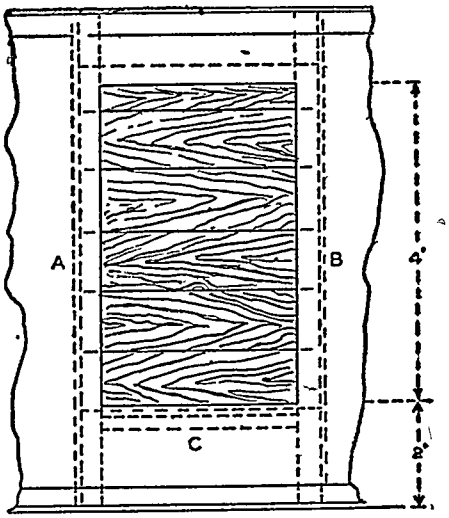

FIGURE 37.

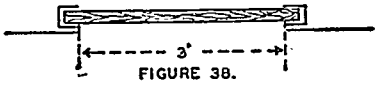

FIGURE 38.

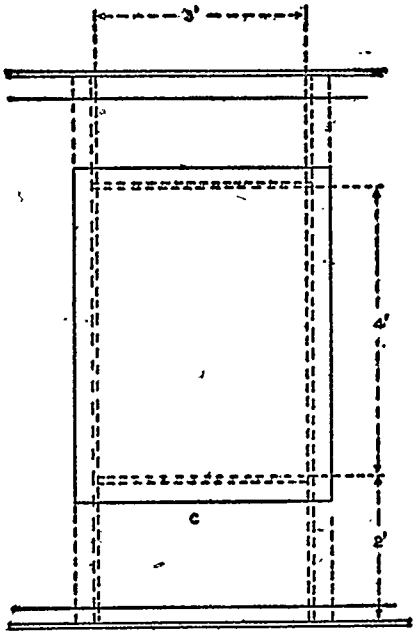

FIGURE 39.

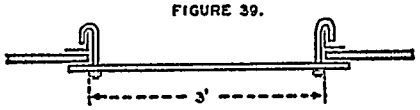

FIGURE 40.

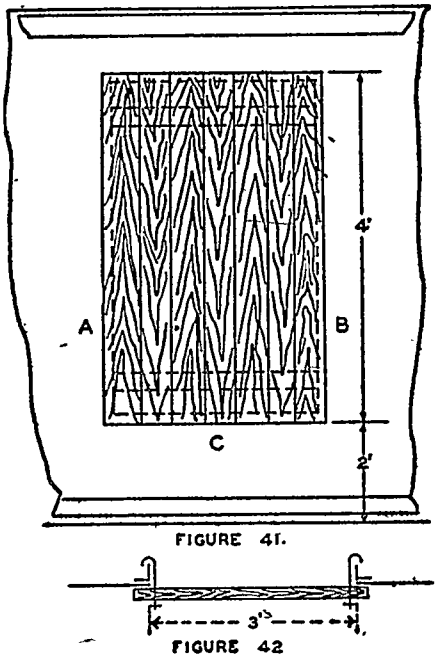

FIGURE 41.

FIGURE 42

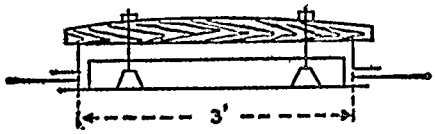

FIGURE 43.

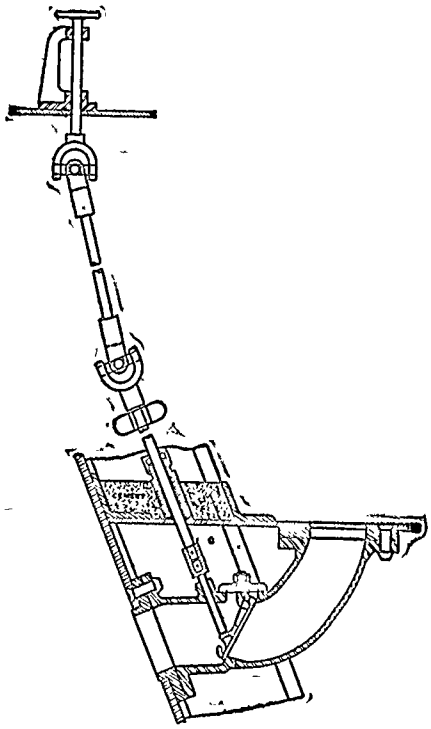

FIGURE 44.

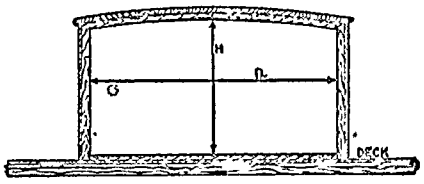

FIGURE 45.

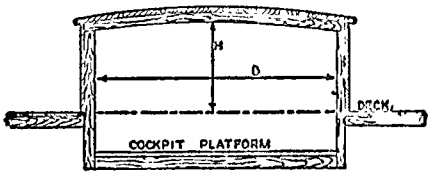

FIGURE 46.

H= HEIGHT OF OPENING
B= BREADTH OF OPENING

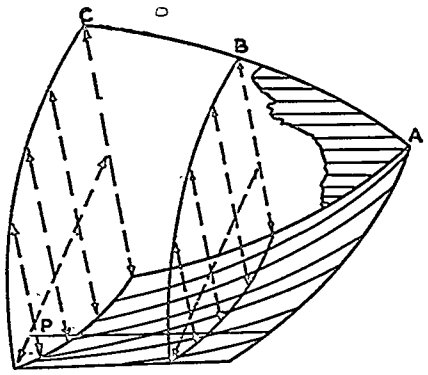

FIGURE 47.

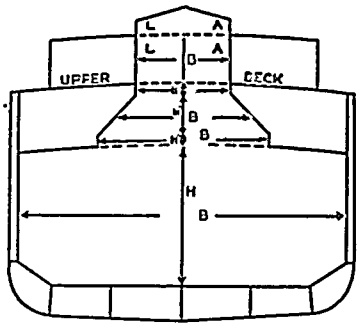

FIGURE 49.

H = HEIGHT OF MAIN SPACE
H'+H"+H"' = HEIGHT BETWEEN CROWN AND UPPER DECK
L. A. LIGHT AND AIR SPACE ABOVE UPPER DECK
B = BREADTH

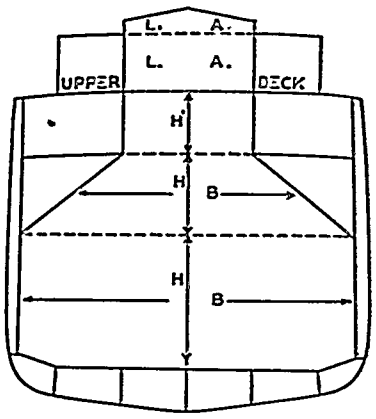

FIGURE 50.

H+H = HEIGHT OF MAIN SPACE
H' = HEIGHT TWEEN CROWN & UPPER DK.
B = BREADTH
L. A. = LIGHT AND AIR SPACE ABOVE UPPER DK.

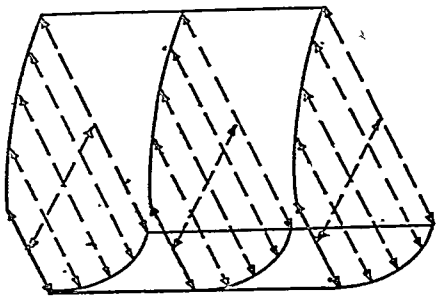

FIGURE 48.

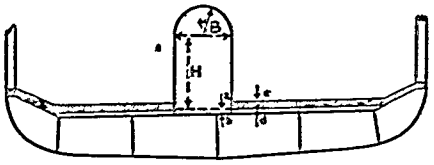

FIGURE 51.

ab = cd = THICKNESS OF CEILING

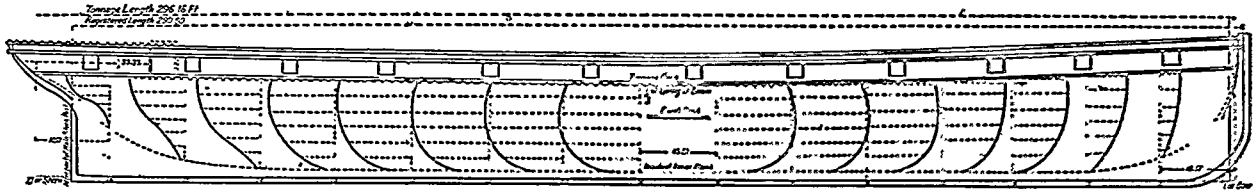

FIGURE 52.

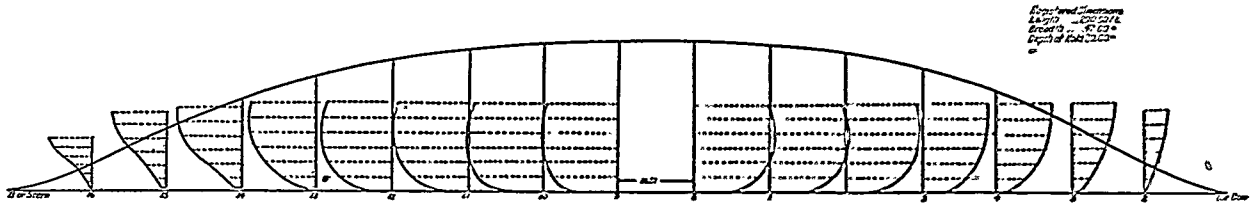

FIGURE 53.

§ 2.66 *Table of decimal equivalent of inches, etc.* For finding the decimal equivalent of inches and for converting tons into cubic meters, and vice versa, the following tables will be found useful:

DECIMAL EQUIVALENT OF INCHES

One foot, or 12 inches, the integer

	Equivalents in decimals of a foot
11 inches	0.92
10 inches	.83
9 inches	75
8 inches	.67
7 inches	.58
6 inches	.50
5 inches	42
4 inches	.33
3 inches	.25
2 inches	.17
1 inch	.08
¾ inch	.06
½ inch	.04
¼ inch	.02

REDUCTION OF TONS TO CUBIC METERS

	Meters
1 ton	2.83
2 tons	5.66
3 tons	8.49
4 tons	11.32
5 tons	14.15
6 tons	16.98
7 tons	19.81
8 tons	22.64
9 tons	25.47
10 tons	28.30
11 tons	31.13
12 tons	33.96
13 tons	36.79
14 tons	39.62
15 tons	42.45
16 tons	45.28
17 tons	48.11
18 tons	50.94
19 tons	53.77
20 tons	56.60
21 tons	59.43
22 tons	62.26
23 tons	65.09

REDUCTION OF TONS TO CUBIC METERS—CON.

	Meters
24 tons	67.92
25 tons	70.75
26 tons	73.58
27 tons	76.41
28 tons	79.24
29 tons	82.07
30 tons	84.90
31 tons	87.73
32 tons	90.56
33 tons	93.39
34 tons	96.22
35 tons	99.05
36 tons	101.83
37 tons	104.71
38 tons	107.54
39 tons	110.37
40 tons	113.20
41 tons	116.03
42 tons	118.86
43 tons	121.69
44 tons	124.52
45 tons	127.35
46 tons	130.18

REDUCTION OF TONS TO CUBIC METERS—Con.

	Meters
47 tons	133.01
48 tons	135.84
49 tons	138.67
50 tons	141.50
51 tons	144.33
52 tons	147.16
53 tons	149.99
54 tons	152.82
55 tons	155.65
56 tons	158.48
57 tons	161.31
58 tons	164.14
59 tons	166.97
60 tons	169.80
61 tons	172.63
62 tons	175.46
63 tons	178.29
64 tons	181.12
65 tons	183.95
66 tons	186.78
67 tons	189.61
68 tons	192.44
69 tons	195.27
70 tons	198.10
71 tons	200.93
72 tons	203.76
73 tons	206.59
74 tons	209.42
75 tons	212.25
76 tons	215.08
77 tons	217.91
78 tons	220.74
79 tons	223.57
80 tons	226.40
81 tons	229.23
82 tons	232.06
83 tons	234.89
84 tons	237.72
85 tons	240.55
86 tons	243.38
87 tons	246.21
88 tons	249.04
89 tons	251.87
90 tons	254.70
91 tons	257.53
92 tons	260.36
93 tons	263.19
94 tons	266.02
95 tons	268.85
96 tons	271.68
97 tons	274.51
98 tons	277.34
99 tons	280.17
100 tons	283.00

To reduce cubic meters to tons divide the number of cubic meters in question by 2.83, or multiply it by the factor 0.353.

§ 2.67 *Table A of common intervals when tonnage depth is 16 feet or less.*

TABLE A

Showing in feet the common interval and ⅓ common intervals between tonnage breadths, corresponding to different tonnage depths, when the tonnage depth at the middle of the tonnage length does not exceed 16 feet.

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
2.00	0.500	0.17
2.05	.512	.17
2.10	.525	.18
2.15	.537	.18
2.20	.550	.18
2.25	.562	.19
2.30	.575	.19
2.35	.587	.20
2.40	.600	.20
2.45	.612	.20
2.50	.625	.21
2.55	.637	.21
2.60	.650	.22
2.65	.662	.22
2.70	.675	.23
2.75	.687	.23
2.80	0.700	0.23
2.85	.712	.24
2.90	.725	.24
2.95	.737	.25
3.00	.750	.25
3.05	.762	.25
3.10	.775	.26
3.15	.787	.26
3.20	.800	.27
3.25	.812	.27
3.30	.825	.28
3.35	.837	.28
3.40	.850	.28
3.45	.862	.29
3.50	.875	.29
3.55	.887	.30
3.60	.900	.30
3.65	.912	.30
3.70	.925	.31
3.75	.937	.31
3.80	.950	.32
3.85	.962	.32
3.90	.975	.33
3.95	.987	.33
4.00	1.000	.33
4.05	1.012	.34
4.10	1.025	.34
4.15	1.037	.35
4.20	1.050	.35
4.25	1.062	.35
4.30	1.075	.36
4.35	1.087	.36
4.40	1.100	.37
4.45	1.112	.37
4.50	1.125	.37
4.55	1.137	.38
4.60	1.150	.38
4.65	1.162	.39
4.70	1.175	.39
4.75	1.187	.40
4.80	1.200	.40
4.85	1.212	.40
4.90	1.225	.41
4.95	1.237	.41
5.00	1.250	.42
5.05	1.262	.42
5.10	1.275	.43
5.15	1.287	.43
5.20	1.300	.43
5.25	1.312	.44
5.30	1.325	.44
5.35	1.337	.45
5.40	1.350	.45
5.45	1.362	.45
5.50	1.375	.46
5.55	1.387	.46
5.60	1.400	.47
5.65	1.412	.47
5.70	1.425	.48
5.75	1.437	.48
5.80	1.450	.48
5.85	1.462	.49
5.90	1.475	.49
5.95	1.487	.50
6.00	1.500	.50
6.05	1.512	.50
6.10	1.525	.51
6.15	1.537	.51
6.20	1.550	.52
6.25	1.562	.52
6.30	1.575	.53
6.35	1.587	.53
6.40	1.600	.53
6.45	1.612	.54
6.50	1.625	.54
6.55	1.637	.55
6.60	1.650	.55
6.65	1.662	.55
6.70	1.675	.56
6.75	1.687	.56
6.80	1.700	.57
6.85	1.712	.57
6.90	1.725	.58
6.95	1.737	.58
7.00	1.750	.58
7.05	1.762	.59
7.10	1.775	.59
7.15	1.787	.60
7.20	1.800	.60
7.25	1.812	.60
7.30	1.825	.61
7.35	1.837	.61
7.40	1.850	.62
7.45	1.862	.62
7.50	1.875	.63
7.55	1.887	.63
7.60	1.900	.63
7.65	1.912	.64
7.70	1.925	.64
7.75	1.937	.65
7.80	1.950	.65
7.85	1.962	.65
7.90	1.975	.66
7.95	1.987	.66
8.00	2.000	0.67
8.05	2.012	.67
8.10	2.025	.68
8.15	2.037	.68
8.20	2.050	.68
8.25	2.062	.69
8.30	2.075	.69
8.35	2.087	.70
8.40	2.100	.70
8.45	2.112	.70
8.50	2.125	.71
8.55	2.137	.71
8.60	2.150	.72
8.65	2.162	.72
8.70	2.175	.73
8.75	2.187	.73
8.80	2.200	.73
8.85	2.212	.74
8.90	2.225	.74
8.95	2.237	.75
9.00	2.250	.75
9.05	2.262	.75
9.10	2.275	.76
9.15	2.287	.76
9.20	2.300	.77
9.25	2.312	.77
9.30	2.325	.78
9.35	2.337	.78
9.40	2.350	.78
9.45	2.362	.79
9.50	2.375	.79
9.55	2.387	.80
9.60	2.400	.80
9.65	2.412	.80
9.70	2.425	.81
9.75	2.437	.81
9.80	2.450	.82
9.85	2.462	.82
9.90	2.475	.83
9.95	2.487	.83
10.00	2.500	.83
10.05	2.512	.84
10.10	2.525	.84
10.15	2.537	.85
10.20	2.550	.85
10.25	2.562	.85
10.30	2.575	.86
10.35	2.587	.86
10.40	2.600	.87
10.45	2.612	.87
10.50	2.625	.88
10.55	2.637	.88
10.60	2.650	.88
10.65	2.662	.89
10.70	2.675	.89
10.75	2.687	.90
10.80	2.700	.90
10.85	2.712	.90
10.90	2.725	.91
10.95	2.737	.91
11.00	2.750	.92
11.05	2.762	.92
11.10	2.775	.93
11.15	2.787	.93
11.20	2.800	.93
11.25	2.812	.94
11.30	2.825	.94
11.35	2.837	.95
11.40	2.850	.95
11.45	2.862	.95
11.50	2.875	.96
11.55	2.887	.96
11.60	2.900	.97
11.65	2.912	.97
11.70	2.925	.98
11.75	2.937	.98
11.80	2.950	.98
11.85	2.962	.99
11.90	2.975	.99
11.95	2.987	1.00
12.00	3.000	1.00
12.05	3.012	1.00
12.10	3.025	1.01
12.15	3.037	1.01
12.20	3.050	1.02
12.25	3.062	1.02
12.30	3.075	1.03
12.35	3.087	1.03
12.40	3.100	1.03
12.45	3.112	1.04
12.50	3.125	1.04
12.55	3.137	1.05
12.60	3.150	1.05
12.65	3.162	1.05
12.70	3.175	1.06
12.75	3.187	1.06
12.80	3.200	1.07
12.85	3.212	1.07
12.90	3.225	1.08
12.95	3.237	1.08
13.00	3.250	1.08
13.05	3.262	1.09
13.10	3.275	1.09
13.15	3.287	1.10

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
13.20	3.300	1.10
13.25	3.312	1.10
13.30	3.325	1.11
13.35	3.337	1.11
13.40	3.350	1.12
13.45	3.362	1.12
13.50	3.375	1.13
13.55	3.387	1.13
13.60	3.400	1.13
13.65	3.412	1.14
13.70	3.425	1.14
13.75	3.437	1.15
13.80	3.450	1.15
13.85	3.462	1.15
13.90	3.475	1.16
13.95	3.487	1.16
14.00	3.500	1.17
14.05	3.512	1.17
14.10	3.525	1.18
14.15	3.537	1.18
14.20	3.550	1.18
14.25	3.562	1.19
14.30	3.575	1.19
14.35	3.587	1.20
14.40	3.600	1.20
14.45	3.612	1.20
14.50	3.625	1.21
14.55	3.637	1.21
14.60	3.650	1.22
14.65	3.662	1.22
14.70	3.675	1.23
14.75	3.687	1.23
14.80	3.700	1.23
14.85	3.712	1.24
14.90	3.725	1.24
14.95	3.737	1.25
15.00	3.750	1.25
15.05	3.762	1.25
15.10	3.775	1.26
15.15	3.787	1.26
15.20	3.800	1.27
15.25	3.812	1.27
15.30	3.825	1.28
15.35	3.837	1.28
15.40	3.850	1.28
15.45	3.862	1.29
15.50	3.875	1.29
15.55	3.887	1.30
15.60	3.900	1.30
15.65	3.912	1.30
15.70	3.925	1.31
15.75	3.937	1.31
15.80	3.950	1.32
15.85	3.962	1.32
15.90	3.975	1.33
15.95	3.987	1.33
16.00	4.000	1.33
16.05	4.012	1.34
16.10	4.025	1.34
16.15	4.037	1.35
16.20	4.050	.35
16.25	4.062	1.35
16.30	4.075	1.36
16.35	4.087	1.36
16.40	4.100	1.37
16.45	4.112	1.37
16.50	4.125	1.38
16.55	4.137	1.38
16.60	4.150	1.38
16.65	4.162	1.39
16.70	4.175	1.39
16.75	4.187	1.40
16.80	4.200	1.40
16.85	4.212	1.40
16.90	4.225	1.41
16.95	4.237	1.41
17.00	4.250	1.42
17.05	4.262	1.42
17.10	4.275	1.43
17.15	4.287	1.43
17.20	4.300	1.43
17.25	4.312	1.44
17.30	4.325	1.44
17.35	4.337	1.45
17.40	4.350	1.45
17.45	4.362	1.45
17.50	4.375	1.46
17.55	4.387	1.46
17.60	4.400	1.47
17.65	4.412	1.47
17.70	4.425	1.48
17.75	4.437	1.48
17.80	4.450	1.48
17.85	4.462	1.49
17.90	4.475	1.49
17.95	4.487	1.50
18.00	4.500	1.50
18.05	4.512	1.50
18.10	4.525	1.51
18.15	4.537	1.51
18.20	4.550	1.52
18.25	4.562	1.52
18.30	4.575	1.53
18.35	4.587	1.53
18.40	4.600	1.53
18.45	4.612	1.54
18.50	4.625	1.54
18.55	4.637	1.55
18.60	4.650	1.55
18.65	4.662	1.55
18.70	4.675	1.56
18.75	4.687	1.56
18.80	4.700	1.57
18.85	4.712	1.57
18.90	4.725	1.58
18.95	4.737	1.58
19.00	4.750	1.58
19.05	4.762	1.59
19.10	4.775	1.59
19.15	4.787	1.60
19.20	4.800	1.60
19.25	4.812	1.60
19.30	4.825	1.61
19.35	4.837	1.61
19.40	4.850	1.62
19.45	4.862	1.62
19.50	4.875	1.63
19.55	4.887	1.63
19.60	4.900	1.63
19.65	4.912	1.64
19.70	4.925	1.64
19.75	4.937	1.65
19.80	4.950	1.65
19.85	4.962	1.65
19.90	4.975	1.66
19.95	4.987	1.66
20.00	5.000	1.67
20.05	5.012	1.67
20.10	5.025	1.68
20.15	5.037	1.68
20.20	5.050	1.68
20.25	5.062	1.69
20.30	5.075	1.69
20.35	5.087	1.70
20.40	5.100	1.70
20.45	5.112	1.70
20.50	5.125	1.71
20.55	5.137	1.71
20.60	5.150	1.72
20.65	5.162	1.72
20.70	5.175	1.73
20.75	5.187	1.73
20.80	5.200	1.73
20.85	5.212	1.74
20.90	5.225	1.74
20.95	5.237	1.75
21.00	5.250	1.75
21.05	5.262	1.75
21.10	5.275	1.76
21.15	5.287	1.76
21.20	5.300	1.77
21.25	5.312	1.77
21.30	5.325	1.78
21.35	5.337	1.78
21.40	5.350	1.78
21.45	5.362	1.79
21.50	5.375	1.79
21.55	5.387	1.80
21.60	5.400	1.80
21.65	5.412	1.80
21.70	5.425	1.81
21.75	5.437	1.81
21.80	5.450	1.82
21.85	5.462	1.82
21.90	5.475	1.83
21.95	5.487	1.83
22.00	5.500	1.83
22.05	5.512	1.84
22.10	5.525	1.84
22.15	5.537	1.85
22.20	5.550	1.85
22.25	5.562	1.85
22.30	5.575	1.85
22.35	5.587	1.86
22.40	5.600	1.87
22.45	5.612	1.87
22.50	5.625	1.88
22.55	5.637	1.88
22.60	5.650	1.88
22.65	5.662	1.89
22.70	5.675	1.89
22.75	5.687	1.90
22.80	5.700	1.90
22.85	5.712	1.90
22.90	5.725	1.91
22.95	5.737	1.91
23.00	5.750	1.92
23.05	5.762	1.92
23.10	5.775	1.93
23.15	5.787	1.93
23.20	5.800	1.93
23.25	5.812	1.94
23.30	5.825	1.94
23.35	5.837	1.95
23.40	5.850	1.95
23.45	5.862	1.95
23.50	5.875	1.96
23.55	5.887	1.96
23.60	5.900	1.97
23.65	5.912	1.97
23.70	5.925	1.98
23.75	5.937	1.98
23.80	5.950	1.98
23.85	5.962	1.99
23.90	5.975	1.99
23.95	5.987	2.00
24.00	6.000	2.00
24.05	6.012	2.00
24.10	6.025	2.01
24.15	6.037	2.01
24.20	6.050	2.02
24.25	6.062	2.02
24.30	6.075	2.03
24.35	6.087	2.03
24.40	6.100	2.03
24.45	6.112	2.04
24.50	6.125	2.04
24.55	6.137	2.05
24.60	6.150	2.05
24.65	6.162	2.05
24.70	6.175	2.06
24.75	6.187	2.06
24.80	6.200	2.07
24.85	6.212	2.07
24.90	6.225	2.08
24.95	6.237	2.08
25.00	6.250	2.08
25.05	6.262	2.09
25.10	6.275	2.09
25.15	6.287	2.10
25.20	6.300	2.10
25.25	6.312	2.10
25.30	6.325	2.11
25.35	6.337	2.11
25.40	6.350	2.12
25.45	6.362	2.12
25.50	6.375	2.13
25.55	6.387	2.13
25.60	6.400	2.13
25.65	6.412	2.14
25.70	6.425	2.14
25.75	6.437	2.15
25.80	6.450	2.15
25.85	6.462	2.15
25.90	6.475	2.16
25.95	6.487	2.16

§ 2.63 *Table B of common intervals when tonnage depth exceeds 16 feet.*

TABLE B

Showing in feet the common interval and ⅓ common interval between tonnage breadths, corresponding to different tonnage depths, when the tonnage depth at the middle of the tonnage length exceeds 16 feet.

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
14.00	2.323	0.73
14.05	2.341	.73
14.10	2.350	.73
14.15	2.358	.79
14.20	2.366	.79
14.25	2.375	.79
14.30	2.383	.79
14.35	2.391	.80
14.40	2.400	.80
14.45	2.408	.80
14.50	2.416	.81
14.55	2.425	.81
14.60	2.433	.81
14.65	2.441	.81
14.70	2.450	.82
14.75	2.458	.82
14.80	2.466	.82
14.85	2.475	.83
14.90	2.483	.83
14.95	2.491	.83
15.00	2.500	.83
15.05	2.508	.84
15.10	2.516	.84
15.15	2.525	.84
15.20	2.533	.84
15.25	2.541	.85
15.30	2.550	.85
15.35	2.558	.85
15.40	2.566	.85
15.45	2.575	.85
15.50	2.583	.85

Tonnage depth	Common interval between breadths	⅓ common interval between breadths
15.55	2.591	0.86
15.60	2.600	.87
15.65	2.608	.87
15.70	2.616	.87
15.75	2.625	.88
15.80	2.633	.88
15.85	2.641	.88
15.90	2.650	.88
15.95	2.658	.89
16.00	2.666	.89
16.05	2.675	.89
16.10	2.683	.89
16.15	2.691	.90
16.20	2.700	.90
16.25	2.708	.90
16.30	2.716	.91
16.35	2.725	.91
16.40	2.733	.91
16.45	2.741	.91
16.50	2.750	.92
16.55	2.758	.92
16.60	2.766	.92
16.65	2.775	.93
16.70	2.783	.93
16.75	2.791	.93
16.80	2.800	.93
16.85	2.808	.94
16.90	2.816	.94
16.95	2.825	.94
17.00	2.833	.94
17.05	2.841	.95
17.10	2.850	.95
17.15	2.858	.95
17.20	2.866	.96
17.25	2.875	.96
17.30	2.883	.96
17.35	2.891	.96
17.40	2.900	.97
17.45	2.908	.97
17.50	2.916	.97
17.55	2.925	.98
17.60	2.933	.98
17.65	2.941	.98
17.70	2.950	.98
17.75	2.958	.99
17.80	2.966	.99
17.85	2.975	.99
17.90	2.983	.99
17.95	2.991	1.00
18.00	3.000	1.00
18.05	3.008	1.00
18.10	3.016	1.01
18.15	3.025	1.01
18.20	3.033	1.01
18.25	3.041	1.01
18.30	3.050	1.02
18.35	3.058	1.02
18.40	3.066	1.02
18.45	3.075	1.03
18.50	3.083	1.03
18.55	3.091	1.03
18.60	3.100	1.03
18.65	3.108	1.04
18.70	3.116	1.04
18.75	3.125	1.04
18.80	3.133	1.04
18.85	3.141	1.05
18.90	3.150	1.05
18.95	3.158	1.05
19.00	3.166	1.06
19.05	3.175	1.06
19.10	3.183	1.06
19.15	3.191	1.06
19.20	3.200	1.07
19.25	3.208	1.07
19.30	3.216	1.07
19.35	3.225	1.08
19.40	3.233	1.08
19.45	3.241	1.08
19.50	3.250	1.08
19.55	3.258	1.09
19.60	3.266	1.09
19.65	3.275	1.09
19.70	3.283	1.09
19.75	3.291	1.10
19.80	3.300	1.10
19.85	3.308	1.10
19.90	3.316	1.11
19.95	3.325	1.11
20.00	3.333	1.11
20.05	3.341	1.11
20.10	3.350	1.12
20.15	3.358	1.12
20.20	3.366	1.12
20.25	3.375	1.13
20.30	3.383	1.13
20.35	3.391	1.13
20.40	3.400	1.13
20.45	3.408	1.14
20.50	3.416	1.14
20.55	3.425	1.14
20.60	3.433	1.14
20.65	3.441	1.15
20.70	3.450	1.15
20.75	3.458	1.15
20.80	3.466	1.16
20.85	3.475	1.16
20.90	3.483	1.16
20.95	3.491	1.16
21.00	3.500	1.17
21.05	3.508	1.17
21.10	3.516	1.17
21.15	3.525	1.18
21.20	3.533	1.18
21.25	3.541	1.18
21.30	3.550	1.18
21.35	3.558	1.19
21.40	3.566	1.19
21.45	3.575	1.19
21.50	3.583	1.19
21.55	3.591	1.20
21.60	3.600	1.20
21.65	3.608	1.20
21.70	3.616	1.21
21.75	3.625	1.21
21.80	3.633	1.21
21.85	3.641	1.21
21.90	3.650	1.22
21.95	3.658	1.22
22.00	3.666	1.22
22.05	3.675	1.23
22.10	3.683	1.23
22.15	3.691	1.23
22.20	3.700	1.23
22.25	3.708	1.24
22.30	3.716	1.24
22.35	3.725	1.24
22.40	3.733	1.24
22.45	3.741	1.25
22.50	3.750	1.25
22.55	3.758	1.25
22.60	3.766	1.26
22.65	3.775	1.26
22.70	3.783	1.26
22.75	3.791	1.26
22.80	3.800	1.27
22.85	3.808	1.27
22.90	3.816	1.27
22.95	3.825	1.28
23.00	3.833	1.28
23.05	3.841	1.28
23.10	3.850	1.28
23.15	3.858	1.29
23.20	3.866	1.29
23.25	3.875	1.29
23.30	3.883	1.29
23.35	3.891	1.30
23.40	3.900	1.30
23.45	3.908	1.30
23.50	3.916	1.31
23.55	3.925	1.31
23.60	3.933	1.31
23.65	3.941	1.31
23.70	3.950	1.32
23.75	3.958	1.32
23.80	3.966	1.32
23.85	3.975	1.33
23.90	3.983	1.33
23.95	3.991	1.33
24.00	4.000	1.33
24.05	4.008	1.34
24.10	4.016	1.34
24.15	4.025	1.34
24.20	4.033	1.34
24.25	4.041	1.35
24.30	4.050	1.35
24.35	4.058	1.35
24.40	4.066	1.36
24.45	4.075	1.36
24.50	4.083	1.36
24.55	4.091	1.36
24.60	4.100	1.37
24.65	4.108	1.37
24.70	4.116	1.37
24.75	4.125	1.38
24.80	4.133	1.38
24.85	4.141	1.38
24.90	4.150	1.38
24.95	4.158	1.39
25.00	4.166	1.39
25.05	4.175	1.39
25.10	4.183	1.39
25.15	4.191	1.40
25.20	4.200	1.40
25.25	4.208	1.40
25.30	4.216	1.41
25.35	4.225	1.41
25.40	4.233	1.41
25.45	4.241	1.41
25.50	4.250	1.42
25.55	4.258	1.42
25.60	4.266	1.42
25.65	4.275	1.43
25.70	4.283	1.43
25.75	4.291	1.43
25.80	4.300	1.43
25.85	4.308	1.44
25.90	4.316	1.44
25.95	4.325	1.44
26.00	4.333	1.44
26.05	4.341	1.45
26.10	4.350	1.45
26.15	4.358	1.45
26.20	4.366	1.46
26.25	4.375	1.46
26.30	4.383	1.46
26.35	4.391	1.46
26.40	4.400	1.47
26.45	4.408	1.47
26.50	4.416	1.47
26.55	4.425	1.48
26.60	4.433	1.48
26.65	4.441	1.48
26.70	4.450	1.48
26.75	4.458	1.49
26.80	4.466	1.49
26.85	4.475	1.49
26.90	4.483	1.49
26.95	4.491	1.50
27.00	4.500	1.50
27.05	4.508	1.50
27.10	4.516	1.51
27.15	4.525	1.51
27.20	4.533	1.51
27.25	4.541	1.51
27.30	4.550	1.52
27.35	4.558	1.52
27.40	4.566	1.52
27.45	4.575	1.53
27.50	4.583	1.53
27.55	4.591	1.53
27.60	4.600	1.53
27.65	4.608	1.54
27.70	4.616	1.54
27.75	4.625	1.54
27.80	4.633	1.54
27.85	4.641	1.55
27.90	4.650	1.55
27.95	4.658	1.55
28.00	4.666	1.56
28.05	4.675	1.56
28.10	4.683	1.56
28.15	4.691	1.56
28.20	4.700	1.57
28.25	4.708	1.57
28.30	4.716	1.57
28.35	4.725	1.58
28.40	4.733	1.58
28.45	4.741	1.58
28.50	4.750	1.58
28.55	4.758	1.59
28.60	4.766	1.59
28.65	4.775	1.59
28.70	4.783	1.59
28.75	4.791	1.60
28.80	4.800	1.60
28.85	4.808	1.60
28.90	4.816	1.61
28.95	4.825	1.61
29.00	4.833	1.61
29.05	4.841	1.61
29.10	4.850	1.62
29.15	4.858	1.62
29.20	4.866	1.62
29.25	4.875	1.63
29.30	4.883	1.63
29.35	4.891	1.63
29.40	4.900	1.63
29.45	4.908	1.64
29.50	4.916	1.64
29.55	4.925	1.64
29.60	4.933	1.64
29.65	4.941	1.65
29.70	4.950	1.65
29.75	4.958	1.65
29.80	4.966	1.66
29.85	4.975	1.66
29.90	4.983	1.66
29.95	4.991	1.66
30.00	5.000	1.67
30.05	5.008	1.67
30.10	5.016	1.67
30.15	5.025	1.68
30.20	5.033	1.68
30.25	5.041	1.68
30.30	5.050	1.68
30.35	5.058	1.69
30.40	5.066	1.69
30.45	5.075	1.69
30.50	5.083	1.69
30.55	5.091	1.70
30.60	5.100	1.70
30.65	5.108	1.70
30.70	5.116	1.71
30.75	5.125	1.71
30.80	5.133	1.71
30.85	5.141	1.71
30.90	5.150	1.72
30.95	5.158	1.72

Tonnage depth	Common interval between breadths	½ common interval between breadths
31.00	5.166	1.72
31.05	5.175	1.73
31.10	5.183	1.73
31.15	5.191	1.73
31.20	5.200	1.73
31.25	5.208	1.74
31.30	5.216	1.74
31.35	5.225	1.74
31.40	5.233	1.74
31.45	5.241	1.75
31.50	5.250	1.75
31.55	5.258	1.75
31.60	5.266	1.76
31.65	5.275	1.76
31.70	5.283	1.76
31.75	5.291	1.76
31.80	5.300	1.77
31.85	5.308	1.77
31.90	5.316	1.77
31.95	5.325	1.78
32.00	5.333	1.78
32.05	5.341	1.78
32.10	5.350	1.78
32.15	5.358	1.79
32.20	5.366	1.79
32.25	5.375	1.79
32.30	5.383	1.79
32.35	5.391	1.80
32.40	5.400	1.80
32.45	5.408	1.80
32.50	5.416	1.81
32.55	5.425	1.81
32.60	5.433	1.81
32.65	6.441	1.81
32.70	5.450	1.82
32.75	5.458	1.82
32.80	5.466	1.82
32.85	5.475	1.83
32.90	5.483	1.83
32.95	5.491	1.83
33.00	5.500	1.83
33.05	5.508	1.84
33.10	5.516	1.84
33.15	5.525	1.84
33.20	5.533	1.84
33.25	5.541	1.85
33.30	5.550	1.85
33.35	5.558	1.85
33.40	5.566	1.85
33.45	5.575	1.86
33.50	5.583	1.86
33.55	5.591	1.86
33.60	5.600	1.87
33.65	5.608	1.87
33.70	5.616	1.87
33.75	5.625	1.88
33.80	5.633	1.88
33.85	5.641	1.88
33.90	5.650	1.88
33.95	5.658	1.89
34.00	5.666	1.89
34.05	5.675	1.89
34.10	5.683	1.89
34.15	5.691	1.90
34.20	5.700	1.90
34.25	5.708	1.90
34.30	5.716	1.91
34.35	5.725	1.91
34.40	5.733	1.91
34.45	5.741	1.91
34.50	5.750	1.92
34.55	5.758	1.92
34.60	5.766	1.92
34.65	5.775	1.93
34.70	5.783	1.93
34.75	5.791	1.93
34.80	5.800	1.93
34.85	5.808	1.94
34.90	5.816	1.94
34.95	5.825	1.94
35.00	5.833	1.94
35.05	5.841	1.95
35.10	5.850	1.95
35.15	5.858	1.95
35.20	5.866	1.96
35.25	5.875	1.96
35.30	5.883	1.96
35.35	5.891	1.96
35.40	5.900	1.97
35.45	5.908	1.97
35.50	5.916	1.97
35.55	5.925	1.98
35.60	5.933	1.98
35.65	5.941	1.98
35.70	5.950	1.98
35.75	5.958	1.99
35.80	5.966	1.99
35.85	5.975	1.99
35.90	5.983	1.99
35.95	5.991	2.00
36.00	6.000	2.00
36.05	6.008	2.00
36.10	6.016	2.01
36.15	6.025	2.01
36.20	6.033	2.01
36.25	6.041	2.01
36.30	6.050	2.02
36.35	6.058	2.02
36.40	6.066	2.02
36.45	6.075	2.03
36.50	6.083	2.03
36.55	6.091	2.03
36.60	6.100	2.03
36.65	6.108	2.04
36.70	6.116	2.04
36.75	6.125	2.04
36.80	6.133	2.04
36.85	6.141	2.05
36.90	6.150	2.05
36.95	6.158	2.05
37.00	6.166	2.06
37.05	6.175	2.06
37.10	6.183	2.06
37.15	6.191	2.06
37.20	6.200	2.07
37.25	6.208	2.07
37.30	6.216	2.07
37.35	6.225	2.08
37.40	6.233	2.08
37.45	6.241	2.08
37.50	6.250	2.08
37.55	6.258	2.09
38.00	6.266	2.09
37.65	6.275	2.09
37.70	6.283	2.09
37.75	6.291	2.10
37.80	6.300	2.10
37.85	6.308	2.10
37.90	6.316	2.11
37.95	6.325	2.11
38.00	6.333	2.11
38.05	6.341	2.11
38.10	6.350	2.12
38.15	6.358	2.12
38.20	6.366	2.12
38.25	6.375	2.13
38.30	6.383	2.13
38.35	6.391	2.13
38.40	6.400	2.13
38.45	6.408	2.14
38.50	6.416	2.14
38.55	6.425	2.14
38.60	6.433	2.14
38.65	6.441	2.15
38.70	6.450	2.15
38.75	6.458	2.15
38.80	6.466	2.16
38.85	6.475	2.16
38.90	6.483	2.16
38.95	6.491	2.16
39.00	6.500	2.17
39.05	6.508	2.17
39.10	6.516	2.17
39.15	6.525	2.18
39.20	6.533	2.18
39.25	6.541	2.18
39.30	6.550	2.18
39.35	6.558	2.19
39.40	6.566	2.19
39.45	6.575	2.19
39.50	6.583	2.19
39.55	6.591	2.20
39.60	6.600	2.20
39.65	6.608	2.20
39.70	6.616	2.21
39.75	6.625	2.21
39.80	6.633	2.21
39.85	6.641	2.21
39.90	6.650	2.22
39.95	6.658	2.22
40.00	6.666	2.22
40.05	6.675	2.23
40.10	6.683	2.23
40.15	6.691	2.23
40.20	6.700	2.23
40.25	6.708	2.24
40.30	6.716	2.24
40.35	6.725	2.24
40.40	6.733	2.24
40.45	6.741	2.25
40.50	6.750	2.25
40.55	6.758	2.25
40.60	6.766	2.25
40.65	6.775	2.26
40.70	6.783	2.26
40.75	6.791	2.27
40.80	6.800	2.27
40.85	6.808	2.27
40.90	6.816	2.27
40.95	6.825	2.28
41.00	6.833	2.28
41.05	6.841	2.28
41.10	6.850	2.28
41.15	6.858	2.29
41.20	6.866	2.29
41.25	6.875	2.29
41.30	6.883	2.29
41.35	6.891	2.30
41.40	6.900	2.30
41.45	6.908	2.30
41.50	6.916	2.31
41.55	6.925	2.31
41.60	6.933	2.31
41.65	6.941	2.31
41.70	6.950	2.32
41.75	6.958	2.32
41.80	6.966	2.32
41.85	6.975	2.33
41.90	6.983	2.33
41.95	6.991	2.33
42.00	7.000	2.33
42.05	7.008	2.34
42.10	7.016	2.34
42.15	7.025	2.34
42.20	7.033	2.34
42.25	7.041	2.35
42.30	7.050	2.35
42.35	7.058	2.35
42.40	7.066	2.35
42.45	7.075	2.35
42.50	7.083	2.35
42.55	7.091	2.35
42.60	7.100	2.37
42.65	7.108	2.37
42.70	7.116	2.37
42.75	7.125	2.33
42.80	7.133	2.33
42.85	7.141	2.33
42.90	7.150	2.33
42.95	7.158	2.39
43.00	7.166	2.39
43.05	7.175	2.39
43.10	7.183	2.39
43.15	7.191	2.40
43.20	7.200	2.40
43.25	7.208	2.40
43.30	7.216	2.41
43.35	7.225	2.41
43.40	7.233	2.41
43.45	7.241	2.41
43.50	7.250	2.42
43.55	7.258	2.42
43.60	7.266	2.42
43.65	7.275	2.43
43.70	7.283	2.43
43.75	7.291	2.43
43.80	7.300	2.43
43.85	7.308	2.44
43.90	7.316	2.44
43.95	7.325	2.44
44.00	7.333	2.44
44.05	7.341	2.45
44.10	7.350	2.45
44.15	7.358	2.45
44.20	7.366	2.45
44.25	7.375	2.45
44.30	7.383	2.45
44.35	7.391	2.45
44.40	7.400	2.47
44.45	7.408	2.47
44.50	7.416	2.47
44.55	7.425	2.48
44.60	7.433	2.48
44.65	7.441	2.48
44.70	7.450	2.48
44.75	7.458	2.49
44.80	7.466	2.49
44.85	7.475	2.49
44.90	7.483	2.49
44.95	7.491	2.50
45.00	7.500	2.50
45.05	7.508	2.50
45.10	7.516	2.51
45.15	7.525	2.51
45.20	7.533	2.51
45.25	7.541	2.51
45.30	7.550	2.52
45.35	7.558	2.52
45.40	7.566	2.52
45.45	7.575	2.53
45.50	7.583	2.53
45.55	7.591	2.53
45.60	7.600	2.53
45.65	7.608	2.54
45.70	7.616	2.54
45.75	7.625	2.54
45.80	7.633	2.54
45.85	7.641	2.55
45.90	7.650	2.55
45.95	7.658	2.55

§ 2.69 *Definitions of enclosures on or above upper deck—Break.* A break is the space above the line of the under side of the upper deck when that deck is cut off and continued at a higher eleva-

tion. The height of a break is the distance from the said line to the under side of the break deck.

Bridge. A decked erection usually from 6 to 8 feet in height and of undefined length, fitted about amidships and extending from side to side over the upper deck of a vessel.

Chart house. A house, room or space designated for the purpose of navigation in connection with the stowage and use of charts and navigating instruments necessary to the plotting of the course of the vessel.

Deck house. (Formerly called roundhouse) An erection on or above the upper deck but not extending from side to side of the vessel, as is the case with a bridge, a forecastle, a poop, or raised quarter-deck. For descriptive purposes on vessel documents, spaces not extending from side to side of the vessel, such as cabin trunks, and closed-in spaces over the holds of motorboats, etc., may be classed as deck houses.

Excess hatchways. The difference between one-half of 1 percent of the gross tonnage exclusive of hatchways and the aggregate tonnage of the hatchways.

Forecastle. A structure on and located at the extreme forward end of the upper deck and having its sides completely enclosed by a continuation upward of the vessel's outer skin.

Light and air spaces. The portion of the spaces within the casings around the boiler and engine hatches and above the upper deck to the hull of a vessel when used for admission of light and air to the boilers or machinery below.

Poop. A structure on and located at the extreme after end of the upper deck and having its sides completely enclosed by a continuation upward of the vessel's outer skin.

Radio house or space. A structure or space in which the radio apparatus is installed and which may or may not provide accommodations for the operator or operators when off duty.

Side house. A small house at the side of the upper, forecastle, bridge, or poop deck, etc., of a vessel.

Superstructure. Any superstructure the breadth of which, (at all points throughout its length) is approximately equivalent to the breadth of the upper deck, and the side frames of which are entirely independent of the main frames of the vessel. This definition is not applicable to forecastle, bridge or poop.

§ 2.70 *Definitions of items of deduction.—Anchor gear* The space below deck occupied by chains or cables, machinery, etc., for handling the anchor.

Boatswain's stores. The spaces for storing paints, oils, blocks, hawsers, rigging, deck gear, etc., in charge of the boatswain and for daily use on the vessels.

Chart house. (See foregoing definition.)

Crew spaces. The space appropriated exclusively to the use of the crew of a vessel, except such spaces as the engineer's workshop, carpenter shop, plumber shop, butcher shop, etc., whereever situated. The total of all crew-space deductions will be shown on vessel's documents under the head of "crew space."

Master's cabin. A space for the exclusive use of the master, consisting of sleeping room, bathroom, dressing room, office, and passageways serving his accommodations.

Radio house. (See foregoing definition.)

Steering gear. The space below deck occupied by machinery, fittings, etc., for operating the steering gear.

Storage of sails. The space in a vessel propelled wholly by sails used exclusively for storing the same, subject to the limitation of 2½ percent of the vessel's gross tonnage.

§ 2.71 *Definitions of structural terms, etc.—After perpendicular* A vertical straight line at the after edge of the rudder post.

Athwart; athwartship. In a transverse direction; from side to side at right angles to the fore and aft center line of a vessel.

Batten. A board several inches in breadth, usually fitted on the side frames in holds and between decks of vessels instead of ceiling.

Beam. An athwart member supporting a portion of a deck. Also the breadth of the vessel.

Between decks. For measurement purposes it is the space between the second and third and third and fourth decks, etc., the decks being numbered from below.

Body plan. A drawing consisting of a pair of half transverse elevations or end views of a vessel, both having a common vertical middle line, so that the right hand side represents the vessel as seen from ahead and the left hand side as seen from astern. On the body plan appear the forms of the various cross sections. The curvature of the rail and deck lines at the sides, and with the water-lines, buttock lines, and diagonal lines indicated as straight lines.

Booby hatch. A small companion fitted with a sliding top.

Break in double bottom. The point where the line of the inner bottom is broken by being either raised or lowered from the normal line of same.

Bulkhead. Bulkheads are partitions by which compartments, etc., are formed, or the hold of a vessel is divided.

Bulwark. A term applied to the strake of shell plating or the side planking above the weather deck and usually extends between the forecastle and the bridge or the bridge and the poop.

Ceiling. The covering of wood planking on the inboard face of a vessel's side frames, bottom frames, floor timbers, and sometimes on the under side of deck beams.

Cellular double bottom. A term applied when the double bottom is divided into numerous compartments by the floors and longitudinals.

Coaming. The vertical boundary around a hatch, skylight, etc., the "sill" below a tonnage opening in a bulkhead.

Cockpit. A space at the bottom of which is a platform sunk below the line of the upper deck on small craft.

Companion. A small structure sheltering a deck opening affording entrance to a companionway.

Companionway. A stairway or ladderway leading to a space above or below.

Covering board. A plank or a strake of planking fitted horizontally on top of frame heads at the line of weather deck.

Crown. A term sometimes used to denote the round up or camber of a deck.

Deck hook. A wooden hook or knee on the level of deck beams on which the extreme forward ends of deck planks rest and to which they are fastened. On iron or steel vessels, a plate connecting the extreme ends of deck stringer plates.

Depth of frame. The depth of a bottom frame is its perpendicular height. See D Figure 1. The depth of a side frame is the athwart distance between its inboard and outboard face.

Double bottom. Compartments at bottom of ship between inner and outer bottom plating, used for ballast tanks, water, fuel oil, etc.

Fidley hatch. Hatch around smokestack and uptake.

Flange. Portion of a plate or shape at, or nearly at right angles to main portion.

Flare. A spreading outward and upward.

Floor or floor timber The lowermost piece of timber connecting the main frames, notched to fit over the keel or keelson and extending the full depth of the frames to which it is fastened. In an iron or steel vessel a plate placed vertically in the bottom, extending from bilge to bilge, in way of each frame, to which it (the frame) is connected. In double bottoms of the usual construction it extends from the outer to the inner bottom thereof.

Frame. One of the numerous transverse (longitudinal in Isherwood-type vessels) "ribs" that form the framing of a vessel.

Frame bracket. A plate connecting a side frame to the margin plate.

Freeing port. An opening in the bulwark or shell plating between the shelter and upper decks for discharging large quantities of water which may be shipped.

General arrangement plans. Plans showing the various quarters, spaces and compartments into which a vessel is usually divided.

Gudgeon. Fittings on the sternpost to take the rudder pintles.

Gunwale. A term applied to the line where an upper deck stringer intersects the shell.

Hatchway. An aperture in a vessel's deck through which cargo is laden or discharged; in common practice the term "hatch" is also applied.

Hold. For admeasurement purposes, that portion of the vessel below the tonnage deck.

Horn timber The center line frame in the stern of a wooden vessel, extending aft from the sternpost.

Inboard profile. Drawing of a vessel cut vertically through its longitudinal center line, showing its forward and

after perpendiculars, line of deck at center and side, height of decks, tanks, height of bottom frames or floors and their spacing, assignment of various spaces, machinery, etc.

Inner bottom. Plating forming the upper boundary of the double bottom. Also called the tank top.

Keel. In wooden and composite vessels it is composed of pieces of timber and extends from stem to sternpost and is the bottom member of the vessel's structure. In iron or steel vessels it consists of long bars fitted vertically or of plates fitted horizontally at the middle line.

Keelson. In wooden vessels the keelson is composed (like the keel) of various pieces of timber placed on the bottom frames directly over and in line with the keel and extending all fore and aft. In iron or steel vessels the middle-line keelson is the keelson at the center line, directly over the keel.

Length between perpendiculars. The length of a vessel measured from the forward edge of the stem where it intersects the load water line to the after perpendicular.

Length over all. The length of a vessel measured from the foremost part of the stem to the aftermost point of the stern.

Limber strake. The fore and aft plank of bottom ceiling laid next to the keelson.

Longitudinal framing. A system of construction in which, in conjunction with deep web frames, the main frames are run fore and aft instead of athwartships.

Longitudinal. A fore and aft vertical member running parallel, or nearly parallel, to the center vertical keel through the double bottom.

Main rail. Rail fitted on the upper edge of bulwark plating, or upon the stanchions surrounding an upper deck.

Margin plate. The outer boundary of the inner bottom, connecting it to the shell plating at the bilge.

Midship cross section. A drawing of a vessel cut athwartship at about midlength, showing moulded depth, moulded breadth, round or pitch of beam, depth of side and bottom frames, floors, etc.

Orlop deck. The lowest partial deck.

Outboard. Away from the center line, towards the side of the vessel.

Pintle. Fitting or pin on the rudder which turns in a gudgeon.

Planking. A term applied to wood decks and to the outside planking of wood or composite vessels.

Plating. The plates of the shell, decks, bulkheads, etc.

Quadrant. A casting, forging or built-up frame in the shape of a sector of a circle attached to the rudder stock and through which the steering gear leads turn the rudder.

Rabbet. A groove or channel cut in a piece of timber to take the edge of a plank, or the ends of a number of planks.

Rake of the bow. The inclination of the line of the stem from the forward perpendicular.

Rake of the stern timber. Its (stern timber) inclination from the after perpendicular.

Reverse frame. An angle bar or other shape riveted to the top of floors and/or the inner edge of a transverse frame to reinforce it.

Rudder post. See sternpost.

Rudder stock. The main piece of the rudder frame, to which the pintles are connected and to the upper end of which the quadrant or tiller is fitted.

Samson post. A heavy vertical post that supports cargo booms.

Scantlings. Dimensions of various members that are used in the construction of a vessel.

Scupper A round or oval aperture usually fitted in decks for the purpose of drainage.

Settling tanks. Oil tanks used for separating entrained water from the oil. The oil is allowed to stand for a time, to permit the water to settle at the bottom when it is drained or pumped off.

Shaft tunnel. Enclosed alley-way around propeller shaft.

Shelf. A fore and aft timber fitted to the frames and forming a support for the ends of the deck beams.

Shell plating. The plates forming the outer skin of the hull.

Sheer. The amount by which the height of the weather deck at the forward and after perpendiculars exceeds this height at the mid-perpendicular.

Skin. A term usually applied to the outside planking or plating.

Skylight. A built-up frame of wood or metal having glass lights fitted in the top and installed over a deck opening for the purpose of furnishing light and air to the spaces below.

Stem. In the case of wooden vessels, it is the heavy piece of timber at which the outside planking terminates at the forward end of the hull. In iron or steel vessels it is the heavy piece of iron or steel extending from the keel to above the uppermost weather deck, and forming the extreme fore end of a vessel.

Stern. The after end of a vessel.

Sternpost (main) In wooden vessels, the piece of timber extending from the after end of the keel to the uppermost deck and to which the rudder braces are fixed to receive the pintles by which the rudder is hung. In iron or steel sailing vessels, paddle and twin-screw steamers, the heavy forging or casting of iron or steel extending from the after end of the keel (to which it is scarfed) to an appropriate distances within the hull; in single screw steamers, the after part of the stern frame.

Stiffener. An angle bar, T-bar, channel bar, etc., used to stiffen plating of the bulkhead, etc.

Strake. A fore and aft continuous course or row of shell or other plating or planking.

Tank top. Plating forming the top of a double bottom. The inner bottom.

Transom. A floor plate extending across the vessel at the forward side of the sternpost and attached thereto.

Transverse framing. Athwartship and vertical members forming the vessel's framing. Opposite to the longitudinal system of framing.

Tumble home. An inboard sloping of the vessel's side. (The opposite to flare.)

Web frame. Members built of plates and angles, spaced at required intervals, and fitted in lieu of main frames for the purpose of local strengthening.

Wheelhouse (or pilot house) The house in which a steering wheel is located for the steering and navigation of the vessel.

§ 2.72 *Suez and Panama Canal certificates.* Suez Canal special tonnage certificates and also Panama Canal tonnage certificates will be issued, upon application, by collectors of customs to American shipowners requiring them for ships which will use the said canals. Collectors of customs will also issue such tonnage certificates to public vessels of the United States requiring them.

PART 3—DOCUMENTATION OF VESSELS[1]

GENERAL

Sec.

3.1 General definitions.
3.2 Vessels entitled to documents.
3.3 Provisional registers.
3.4 Yachts entitled to documents.
3.5 Vessels exempt from documentation.
3.6 Marine documents; kinds of.
3.7 Marine documents; execution of.
3.8 Marine documents; new.
3.9 Marine documents to include dimensions and tonnage.
3.10 Registers.
3.11 Enrollment and license; coasting trade and fisheries.

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[1] Secs. 102, 103, and 104, Reorganization Plan No. 3 of 1946 (3 CFR, 1946 Supp. Ch. IV)

SEC. 102. *Functions transferred to Bureau of Customs.* There are hereby transferred to the Commissioner of Customs those functions of the bureau, offices, and boards specified in the first sentence of section 104 of this plan, and of the Secretary of Commerce, which pertain to registry, enrollment, and licensing of vessels, including the issuance of commissions to yachts, the assignment of signal letters, and the preparation of all reports and publications in connection therewith; measurement of vessels, administration of tonnage duties, and collection of tolls; entry and clearance of vessels and aircraft regulation of vessels in the coasting and fishing trades, and limitation of the use of foreign vessels in waters under the jurisdiction of the United States; recording of sales, conveyances, and mortgages of vessels; protection of steerage passengers; all other functions of such bureau, offices, and boards which were performed by the Bureau of Customs on behalf thereof immediately prior to the effective date of Executive Order No. 9083 of February 28, 1942 (7 F. R. 1609); and the power to remit and mitigate fines, penalties and forfeitures incurred under the laws governing these functions.

SEC. 103. *Powers of the Secretary of the Treasury.* The functions transferred by section * * * 102 of this plan may be performed through such officers and employees of the * * * Bureau of Customs * * * as may be designated by the * * * Commissioner of Customs, * * * and shall be performed subject to the direction and control of the Secretary of the Treasury * * *

SEC. 104. *Abolition of agencies.* The Bureau of Marine Inspection and Navigation, the office of the director thereof, the offices of supervising inspectors, principal traveling inspectors, local inspectors, assistant inspectors, shipping commissioners, deputy shipping commissioners, and the Board of Supervising Inspectors, the Boards of Local Inspectors, the Marine Casualty Investigation Board, and the Marine Boards are hereby abolished. The Secretary of the Treasury shall provide for winding up those affairs of the said abolished agencies which are not otherwise disposed of herein.

Sec.
3.12 Builder's certificates.
3.13 Official number and signal letters.
3.14 Evidence as to marking of official number, net tonnage, name, and hailing port.
3.15 Marking of draft of registered vessels.
3.16 Name and hailing port on documented vessel.
3.17 Home port; definition; change of.
3.18 Forms of oath of owner and master for documentation.
3.19 Citizenship; documentation.
3.20 Evidence of citizenship of owners and officers.
3.21 Execution of oaths for documentation.
3.22 Issue and record of marine documents.
3.23 Permanent documentation of vessel absent from home port.
3.24 Change of master.
3.25 Renewal of license.
3.26 Surrender of permanent documents.
3.27 Surrender of temporary documents.
3.28 Rebuilt vessels.
3.29 Change of build or rig.
3.30 Exchange of documents.
3.31 Loss of marine document.
3.32 Sale or transfer of vessel; change in membership of owning partnership.
3.33 Recording of bills of sale and mortgages.
3.34 Issue of temporary document upon sale.
3.35 Sale abroad.
3.36 Sale or charter to an alien.
3.37 Preferred mortgages.
3.38 Record and endorsement of preferred mortgages and related instruments.
3.39 Certificate of ownership.
3.40 Frontier enrollment and license.
3.41 Transfer from frontier enrollment and license.
3.42 Registry of foreign-built vessels.
3.43 Documentation of American-built foreign-flag vessels.
3.44 Foreign-built yachts.
3.45 Certificate of protection.
3.46 Recorded vessels.
3.47 Record of American-built vessels owned by aliens.
3.48 Certificates of record.
3.49 Prizes and forfeited vessels.
3.50 Inspection of marine documents.
3.51 Change of name of documented vessel.
3.52 Fee for change of vessel's name.
3.53 Yacht privileges and obligations.
3.54 Vessels to be inspected before documentation.
3.55 Citizenship of masters of documented vessels.
3.56 Revocation or denial of document.
3.57 Report of laid-up vessels.

DOCUMENTATION OF VESSELS UNDER THE ACT OF JUNE 6, 1941, AS EXTENDED

3.60 Vessels entitled to documents.
3.61 Provisional registers.
3.62 Marine documents; classes; period of validity.
3.63 Marine documents; execution of.
3.64 Marine documents to include dimensions and tonnage.
3.65 Application for official number and signal letters.
3.66 Designation of home port.
3.67 Coastwise permit.
3.68 Marking of official number and net tonnage.
3.69 Home port; change of.
3.70 Master's oath for enrollment and license.
3.71 Change of master.
3.72 Issue, record, and surrender of documents.
3.73 Renewal of document.
3.74 Exchange of documents.

REGISTRATION OF PRIVATE CODE SIGNALS, HOUSE FLAGS AND FUNNEL MARKS

3.80 Application for registration of rockets, lights, or other similar code signals, house flags, or funnel marks.
3.81 Registration of rockets, lights, or other similar signals, house flags, or funnel marks.

GENERAL

AUTHORITY: §§ 3.1 to 3.57, issued under secs. 2, 3; 23 Stat. 118, 119, as amended; 46 U. S. C. 2, 3. Statutes interpreted or applied are noted in parentheses following provisions affected.

§ 3.1 *General definitions.* For the purposes of this part and Part 4 of this chapter:

(a) The word "vessel" includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft.

(b) The term "vessel of the United States" means any vessel documented under the laws of the United States.

(c) The term "documented" means registered, enrolled, and licensed, or licensed under the laws of the United States, whether permanently or temporarily.

(d) The term "marine document" includes registry, enrollment and license, and license.

(e) The term "port of documentation" means the home port of a vessel. It does not include a port in which a temporary document is issued.

(f) The term "mortgagee," in the case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated in such deed.

(g) The term "noncontiguous territory of the United States" includes Alaska and all the island territories and possessions of the United States, but does not include the Canal Zone nor the Philippine Islands. (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.2 *Vessels entitled to documents.* (a) A vessel of 20 net tons or more may be registered or enrolled and licensed. A vessel of 5 net tons or more but less than 20 net tons may be licensed (except vessels subject to the provisions of paragraph (b) of this section) or registered.

(b) Any vessel of 5 net tons or more which is to be documented for navigating the waters of the northern, northeastern, or northwestern frontiers otherwise than by sea shall be granted a frontier enrollment and license, customs Form 1273, except that a vessel used exclusively as a pleasure vessel on those waters may be granted an enrollment and license as a yacht, customs Form 1290, if entitled to be so documented in accordance with the provisions of § 3.4 of this part. (See § 3.40.)

(c) The following classes of vessels are entitled to receive documents under existing laws:

Class 1. Any vessel built in the United States and wholly owned by a citizen.[2] Any such vessel which by sale has become the property of one who is not a citizen or which has been placed under foreign registry will be entitled to a new marine document upon afterward becoming the property of a citizen, but cannot engage in the coastwise trade. The following notation shall be made on the document issued to such a vessel:

As amended by section 27 of the Merchant Marine Act of June 5, 1920, as amended. This vessel shall not engage in the coastwise trade.

Class 2. Any vessel purchased from the Maritime Commission or War Shipping Administration by a citizen. (See § 3.42.)

Class 3. Any vessel built in the United States in whole or in part for the account of one who is not a citizen and then recorded, which thereafter becomes wholly owned by a citizen and has never before been documented. (See § 3.47.)

Class 4. Any vessel captured by a citizen in a war to which the United States is a party, which has been lawfully condemned as a prize and is wholly owned by a citizen.

Class 5. Any vessel which has been judicially forfeited for a breach of the laws of the United States when wholly owned by a citizen. This includes a foreign-built vessel, but does not include any vessel not otherwise entitled to documents which has been sold under a decree of admiralty for debt or seamen's wages.

Class 6. Any vessel built in the United States and sold by the Government to a citizen. A foreign-built vessel bought or chartered by the Government is entitled to documentation if sold to a citizen and the requirements for class 9 are met.

Class 7. Any vessel authorized by special act of Congress to be documented.

Class 8. Any vessel wrecked on a coast of the United States or its possessions or in adjacent waters when purchased by a citizen and repaired in a shipyard in the United States or its possessions, provided it be proved to the satisfaction of the Commissioner of Customs, through a board of three appraisers appointed by him if necessary, that the repairs put upon such vessel are equal to three times the appraised salved value of the vessel. The expense of such appraisal shall be borne by the owner of the vessel. If any of the material facts sworn to or represented by the owner, or at his instance, to obtain a document for such vessel is not true, the vessel is liable to forfeiture.

Class 9. Any seagoing vessel, whether steam or sail, wherever built, wholly owned by a citizen. A foreign-built vessel of this class shall engage only in trade with foreign countries or the islands of Guam, Tutuila, Wake, Midway, or Kingman Reef. It shall not engage in the coastwise trade, except as specified in sections 18 and 22, Merchant Marine Act, 1920, as amended, nor in the American fisheries. (See § 3.42)

Class 10. Any vessel of 20 net tons or over (except a vessel constructed under the provisions of the Merchant Marine Act, 1936, as amended) not documented under the laws of the United States, which is acquired by or made available to the United States Maritime Commission.

(d) No vessel shall engage in the coastwise trade if it is owned by a corporation, unless 75 percent of the interest in that corporation is owned by citizens. The appropriate one of the following notations shall be made on the register of any vessel owned by a cor-

[2] For the meaning of the word "citizen" in this section, see § 3.19.

poration, except when such register is required by any other provision of this part to bear an endorsement prohibiting the vessel from engaging in the coastwise trade:

(1) "Less than 75 percent of the interest in the corporation owning this vessel is owned by citizens of the United States. It shall not engage in the coastwise trade"; or

(2) "75 percent of the interest in the corporation owning this vessel is owned by citizens of the United States. It may engage in the coastwise trade so long as so owned and no longer." (R. S. 4132, as amended, 4136, 4139, sec. 2, 39 Stat. 729, 49 Stat. 442; 46 U. S. C. 11, 13, 14, 54, 802, 883. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.3 *Provisional registers.* (a) Consular officers of the United States and such other persons as may be designated by the President for the purpose[4] are authorized to issue a provisional certificate of registry to any vessel abroad which has been purchased by a citizen, as defined in § 3.19, and which at the time of such purchase is not documented as a vessel of the United States.

(b) Such provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the islands of Guam and Tutuila until the expiration of 6 months from the date thereof, or until 10 days after the vessel's arrival in a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States, the vessel shall become subject to the laws relating to officers, inspection, and measurement.

(c) When a bill of sale covering such transfer is presented to an American consular officer:

(1) Satisfactory evidence shall be produced to establish that the transfer of registry has the approval of the foreign government concerned.

(2) The bill of sale shall be filed with him.

(3) The vendee shall execute an affidavit as to the bona fides of the transfer of title and the citizenship of the vendee which the consul shall file with the bill of sale.

(4) If the vendor or his duly authorized representative be present, he shall also sign the affidavit.

(5) The consular officer shall then communicate with the Commissioner of Customs through the State Department, advising him that the bill of sale and affidavit have been filed with him and giving the names of the vendor and of the vendee, respectively, and the name, rig, and gross and net tonnage of the vessel. The consular officer also shall state whether, in his opinion, the transfer is made in good faith.

(6) On receipt of such a communication, if the transfer appears to be in good faith and the documentation of the vessel is not contrary to the policy of this Government, the Commissioner of Customs will award signal letters to the vessel and, through the usual channels, will promptly authorize the State Department to instruct the consular officer to issue a provisional certificate,[5] customs Form 1266–A, to the vessel. The State Department will then cable, at the expense of the parties concerned, instructions and data for the issue of the provisional register.

(d) When bills of sale covering such transfers are presented to persons designated by the President for the purpose of issuing provisional certificates of registry, the procedure outlined in paragraph (c) of this section shall be followed. Communications in such cases shall be made through the appropriate departments.

(e) If bills of sale covering such transfers are presented to a collector of customs, the procedure outlined in paragraph (c) (1) (2), (3), (4), and (5) of this section shall be followed, except that the collector shall communicate directly with the Commissioner of Customs. Thereafter, if the transfer appears to be in good faith and it is not contrary to the policy of this Government, the Commissioner of Customs will award signal letters to the vessel and, through the usual channels, will promptly request the State Department to authorize the appropriate consular officer to issue a provisional certificate to the vessel. The State Department will then cable, at the expense of the parties concerned, instructions and data for the issue of the provisional register. No provisional certificate of registry shall be issued in any case unless authorized by the Commissioner of Customs.

(f) A duplicate provisional certificate, customs Form 1266–A, shall be forwarded as soon as practicable in every case by the issuing officer through the usual channels to the Commissioner of Customs.

(g) No provisional certificate shall be issued to any vessel abroad which at the time of its transfer to a citizen of the United States was documented as a vessel of the United States. Such a vessel is entitled to all the privileges and benefits of a vessel of the United States for the period allowed by R. S. 4166 (46 U. S. C. 35) (Sec. 1, 38 Stat. 1193, as amended; 46 U. S. C. 12. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.4 *Yachts entitled to documents.* (a) Any vessel of 16 gross tons or more but less than 20 net tons, used exclusively as a pleasure vessel (except a vessel navigating the waters of the northern, northeastern, or northwestern frontiers otherwise than by sea) and otherwise entitled to be documented, may be licensed as a yacht. Any vessel of 20 net tons or more and any vessel navigating the waters of the northern, northeastern, or northwestern frontiers otherwise than by sea of less than 20 net tons but not less than 16 gross tons, used exclusively as a pleasure vessel and otherwise entitled to be documented may be enrolled and licensed as a yacht.

(b) Any vessel of 5 net tons or more but less than 16 gross tons, used exclusively as a pleasure vessel and otherwise entitled to be documented, may be registered, if the owner so desires, but if so registered shall be treated in all respects as other registered vessels. Any such vessel may be granted an enrollment and yacht license (for navigating the waters of the northern, northeastern, and northwestern frontiers otherwise than by sea) or a yacht license under special instructions from the Commissioner of Customs or without such special instructions if the application for such documentation is accompanied by a certificate by the owner or his authorized agent that, within a reasonable time, the vessel will proceed on a foreign voyage or the owner will have a mortgage against the vessel recorded. (R. S. 4214, as amended; 46 U. S. C. 103)

§ 3.5 *Vessels exempt from documentation.* (a) The following classes of vessels are exempt from documentation:

(1) Boats or lighters not masted, or masted but not decked, used in the harbor of any town or city, and not carrying passengers.

(2) Canal boats, barges, or other boats used in whole or in part on canals or on the internal waters of a State, without sail or internal motive power of their own, not engaged in trade with contiguous foreign territory, and not carrying passengers.

(3) Barges or boats without sail or internal motive power of their own plying in whole or in part on inland rivers or lakes of the United States, not engaged in trade with contiguous foreign territory, and not carrying passengers.

(4) Vessels plying upon waters which are wholly within the limits of a state and which have no outlet into a river or lake on which commerce with foreign nations or among the states can be carried on.

(5) Vessels of less than 5 net tons.

(b) All other vessels engaged in trade between ports in the United States or engaged in the fisheries, if not registered, shall be enrolled and licensed, or licensed, or will be liable to a penalty of $30 on every arrival, unless the vessel has not been within a customs district since the expiration of the license. (R. S. 4335, 18 Stat. 31, 21 Stat. 44, sec. 7, 24 Stat. 81, as amended; 46 U. S. C. 319, 332, 335, 336. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., ch. IV)

§ 3.6 *Marine documents; kinds of.* (a) Marine documents are of two descriptions, (1) permanent, granted to vessels at their home ports[5] and (2) temporary, granted to vessels at ports other than their home ports.[5a]

(b) Registers and enrollments shall be valid until a contingency arises requiring their surrender. (See §§ 3.26, 3.27) Licenses shall be valid for 1 year only, but may be renewed or changed at any time during the year for which they are

[4] The captains of the ports of Cristobal and Balboa, C. Z., and the Governor of Guam were designated by Executive order of April 17, 1915.

[5] Under the "Seattle plan," which is in force in a number of customs districts, a vessel having its home port within the customs collection district may secure a permanent document at any other port in the same district at which marine documents are issued.

[5a] The ports at which marine documents may be issued are indicated in section 1.1. Customs Regulations of 1943 (19 CFR, Cum. Supp., 1.1).

granted.[6] Care shall be taken that only one license, and for one employment, be granted to a vessel for the same period, except that a license may be granted for the "coasting trade and mackerel fisheries."

(c) No enrollment and license or license shall be considered in force longer than the vessel to which it is granted is owned as stated in the document, nor shall it be valid if the description of the vessel is changed, nor if the vessel engages in any business or employment other than that for which the document was granted. (R. S. 4138, 4191, 4315, 4324, 4327; 46 U. S. C. 16, 62, 255, 266, 269. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.7 *Marine documents; execution of.* (a) All marine documents shall be signed and sealed by the collector before being issued.

(b) Each certificate of registry shall bear the seal of the Bureau of Customs and the signature of the Commissioner of Customs. (R. S. 4157 as amended, 4158 as amended, 23 Stat. 118, 119; 46 U. S. C. 27, 28.)

§ 3.8 *Marine documents; new.* When a new marine document is issued[7] in lieu of one surrendered, such new document shall in every case cite the previous document by number, date, and port of issue, carry any notation of the authority for redocumentation or of the existence of unsatisfied preferred mortgage appearing on the surrendered document, and give the cause of surrender of the old document. A certificate of the builder shall not be required, nor shall a certificate of admeasurement be required unless some change of tonnage has taken place since the time of the previous documentation. (See §§ 3.26, 3.27 and 3.30) (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.9 *Marine documents to include dimensions and tonnage.* The marine document of every vessel shall express her length, breadth, and depth; the number of decks and masts; the tonnage under the tonnage deck; the tonnage of the poop or other enclosed space above the deck; the gross tonnage; each deduction made from the gross tonnage; and the net or register tonnage. In appropriate cases it shall also show the height under the third or spar deck and the tonnage on the between decks above the tonnage deck. (R. S. 4150, 4153, as amended; 46 U. S. C. 74, 77. Sec. 102 Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.10 *Registers.* Vessels of the United States engaged in the foreign trade shall be registered. Vessels engaged in domestic trade only may be registered. (See § 3.30) (R. S. 4132, as amended, sec. 22, 41 Stat. 997; 46 U. S. C. 11, 13. Sec. 102 Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.11 *Enrollment and license; coasting trade and fisheries.* (a) When employed in the coasting trade and fisheries, a vessel of 20 net tons or over shall be enrolled and licensed and a vessel of 5 net tons or over but less than 20 net tons shall be licensed, unless such vessel is registered. (See § 3.10)

(b) A vessel engaged exclusively in the cod fishery shall be licensed for that fishery. A vessel engaged in whaling shall be licensed for the whale fishery. A vessel engaged in taking fish of any other description shall be licensed for the mackerel fishery. A vessel which engages in both the coasting trade and fishing (other than whaling) may be licensed for the "coasting trade and mackerel fishery." A vessel engaged in taking out fishing parties is not a fishing vessel and shall be licensed for the coasting trade unless it intends to proceed to a foreign port, in which case a certificate of registry is required. (See § 3.10) See § 3.40 for vessels on the Great Lakes.

(c) The trade expressed in the body of a document is controlling and may not be limited nor expanded by the statement of service in the space provided therefor.

(d) An enrolled and licensed vessel may engage in trade with the Canal Zone or Guantanamo Bay Naval Station. (R. S. 4311, 4321, sec. 7, 24 Stat. 81, sec. 314, 49 Stat. 529; 46 U. S. C. 251, 263, 319. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.12 *Builder's certificates.* (a) In order to document a vessel of class 1, 2, 6, or 7, built in the United States and not before documented, the owner shall produce to the collector a certificate on customs Form 1261 duly acknowledged under seal from the builder under whose direction the vessel was built that she was so built, stating the place and time of building, the person or persons for whom built, number of decks and masts, length, breadth, depth, tonnage, and such other particulars as are usually descriptive of a vessel. This certificate shall be sufficient to authorize the removal of a new vessel, if in ballast only, from the district where she was built to another district in the same or an adjoining state where the owner or owners actually reside.

(b) When for any cause it is found impracticable to obtain the certificate of the builder, other competent evidence establishing the particulars and facts required to be certified by him may be accepted with the approval of the Commissioner of Customs.

(c) The place of build is where the hull was built. The time of build is the year of completion. Both shall appear in all marine documents. (R. S. 4147; 46 U. S. C. 24. Sec. 102 Reorg. Plan No. 3 of 1946, Supp., Ch. IV)

§ 3.13 *Official number and signal letters.* (a) Every documented vessel shall have an official number[8] awarded by the Commissioner of Customs. Application therefor shall be made on customs Form 1320 by the owner or his agent through the collector of customs. When the application is filed with the collector at the port designated as the home port of the vessel, the application shall be in duplicate. When the application is filed with the collector at any port other than the home port of the vessel, the application shall be in triplicate. The name or names of any former owner or owners shall be stated on the application. If there was no former owner, that fact shall be stated. In the case of corporate ownership, the application shall be signed in the corporate name by the president, secretary, or a specially authorized officer of the corporation, or by an authorized agent. In the case of a partnership, the partnership name shall be signed by one of the partners, or by a duly authorized agent; the name of each of the partners shall be stated but the proportionate interest of each in the partnership business shall not be stated. In the case of individual ownership by two or more persons, the application shall be signed by all the owners, by a duly authorized agent, or by one of the owners as managing owner, provided there is filed with the collector a written authorization for him to act in that capacity signed by the owners of a majority interest in the vessel; in every case, the name of each owner shall be stated. In every case the capacity in which the person signs, whether as owner, managing owner, agent, etc., shall be clearly stated below his signature. If a signature is by mark, it shall be witnessed by two persons, or acknowledged. Any acknowledgment valid under the law of the state where made may be accepted. No customs officer or employee is authorized by section 486, Tariff Act of 1930, to take such acknowledgments.

(b) Each application for an official number shall be accompanied by a designation of home port on Customs Form 1319.

(c) When an application for an official number is filed with the collector at the port designated as the home port of the vessel, the original only of customs Form 1320 shall be forwarded to the Bureau. When an application for an official number is filed with the collector at any port other than the home port of the vessel the original and one copy of the application shall be forwarded to the Bureau. Upon the award of an official number to the vessel, the Bureau will forward to the collector transmitting the application a notice of such award on customs Form 1321 in duplicate. The original shall be delivered to the applicant and the duplicate retained in the collector's files. When the application for official number is filed with the collector at any port

[6] With respect to registers and enrollments and licenses issued under the act of June 6, 1941, see §§ 3.62, 3.72 (b) and 3.73.

[7] The penalty for neglecting to surrender a document when required by law is the forfeiture of all privileges and benefits of a vessel of the United States. (R. S. 4169; 46 U. S. C. 38)

[8] "The Secretary of Commerce [Commissioner of Customs] shall have power, under such regulations as he shall prescribe, to establish and provide a system of numbering vessels so registered, enrolled and licensed; and each vessel so numbered shall have her number deeply carved or otherwise permanently marked on her main beam; and if at any time she shall cease to be so marked, such vessel shall be liable to a fine of $30 on every arrival in a port of the United States if she have not her proper official number legally carved or permanently marked." (46 U. S. C. 45.)

other than the home port of the vessel, and an official number is awarded to the vessel, a copy of the notice of award will also be forwarded by the Bureau to the collector at the home port together with a copy of the application.

(d) Any seagoing vessel of 100 tons or over, in addition to an official number, may have signal letters awarded. Application therefor shall be made by the owner or his agent through a collector of customs on the application for official number, customs Form 1320, or, if the application is made subsequent to the filing of an application for an official number, by a letter transmitted through the collector of customs. Signal letters will not be forwarded to a seagoing vessel of less than 100 tons except upon special authorization by the Commissioner of Customs. (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946, Supp., Ch. IV)

(e) A new application for the award of signal letters to a vessel of the United States shall not be required by reason of any change in status or ownership of such vessel or by reason of the redocumentation of such vessel after a period during which it has been out of documentation. The award of such letters shall not be canceled except upon special authorization of the Commissioner of Customs.

(f) The Bureau will give consideration to granting special authorization for the cancelation of an award of signal letters upon application by or on behalf of person having a permit issued by the Federal Communications Commission for the construction of a broadcasting station who desires to use such letters in connection with the operation of such station if the vessel to which such letters are awarded is no longer documented as a vessel of the United States at the time of the filing of such application. Such application shall be submitted to the Commissioner of Customs in writing and shall state (1) the name and address of the permittee, (2) the date of the granting of such permit, (3) the letters desired, and (4) the name and official number of the vessel to which such letters are awarded, if known to the applicant. (R. S. 4177, as amended; 46 U. S. C. 45)

§ 3.14 *Evidence as to marking of official number, net tonnage, name, and hailing port.* (a) Marine documents shall not be issued until proper evidence is produced that the official number and net tonnage have been properly marked upon the vessel's main beam, that her name has been properly marked upon both sides of her bow, and that her name and hailing port have been properly marked upon her stern, or in the case of a yacht that her name and hailing port have been properly marked on the hull. (See § 2.60a)

(b) The evidence of proper marking required by the preceding paragraph shall be a certificate by a customs officer on customs Form 1322. If the vessel is at a place not readily accessible to a customs officer, the owner or his agent shall make affidavit as to the proper marking; but as soon as she arrives at a place accessible to a customs officer, a certificate on customs Form 1322 shall be required. (Sec. 4, 28 Stat. 743, as amended; 46 U. S. C. 79)

§ 3.15 *Marking of draft of registered vessels.* The draft of every registered vessel shall be marked upon the stem and sternpost, in English feet or decimeters, in either Arabic or Roman numerals. The bottom of each numeral shall indicate the draft to that line. If all the figures indicating the draft of a registered vessel cannot be placed on the sternpost, they shall be continued upward on the adjacent part. (Sec. 2, 26 Stat. 766, 29 Stat. 492; 46 U. S. C. 48)

§ 3.16 *Name and hailing port on documented vessel:* (a) The name of every documented vessel (yachts excepted) shall be marked in full upon each bow and upon the stern, and the hailing port shall also be marked in full upon the stern. These names shall be painted, carved, or gilded in Roman letters in a light color on a dark ground, or in a dark color on a light ground, and shall be distinctly visible. The letters shall not be less than 4 inches high. Every steam vessel of the United States shall, in addition, have her name conspicuously placed in distinct, plain letters not less than 6 inches high on each outer side of the pilot house, if it has one, and if the vessel has side wheels, also on the outer side of each wheel house.

(b) On vessels called "double-enders," the required names shall be placed on the parts corresponding to the bow and stern, and on vessels with sterns not affording sufficient space for the names, they shall be placed on the adjacent parts.

(c) The name of a scow, barge, or other vessel "scow-built" or with square bow may be marked on the bow instead of the side when such marking would be speedily obliterated by chafing against other vessels, piles, or rocks.

(d) The hailing port to be marked on the stern may be either the port where the vessel is permanently documented, or the place in the same district where the vessel was built or where one or more of the owners reside.

(e) Every documented yacht shall have its name and hailing port placed on some conspicuous part of its hull (R. S. 4178, as amended, R. S. 4214, as amended, R. S. 4495, sec. 21, 23 Stat. 58; 46 U. S. C. 46, 47, 103, 493. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.17 *Home port; definition; change of.* (a) A vessel's home port[9] is that port where documents may be issued to vessels which has been fixed and determined by the owner with the approval of the Commissioner of Customs or of an officer or employee of the Bureau designated for the purpose by the Commissioner of Customs pursuant to section 103 of Reorganization Plan No. 3 of 1946 (3 CFR, 1946 Supp., Chapter IV) It is the port at which a vessel's permanent documents are issued, but it shall appear in all documents whether they are permanent or temporary.

(b) The owner of a vessel shall submit to the collector the designation of a home port for the vessel on customs Form 1319, signed as provided for in § 3.13 (a) When the designation is filed with the collector at the port designated as the home port of the vessel, the designation shall be in duplicate. When the designation is filed with the collector at any port other than the port designated as the home port of the vessel, the designation shall be in triplicate. If the home port so designated is different from the last previous home port of the vessel, the owner shall also request the collector at the previous home port to forward to the collector at the designated home port an abstract of title on customs Form 1331.

(c) If the home port designated is the port at or nearest the place in the same customs collection district where the vessel business of the owner is conducted, if the vessel has previously been documented as a vessel of the United States, and if the designation is presented to the collector at the port where a temporary document is to be issued to the vessel, or at the home port designated, together with recordable bills of sale establishing the complete chain of title to the vessel from the last owner of record, the collector, after examining the bills of sale of the vessel and the abstract of title on customs Form 1331, shall forward to the Bureau the duplicate copy of the designation, when approved by him or an employee in his office properly designated to grant such approvals. If the designation is presented to the collector at a port other than the home port, he shall forward to the collector at the home port the triplicate copy of the designation.

(d) In all other cases, the collector, after examining the bills of sale of the vessel and the abstract of title on customs Form 1331, shall transmit the original of the application, together with all required copies, to the Bureau. When approved, the original will be returned to the collector transmitting the designation. If the designation is submitted to the Bureau by the collector at a port other than the home port, the Bureau will also forward a copy of the designation to the collector at the home port.

(e) When it is impracticable to establish the complete chain of title by recordable bills of sale, the collector shall inform the Bureau of the facts and circumstances, and shall state whether or not he is of the opinion that the applicant has legal title to the vessel.

(f) If an owner desires that the home port be elsewhere than the port at or nearest the place in the same customs collection district where the vessel busi-

[9] "For the purposes of the navigation laws of the United States * * * every vessel of the United States shall have a 'home port' in the United States, including Alaska, Hawaii, and Puerto Rico, which port the owner of such vessel, subject to the approval of the Director of the Bureau of Marine Inspection and Navigation of the Department of Commerce (Commissioner of Customs), shall specifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment, and license, or license of such vessel, which documents, respectively, are referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force on February 16, 1925, shall be deemed to have been fixed and determined in accordance with the provisions hereof. * * *" (46 U. S. C. 18, sec. 102, Reorganization Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV.)

ness of the owner is conducted, he shall forward to the Bureau through a collector of customs a designation of home port on customs Form 1319 accompanied by a detailed statement setting forth the reasons.

(g) No officer or employee of the Bureau designated to grant approvals of designations of home ports shall approve, nor shall any collector forward to the Bureau for approval, any such designation unless it appears that the vessel will be documented as a vessel of the United States substantially simultaneously with the receipt by him of the approval of the designation. When a designation has been approved and the vessel is not so documented, the approval granted shall be cancelled. The collector in subsequently transmitting a new designation by the same owner shall indicate in his remarks the date of the previous approval and that it was cancelled because of failure to document the vessel. (R. S. 4141, sec. 1, 43 Stat. 947; 46 U. S. C. 17, 18)

§ 3.18 *Forms of oath of owner and master for documentation.* (a) Prior to the documentation or redocumentation of any vessel, except in case of redocumentation of a vessel at a port other than the home port upon change in trade or loss of marine document, there shall be filed an oath of ownership on customs Form 1258 if the vessel is owned by an individual, partnership, unincorporated company, association, or the United States; or on customs Form 1259 if the vessel is owned by a corporation.

(b) If any such vessel falls within class 4, 5, 6, and 7 of § 3.2, there shall be inserted immediately after footnote 1 of customs Form 1258 or immediately after footnote 4 of customs Form 1259 the appropriate one of the following clauses:

(1) For class 4—
On the ------ day of ----------, 19--, captured in war by a citizen (or citizens) of the United States and lawfully condemned as prize by a decree, sentence, or judgment of the ---------- court of ----------, an authenticated copy of which I now produce.

(2) For class 5—
Adjudged to be forfeited, for a breach of the laws of the United States, by a decree, sentence, or judgment of the ---------- court of ----------, an authenticated copy of which I now produce.

(3) For class 6—
Formerly the ----------, purchased from the United States (or from an officer, naming him and his office).

(4) For class 7—
Authorized to be documented by act of Congress and by the Commissioner of Customs by letter under date of ----------, an authenticated copy of which I now produce.

(c) The master's oath required for the registry of a vessel if the master is within the district where the registry is to be made, or for the license or enrollment and license of a vessel in any case, shall be executed in the space provided therefor on customs Form 1258 or 1259. Such oath shall not be used for a renewal of license by endorsement.

(d) The master's oath for the renewal of a license shall be executed on customs Form 1280. (R. S. 3114, as amended, 3115, as amended, 4139, as amended, 4142, 4159, 4161, 4214, as amended, 4312, 4314, as amended, 4320, 4325, 4328, as amended, 4330; 19 U. S. C. 257, 258, 46 U. S. C. 19, 20, 29, 31, 103, 252, 254, 262, 267, 270, 272. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV.)

§ 3.19 *Citizenship; documentation.* (a) Whenever used in this part, the word "citizen" includes the plural as well as the singular. Unless the context requires a different meaning, it means:

(1) In the case of an individual, a native-born or completely naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one whose members are all citizens of the United States;

(3) In the case of a corporation, one which is incorporated under the laws of the United States or of one of the states, and of which the president and all the managing directors are citizens of the United States. If no directors are authorized to act as managing directors, all the directors of the corporation shall be considered to be managing directors for the purpose of this paragraph.

(b) A vessel, although owned and documented by a corporaton which is a citizen as defined in paragraph (a) (3) of this section, shall not engage in the coastwise trade unless 75 percent of the interest in the corporation is owned by citizens as specified in section 2 of the Shipping Act, 1916, as amended.[10]

[10] "(a) Within the meaning of this chapter no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

"(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States." (46 U. S. C. 802)

(c) A vessel, although owned by a corporation which is not a citizen as defined in section 2 of Shipping Act, 1916, as amended, may be documented as a vessel of the United States if the sale or transfer to the corporation was not in violation of section 9 or 37 of the Shipping Act, 1916, as amended (46 U. S. C. 808, 835) and if the corporation is a citizen as defined in paragraph (a) (3) of this section.

(d) A vessel, although owned by a partnership or association which is a citizen as defined in section 2 of the Shipping Act, 1916, as amended, shall not be documented as a vessel of the United States unless the owner is also a citizen as defined in paragraph (a) (2) of this section. (R. S. 4131, as amended, 4132, as amended, secs. 2, as amended, 9, as amended, 39 Stat. 729, 730, sec. 4, 40 Stat. 901, as amended; 46 U. S. C. 11, 221, 802, 808, 835. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946, Supp., Ch. IV.)

§ 3.20 *Evidence of citizenship of owners and officers.* (a) In addition to the oaths of citizenship specified, the collector of customs may require the production of such further evidence as may be necessary to satisfy him that the person is a citizen of the United States. The proper notation of the evidence produced shall be made on the papers retained in the collector's office, such as the number, date, and office of issue of an officer's license, seaman's passport, or citizen's passport, or the same data as to a birth or naturalization certificate, a continuous discharge book, or a certificate of identification, etc. The collector shall reject any evidence believed by him to be unauthentic.

(b) As evidence of his citizenship, a naturalized citizen shall be required in every case to present a certificate of his naturalization. The usually acceptable evidence of citizenship for other persons is described below in the order of desirability.

(1) A birth certificate or certified copy.[11]

(2) A baptismal certificate or parish record made within 1 year after birth.

(3) A certificate of a practicing physician that he attended the birth and that he has a record in his possession showing the date on which it occurred.

(4) A State Department passport.

(5) An active commission in the United States Navy, Marine Corps, Coast Guard, or reserve component thereof.

(6) An active commission in the United States Army or a reserve component thereof issued prior to May 26, 1942.

[11] A list of state custodians of records of vital statistics appears in 46 CFR 36.1-1. This is not a complete list of offices from which birth certificates may be secured, but is confined to such offices established by state governments. In many states birth records are maintained also by county clerks, clerks of county courts, or city clerks, or town clerks. If a state record is not available, inquiry should be made of the county, city, or town clerk.

(7) A license as master, mate, engineer or pilot issued by the Coast Guard, or a license as master, mate, engineer, or pilot issued by the former Bureau of Marine Inspection and Navigation when such license shows on the back thereof that satisfactory evidence of citizenship of the holder was produced at the time of the issuance of such license.

(8) A certificate of registry as staff officer.

(9) A continuous discharge book or certificate of identification issued by the Coast Guard which shows that the holder is an American citizen, or a continuous discharge book or certificate of identification issued by the former Bureau of Marine Inspection and Navigation which shows the holder is an American citizen, provided the records of that Bureau (now maintained by the Coast Guard) indicate that the holder of such continuous discharge book or certificate of identification has produced satisfactory evidence of his citizenship.

(10) A delayed certificate of birth. If an applicant claiming to be a citizen of the United States submits a delayed certificate of birth which has been issued in accordance with the procedure outlined in the Manual of Uniform Procedure for the Delayed Registration of Births [12] and recites on its face the evidence upon which it has been granted, it may be accepted as prima facie evidence of citizenship in the absence of any collateral facts indicating fraud in its procurement. In order to receive consideration as a delayed certificate of birth, the certificate shall have been issued strictly in accordance with the provisions of the manual above referred to. Any delayed birth certificate not so issued shall be given consideration but shall not necessarily be considered prima facie evidence of citizenship.

(11) If none of the foregoing requirements can be met by the applicant, he shall make a statement to that effect, and, in an attempt to establish citizenship, he may submit for consideration data of the following character:

(i) Report of the Census Bureau showing the earliest record of age or birth available.[13] Request for such information shall be addressed to the Director of the Census, Washington, D. C. In making such request, definite information must be furnished the Census Bureau as to the place of residence when the first census was taken after birth of the applicant, giving the name of the street and number of the house, or the names of the cross streets between which the house was located if residing in a city or the name of the town, township, precinct, magisterial district, militia district, beat or election district, if residing in the country also the names of parents, or the names of other persons with whom residing on the date specified.

[12] This manual was issued by the Department of Commerce on July 16, 1941, and was filed with the original document amending 46 CFR 36.1–1.

[13] Census records are available for the following years: 1860, 1870, 1880, 1900, 1910, 1920, 1930, and 1940. Records for 1890 are not available.

(ii) Affidavits of parents, or relatives; affidavits by two or more responsible citizens of the United States stating facts of which they have knowledge tending to establish the applicant's citizenship; school records; immigration records; or insurance policies. (R. S. 4142, 4144, 4313; 46 U. S. C. 19, 22, 253. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946, Supp., Ch. IV)

§ 3.21 *Execution of oaths for documentation.* (a) If the vessel be owned by one individual, the oath shall be taken by him or by his duly authorized agent.

(b) If the vessel be owned by several individuals or a firm or unincorporated company, the oath shall be taken by the managing owner or a member of the firm who shall specify the names and places of abode of, and except in the case of a partnership the proportions of the vessel owned by, each of the others, and shall certify to their citizenship.

(c) If the vessel be owned by a corporation, the oath shall be taken by its president, its secretary, or by any other officer or agent thereof duly authorized by a writing under the corporate seal to act in its behalf. Such officer or agent shall also furnish a certificate as to the organization of the corporation and the names of its president and managing directors.

(d) In all cases where there is more than one owner, the proportions owned by each shall be stated in the oath.

(e) The oath of the owner or of the master required for documentation may be taken before a collector of customs or before any officer authorized by the laws of a state to administer oaths generally. If the oath is not taken before the collector, it may be mailed to him. (R. S. 1, 44 Stat. 830, R. S. 4138, 4139, as amended, R. S. 4142, 4143, 4144, 4163, 4314, as amended, R. S. 4320, as amended; 1 U. S. C. 1, 5 U. S. C. 92a, 46 U. S. C. 16, 19–22, 33, 254, 262. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.22 *Issue and record of marine documents.* (a) An exact copy of each marine document issued by a collector of customs shall be placed in a permanent record kept for that purpose and a proper index made thereof on customs Form 1241 (on customs Form 2112 at the port of New York)

(b) At the time application is made for a new document, any former document of the vessel shall be surrendered to the collector to whom the application is made, unless the former document has been lost, mutilated, destroyed, or unintentionally mislaid. (See § 3.31)

(c) On proof that any vessel has been sold or transferred by process of law and that her marine document is retained by the former owner, the collector of the district to which the vessel belongs, with the approval of the Commissioner of Customs, may grant a new document, but the new owner shall not be required to produce and surrender the former document. The issue of the new document does not remove the liability of the holder for failure to surrender the former one.

(d) No document shall be issued to any vessel prior to the receipt by the collector of the approval of the designation of the home port by or on behalf of the owner in whose name the document is to be issued.

(e) When a document is issued to a vessel on the Great Lakes, it shall be delivered by the collector in a special envelope, customs Form 1503. When a document is issued to a vessel elsewhere than on the Great Lakes, it shall be delivered in a special envelope, customs Form 1502. In the case of the issuance of any document other than a register or an enrollment and license on customs Form 1276, the date upon which the license for the vessel will expire shall be noted plainly on the face of the envelope. (R. S. 4155, as amended, 4164, as amended, 4176, 4314, as amended, 4319, as amended, 4329, as amended; 46 U. S. C. 25, 34, 44, 254, 259, 271. Sec. 102, Reorganization Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.23 *Permanent documentation of vessel absent from home port.* (a) A permanent document may be issued to any vessel absent from her home port upon application to the collector for the home port through the office of the collector at the port where the vessel shall be. In such case, all requirements which would be applicable if the vessel were at her home port shall be met at the port where she is before the application is forwarded, except that the owner's and master's oaths may be executed at the home port.

(b) The collector through whom application was made shall forward a certificate on customs Form 1301 to the collector at the vessel's home port, who shall issue a permanent document and deliver the document either directly or through the collector through whom the application was received. (R. S. 4328, as amended; 46 U. S. C. 270. Sec. 102, Reorg. Plan No. 3 of 1946, 3 C. F. R., 1946 Supp., Ch. IV)

§ 3.24 *Change of master.*[14] (a) When the master of any documented vessel, except a licensed ferryboat, is changed, the owner or the new master shall report the change to the collector at the port where the change takes place, or where the vessel first arrives thereafter, and produce to him the documents and file with him an oath properly executed on customs Form 1311. The collector shall then endorse upon the document the name of the new master.

(b) The oath on Form 1311 may be taken before any officer authorized by the laws of the state to administer oaths, and may be mailed to the collector, together with the marine document.

(c) Every application for the endorsement of the names of one or two alternate masters on the license of a vessel in addition to the name of the master already endorsed on the license shall be filed with the collector of customs at the

[14] "Any person or body corporate having more than one-half ownership of any vessel shall have the same power to remove a master, who is also part owner of such vessel, as such majority owners have to remove a master not an owner. This section shall not apply where there is a valid written agreement subsisting, by virtue of which such master would be entitled to possession." (46 U. S. C. 227)

home port of the vessel and shall contain a statement of the condition of employment of the vessel. The endorsement of the names of one or two alternate masters upon the license shall be authorized by the collector or an employee in his office properly designated to grant such authorization whenever that officer or employee, after examining the application, deems the condition of employment of the vessel warrants such action. Under no circumstances shall the endorsement of the names of more than two alternate masters upon the license be authorized. The same oaths shall be required of such alternate masters as are required in the case of other masters.

(d) In the case of a vessel on whose license there are endorsed the names of more than one master, the master actually in charge of the vessel shall assume all the duties and responsibilities imposed by any statute upon masters of vessels and is subject to the liabilities provided by any law against masters of vessels during any period in which he is in charge of the vessel.

(e) If two or more vessels are owned by or under the complete control and management of the same person, association, corporation, etc., and are navigated within the limits of the harbor of any town or city, the name of the owner, if an individual, or of some responsible person acting for the owner, may be endorsed as master on the licenses of all such vessels although the person whose name is so endorsed may not be actually employed on any of the vessels. The same oath shall be required of such persons as is required in the case of other masters. Any person whose name is so endorsed is subject to the liabilities provided by any law against masters of vessels.

(f) The name of the owner, if an individual, or of some responsible person acting for the owner, may be endorsed as master on the license of any unrigged vessel, except one which is required by law to have on board a certificate of inspection and which is required by that certificate to be manned, although the person whose name is so endorsed may not be actually employed on that vessel. The same oath shall be required of such persons as is required in the case of other masters. Any person whose name is so endorsed is subject to the liabilities provided by any law against the masters of vessels. (R. S. 4171, as amended, 4335, as amended; 46 U. S. C. 40, 276. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.25 *Renewal of license.*[15] (a) A permanent or temporary license shall be presented within 3 days (exclusive of Sunday and holidays) after its expiration, to the collector of the district where the vessel may then be, or if the vessel is then at sea, within 3 days after her first arrival within any district. A temporary license shall be surrendered within 10 days after the arrival of a vessel at her home port and shall not be renewed at that port.

[15] For licenses issued under the act of June 6, 1941, see § 3.73.

(b) If a license is presented for renewal at any time within 30 calendar days prior to the date of expiration shown thereon, it may be renewed for a period of 1 year from that date of expiration.

(c) A license may be renewed at any port, whether a port of documentation or not.

(d) When a license is presented for renewal, the master shall make oath in the form prescribed by § 3.18 (d)

(e) When a license for a vessel on the Great Lakes is renewed, it shall be redelivered by the collector in a special envelope, customs Form 1503. When a license is renewed for a vessel elsewhere than on the Great Lakes, it shall be redelivered in a special envelope, customs Form 1502. In either case, the date upon which the license for the vessel will expire shall be noted plainly on the face of the envelope and any previous notation of a date of expiration shall be deleted. (R. S. 4325, as amended, 4326, 4327; 46 U. S. C. 267–269. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.26 *Surrender of permanent documents.* (a) The marine document shall be surrendered when a vessel is sold or transferred in whole or in part; when the owner of the whole or any part of a vessel dies; when a vessel has been lost, abandoned, dismantled, or taken by an enemy, or otherwise prevented from returning to the United States; when a vessel is burned or broken up; when a vessel is altered in form by being lengthened, shortened, or built upon, or is changed from one denomination to another by a change in the method of rigging or fitting; when the tonnage of a vessel is changed for any reason; when a vessel is altered so that it is no longer of the description set forth in its document; when a vessel changes from one employment to another; when a vessel is placed under foreign registry or flag; when a vessel changes her name; when the home port of a vessel is changed; when a president or secretary whose name appears on the document of a vessel owned by a corporation dies, is removed, or resigns; when a trustee is appointed upon bankruptcy of the owner of the whole or any part of a vessel; and when a partnership owning an interest in a vessel is terminated or when there is any change in the membership of such partnership without dissolution of the firm.

The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage shall be obtained, except as specified in note 19, § 3.30 (a) or in the case of the forfeiture of the vessel or its sale by the order of any court of the United States or any foreign country."

(b) If any documented vessel is lost, destroyed, or abandoned, the owner shall immediately report the fact to the collector of customs at the home port of the vessel.

(c) A document need not be surrendered because the engine of the vessel is changed, if there is no change in the rig, dimensions, or tonnage of the vessel, nor because of a change in the service of the vessel, when there is no change in trade, nor in the number of persons in its crew. In such a case, a notation of the change shall be made on the document by a collector of customs and initialed by him.

(d) A document need not be surrendered because of the appointment of a guardian or committee for the owner of the whole or any part of the vessel, nor because of the appointment of a receiver, either in bankruptcy or in equity, of the assets of the owner of the whole or any part of the vessel.

(e) When a document is surrendered incident to the sale or other transfer of a vessel to an alien, if such transfer has been approved by the United States Maritime Commission in accordance with the requirements of law, the following certificate shall be issued by the collector of customs concerned upon the presentation of the bill of sale or other evidence covering the transfer:

I, ----------, collector of customs for the port of ----------, State of ----------, United States of America, do hereby certify that ---------- No. ------, issued at ---------- on ---------- to the ----------, official number ------, was this day surrendered at this port upon the transfer of the vessel to a subject of ----------, which transfer was authorized by the United States Maritime Commission under its Transfer Order No. C-------, dated ----------.

As witness my hand this ------ day of ----------, 19-----.

(Signed) ----------
Collector of Customs

(R. S. 4146, as amended, 4160, 4170, as amended, 4322, 4325, as amended, sec. 30, 41 Stat. 1004, sec. 204, 49 Stat. 1987; 46 U. S. C. 23, 30, 39, 264, 267, 961 (a), 1114. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.27 *Surrender of temporary documents.* (a) Every document granted by the collector at a port other than the home port shall be temporary.[16]

(b) Every temporary document shall be surrendered to the collector within 10 days after the arrival of the vessel at her home port and whenever the surrender of a permanent document is required.

(c) The term "arrival" in the preceding paragraph means the voluntary arrival of the vessel in the regular course of her employment.

(d) The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage shall be obtained, except as specified in note 19, § 3.30 (a) (R. S. 4146, as amended, 4160, 4162, 4168, 4170, as amended, 4325, sec. 30, 41 Stat. 1004, sec. 204, 49 Stat. 1937; 46 U. S. C. 23, 30, 32, 37, 39, 267, 961 (a), 1114. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.28 *Rebuilt vessels.* (a) A rebuilt vessel[17] shall retain her original name

[16] See note 5, § 3.6.

[17] A vessel is rebuilt if any considerable part of the hull of an old vessel in its intact condition, without being broken up, is built upon. It is new if none of the old timber is left undisturbed or if all the timber used, whether old or new, is taken up, refitted, and reset.

and official number, and her marine document shall show the date and place of original building. The date and place of rebuilding shall be noted in the appropriate place in the document.

(b) If an owner desires that a notation be made in the publication, Merchant Vessels of the United States, that an unrigged wooden vessel of the United States, other than a foreign-built vessel (Class 9) has been rebuilt, he shall furnish to the Commissioner of Customs, through the collector at the port where the vessel then is, an affidavit of the shipbuilder stating that the vessel has been rebuilt; the date and place of such rebuilding; that the vessel is sound and free from rotten or doted wood in its structural parts; that it is properly fastened and calked, and that it is as good as new in strength and seaworthiness.

(c) When application is made to a collector of customs to note the place and date of rebuild of a vessel on its marine document, the applicant shall submit specifications of the rebuild, in affidavit form, through the collector to the Commissioner of Customs, who shall decide whether the vessel is to be considered repaired, rebuilt, or new. (R. S. 4155, as amended, 4179, 4319, as amended, 37 Stat. 189; 46 U. S. C. 25, 50, 63, 259. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 329 *Change of build or rig.* (a) When a documented vessel is altered in form or tonnage by being lengthened, shortened, or built upon, or changed from one denomination to another by a change in rig or fitting, the vessel shall cease to be deemed a vessel of the United States unless she is documented anew.

(b) When there is a change in the means of propulsion of a vessel [18] as from steam engine to gas engine or any other alternation which may change the description, the marine document of the vessel shall be surrendered. (R. S. 4170, as amended; 46 U. S. C. 39. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.30 *Exchange of documents.* (a) Any enrolled and licensed or licensed vessel may be registered upon the surrender [19] of her document to a collector of customs. Except as specified in paragraph (b) of this section, any registered vessel may likewise be enrolled and licensed or licensed.

(b) Neither enrollment nor license for the coasting trade or for the coasting trade and mackerel fishery shall be granted to a vessel prohibited by law from engaging in the coastwise trade. (See §§ 3.2 and 3.42) Neither enrollment nor license for the fisheries or for the coasting trade and mackerel fishery shall be granted to a vessel prohibited by law from engaging in the American fisheries. (See §§ 3.2 and 3.42) Neither enrollment and license nor license shall be granted to any vessel having on board merchandise brought from a foreign port until such merchandise shall have been wholly unladen and the duties paid or secured.

(c) No registered vessel shall be permitted to exchange her document unless the collector to whom application is made is satisfied by an affidavit of the owner or master that all equipments purchased and repairs made abroad within the year immediately preceding such application have been duly accounted for and the duties accruing thereon have been paid. If the master gives this affidavit, it shall be executed on customs Form 1304.

NOTE: Pursuant to Public Law 280, approved December 17, 1943, (57 Stat. 601; 19 U. S. C., 257, 258 (note)) this paragraph is suspended with respect to affidavits concerning repairs made or equipment purchased before December 18, 1945, or before the cessation of hostilities in the present war (as defined in section 760 (e) of the Internal Revenue Code), whichever shall first occur.

(d) No vessel shall be permitted to exchange her marine document at a port other than the home port until the master has applied for the new marine document and has filed his affidavit that the ownership remains as stated in the document to be surrendered. Such affidavit shall be executed on customs Form 1304, which may be modified in appropriate cases by deletion of the matter pertaining to foreign equipment or repairs. If the exchange of documents is made at the home port, the oaths required by § 3.18 shall be filed. (R. S. 3114, 3115, as amended, 4322, 4323, as amended, 4337, sec. 30, 41 Stat. 1004, sec. 204, 49 Stat. 1987; 19 U. S. C. 257, 258, 46 U. S. C. 264, 265, 278, 961, 1114. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.31 *Loss of marine document.* When the marine document of any vessel is lost, mutilated, destroyed, or mislaid, the master makes oath on customs Form 1305 to such fact, and the oaths required by § 3.18 are filed at the home port if the vessel first arrives at that port after such loss, or the affidavit required by § 3.30 (d) is filed at the port where the vessel first arrives at a port other than her home port after such loss, the collector at such port shall issue a new document in lieu of the lost document, reciting that it was issued in place of the lost one. A document is held to be lost when it is wrongfully withheld from the possession of the owner.[20] (R. S. 4167, 4326; 46 U. S. C. 36, 268. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.32 *Sale or transfer of vessel; change in membership of owning partnership.* (a) Except as stated in § 3.35, when a documented vessel is sold or transferred in whole or in part to a citizen,[21] such vessel shall not be deemed a vessel of the United States until documented anew.

(b) In the case of the sale, gift, or conveyance (including conveyance in trust) of the whole or any part of such vessel, a written instrument in the nature of a bill of sale, which may be on customs Form 1340, 1342, 1344, 1346, or 1356, and which shall recite in full the marine document last granted to the vessel before the execution of the instrument, shall be filed with the collector of customs before a new document is granted.

(c) In case of the death of the owner of the whole or any part of such a vessel, if there is an administration of his estate, except as provided for in paragraph (e) of this section an authenticated copy of the certificate of death of the owner and of the letters of appointment of the personal representative of the deceased owner shall be filed with the collector of customs before a new document is granted to that personal representative or to his successors in interest. In such a case, an authenticated copy of the certificate of death of the owner (unless previously filed by the personal representative of the deceased owner) and of the decree of distribution shall be filed with the collector of customs before a new document is granted to the beneficiary under a will, to the person succeeding to the interest of the deceased owner in case of intestacy, or to successors in interest of either of them. The filing of the will of a deceased owner shall not be required.

(d) In case of the death intestate of the owner of the whole or any part of such a vessel, if there is no administration of his estate the collector shall forward to the Bureau a statement of all the facts and circumstances, and, except as provided for in paragraph (e) of this section, an authenticated copy of the certificate of death of the owner, together with any documentary evidence in support of the claim of title presented to him, before a new document is granted to the next of kin of the deceased owner or to his successors in interest.

(e) If it is impossible to obtain an authenticated copy of the certificate of death of the deceased owner of the whole or any part of such a vessel for filing with the collector as required by paragraphs (c) or (d) of this section, other evidence of death of such deceased owner shall be filed with the collector in lieu thereof.

(f) In case of the sale or conveyance of the whole or any part of such a vessel by a guardian or committee of the owner thereof, an authenticated copy of the letters of guardianship and of the court order, if any, authorizing the transfer of title shall be filed with the collector of customs before a new document is granted.

[18] When a vessel's engine is changed but there is no change in the type of motive power, no redocumentation is required unless the installation of the new engine changes the admeasured tonnage of the vessel.

[19] The requirement of subsection O (a) of the Ship Mortgage Act, 1920 (46 U. S. C. 961 (a)), that the document of a vessel covered by a preferred mortgage may not be surrendered without the approval of the United States Maritime Commission and the mortgagee, does not apply to a renewal of license or change of document incident to change of trade where the ownership and home port remain the same, nor to a change to a permanent document on arrival of a vessel at its home port under a temporary document.

[20] All questions of what constitutes a wrongful withholding shall be referred to the Commissioner of Customs for determination.

[21] Unless the consent of the United States Maritime Commission is first obtained, no vessel of the United States may be sold or chartered in whole or in part to any person who is not a citizen or to any corporation, partnership, or association which is not a citizen as defined in section 2 of the Shipping Act, 1916, as amended. (46 U. S. C. 802)

(g) In case of the appointment of a trustee in bankruptcy of the assets of the owner of the whole or any part of such a vessel, an authenticated copy of the order of the referee or court appointing him as such shall be filed with the collector of customs before a new document is granted.

(h) The certificates, letters, decrees, orders, and other evidence of title referred to in paragraphs (c) (d), (e), (f), and (g) of this section shall not be required to recite a marine document of the vessel concerned. (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

(i) In the case of the termination of a partnership owning an interest in a vessel because of the addition of a new member, the withdrawal of an old, or both, the death or bankruptcy of a partner, or for any other reason, a written instrument in the nature of a bill of sale, as provided for in paragraph (b) of this section, shall be filed with the collector of customs before a new document is granted.

(j) In the case of a change in membership of a partnership owning an interest in a vessel without dissolution of the firm, there shall be filed with the collector of customs evidence satisfactory to him that there has been no such dissolution and an affidavit as to the change which has occurred executed by one or more of the members of the partnership as so changed before a new document is granted. (R. S. 4170, as amended, 4312, sec. 9, 39 Stat. 730, as amended; 46 U. S. C. 39, 252, 808)

§ 3.33 *Recording of bills of sale and mortgages.* (a) When any bill of sale, mortgage, hypothecation, or conveyance of any interest in any vessel is presented to a collector of customs to be recorded,[22] the vendee, mortgagee, pledgee, or transferee shall file with the collector the oath required by section 40, Shipping Act, 1916 (46 U. S. C. 838) The oath of a corporation shall be signed by its president, secretary, or treasurer, or any other official thereof duly authorized by such corporation to execute any such declaration.

(b) No such instrument shall be accepted for recording prior to the receipt by the collector of the approval of the designation of the home port; nor unless the vessel affected is documented as a vessel of the United States or will be so documented substantially simultaneously with the recording of the instrument. If there has been more than one change in ownership of any interest in a vessel and the vessel has not been documented by the intermediate owners, all unrecorded bills of sale which are executed in the form and manner prescribed by this section may be recorded upon documentation of the vessel. No mortgage shall be accepted for recording unless the vessel which it covers was documented as a vessel of the United States at the time the mortgage was made. Any mortgage presented for recording may be on customs Form 1348.

(c) No such instrument shall be valid against any person other than the vendor, mortgagor, pledgor, grantor, the heirs or devisees of any of the foregoing, or a person having actual notice thereof, unless the instrument has been recorded in the office of the collector of customs at the home port of the vessel. If the instrument covers more than one vessel, it shall be recorded at the home port of each vessel and indexed under the name of each vessel whose home port is the port of recordation. The collector shall record all such instruments and certificates of discharge of mortgages in the order of their receipt in books to be kept for that purpose and indexed on customs Form 1360 or 1364 to show (1) the name of the vessel, (2) the names of the parties to the instrument, (3) the date and time of day the instrument was received, (4) the interest transferred, mortgaged, or discharged, (5) the book in which the instrument is recorded, (6) the number assigned to the instrument, and (7) in the case of a mortgage or certificate of discharge of mortgage, the amount and date of maturity of the mortgage.

(d) Each such instrument shall recite the interest of the grantor or mortgagor in the vessel, the names of the persons to whom the interest has been transferred or mortgaged, and the interest transferred or mortgaged to each. A bill of sale or conveyance shall also recite in full the last marine document of the vessel.

(e) The collector shall index on customs Form 1360 all decrees of distribution of the estates of deceased owners filed with him in accordance with § 3.32 (c) of these regulations to show (1) the name of the vessel, (2) the name of the deceased owner, (3) the names of the distributees of his interest in the vessel, (4) the interest transferred, (5) the name of the court, (6) the title of the case, and (7) the date of the decree. The collector shall also index on customs Form 1360 all orders of referees or courts appointing trustees in bankruptcy filed with him in accordance with § 3.32 (g) of these regulations to show (1) the name of the vessel, (2) the name of the bankrupt owner, (3) the name of the trustee, (4) the interest transferred, (5) the name of the court, (6) the title of the case, and (7) the date of the order.

(f) No certificate of death of the owner of any interest in a vessel, letters of appointment of the personal representative of a deceased owner, decree of distribution of the estate of a deceased owner, will of a deceased owner, letters of guardianship appointing a guardian or committee of an owner, order of a referee or court appointing a trustee in bankruptcy of the assets of an owner, nor court order authorizing the transfer of title of any interest in a vessel shall be recorded unless incorporated in a bill of sale, mortgage, hypothecation, or conveyance of an interest in a vessel of the United States.

(g) No bill of sale, conveyance, mortgage, release from mortgage, satisfaction or discharge of mortgage, assignment of mortgage, or certificate of discharge of lien shall be recorded unless previously acknowledged. Any acknowledgment valid under the laws of the state where made may be accepted. No customs officer or employee is authorized by section 486, Tariff Act of 1930, to take such acknowledgments.

(h) Each certificate of discharge of mortgage presented for recording shall be on the customs Form 1363 or in a substantially similar form

(i) When the home port of a vessel of the United States is changed, whether or not any change in the title occurs, the collector of customs at the old home port shall furnish on customs Form 1331 a certified copy of his record of the vessel to the collector at the new home port. Such certified copy shall include a record of any notice of claim of lien upon the vessel which has been recorded and a copy of any entry in the index on customs Form 1360 with respect to a decree of distribution of the estate of a deceased owner or an order of a referee or court appointing a trustee in bankruptcy. The collector at the new home port shall record such certified copy and no bill of sale, mortgage, conveyance, or court order passing title shall be recorded at the new home port until such certified copy has been received and recorded.

(j) Each bill of sale, mortgage, hypothecation, conveyance, release, satisfaction, assignment or notice of claim of lien shall be endorsed by the collector to

[22] "(a) No sale, conveyance, or mortgage which, at the time such sale, conveyance, or mortgage is made, includes a vessel of the United States, or any portion thereof, as the whole or any part of the property sold, conveyed, or mortgaged shall be valid, in respect to such vessel, against any person other than the grantor or mortgagor, his heir or devisee, and a person having actual notice thereof, until such bill of sale, conveyance, or mortgage is recorded in the office of the collector of customs of the port of documentation of such vessel, as provided in subdivision (b) of this section.

"(b) Such collector of customs shall record bills of sale, conveyances, and mortgages delivered to him, in the order of their reception, in books to be kept for that purpose and indexed to show—

"(1) The name of the vessel;

"(2) The names of the parties to the sale, conveyance, or mortgage;

"(3) The time and date of reception of the instrument;

"(4) The interest in the vessel so sold, conveyed, or mortgaged; and

"(5) The amount and date of maturity of the mortgage." (46 U. S. C. 921)

"(a) No bill of sale, conveyance, or mortgage shall be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed, or mortgaged.

"(b) No bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof, shall be recorded unless previously acknowledged before a notary public or other officer authorized by a law of the United States, or of a State, Territory, District, or possession thereof, to take acknowledgment of deeds.

"(c) In case of a change in the port of documentation of a vessel of the United States, no bill of sale, conveyance, or mortgage shall be recorded at the new port of documentation unless there is furnished to the collector of customs of such port, together with the copy of the bill of sale, conveyance, or mortgage to be recorded, a certified copy of the record of the vessel at the former port of documentation furnished by the collector of such port. The collector of customs at the new port of documentation is authorized and directed to record such certified copy. * * *" (46 U. S. C. 926)

show the port of recordation, the exact day, hour, and minute it was received for recordation, the book in which it was recorded, and the number assigned to the instrument.

(k) When an instrument other than a preferred mortgage or assignment of a preferred mortgage (see § 3.38) is to be recorded, the original and one copy shall be presented to the collector, who shall retain the copy for his files.

(l) After a certified copy of the record of a vessel, customs Form 1331, has been forwarded from the old home port of the vessel to its new home port, no instrument for such vessel shall be recorded at the old home port. (Sec. 40, as added by sec. 4, 40 Stat. 902, sec. 30, subsecs. C, H, 41 Stat. 1000, 1002, Pub. Law 518, 80th Cong., 62 Stat. 212; 46 U. S. C. 921, 926, 1012)

§ 3.34 *Issue of temporary document upon sale.* (a) When a vessel entitled to be documented changes ownership and is in a port other than the home port designated by the new owner, a temporary document may be issued by the collector at the port where she is.

(b) If application is made to the collector at the home port designated by the new owner and all requirements of law are complied with except the issuance of the document, he shall authorize the collector at the port where the vessel then is to issue a temporary document to the vessel.

(c) If application is made to the collector at the port where the vessel then is, the same proceedings shall be had as are required by law at the vessel's home port, except that the bill of sale shall not be recorded at the port where the vessel is. If the bill of sale is presented to the collector at the port where the temporary document is issued, it shall be noted on his record and then forwarded to the collector at the home port designated by the new owner. The recording fees shall be collected by the issuing collector and forwarded with the bill of sale to the collector at such home port.

(d) The bill of sale shall be recorded by the collector at the home port designated by the new owner, but only after there has been furnished to him by the collector at the former port of documentation a certified copy on customs Form 1331 of the record of the vessel at the latter port as required by subsection H (c) of the Ship Mortgage Act, 1920 (46 U. S. C. 926 (c))

(e) The temporary document shall be surrendered within 10 days after the arrival of the vessel within the district to which she belongs. (Sec. 2, 43 Stat. 943, R. S. 4159, R. S. 4160; 46 U. S. C. 2, 29, 30, 1012. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.35 *Sale abroad.* A documented vessel which has been sold or transferred in whole or in part to a citizen while such vessel is outside the limits of the United States shall be entitled on her first arrival thereafter to all the privileges of a vessel of the United States if a new document is obtained within 5 days after she arrives at the first port in the United States. (R. S. 161, secs. 2, 3, 23 Stat. 118, sec. 434, 46 Stat. 711, sec. 301, 49 Stat. 527, R. S. 4166; 5 U. S. C. 22, 19 U. S. C. 1434, 46 U. S. C. 2, 3, 35. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.36 *Sale or charter to an alien.* (a) When a documented vessel is sold in whole or in part, even in trust or confidence, to one who is not a citizen, its document shall be delivered (1) within 7 days after the sale to the collector at the port where the vessel is, if it is in the United States, or (2) within 8 days after the first arrival of the master in the United States to the collector at the port of his first arrival, if the vessel is at sea or not in the United States at the time of sale.[20]

(b) The master and all watch officers of a documented vessel chartered to one who is not a citizen [20] shall be citizens. (R. S. 4146, as amended, 4172, sec. 9, 39 Stat. 730, sec. 18, 41 Stat. 994, sec. 42, 52 Stat. 964; 46 U. S. C. 23, 41, 808. Sec. 102, Reorg. Plan No. 3 of 1946, Supp., Ch. IV)

§ 3.37 *Preferred mortgages.* (a) For the purposes of these regulations a "preferred mortgage" is one which meets the requirements of subsection D of the Ship Mortgage Act.[21]

(b) A preferred mortgage may not be placed upon any vessel which is not a documented vessel, nor upon any vessel of less than 200 gross tons which is a towboat (including tugs and other vessels used for towing), barge, scow, lighter, car float, canal boat, or tank vessel: It may cover more than one vessel, but may not be limited to a part of any vessel.

(c) A mortgage which includes property other than a vessel or vessels may not acquire a preferred status unless it provides for the separate discharge of such other property.

(d) A preferred or ordinary mortgage may be placed on a vessel already covered by a preferred or ordinary mortgage. (Sec. 30, subsec. D, 41 Stat. 1000, 49 Stat. 424; 46 U. S. C. 922. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp. Ch. IV)

§ 3.38 *Record and endorsement of preferred mortgages and related instruments.* (a) Every preferred mortgage presented for recording shall be accompanied by three identical copies and, in the case of a blanket mortgage, one additional identical copy for each vessel in excess of one covered by the mortgage. All copies except one, which shall be inserted by the collector in his record of preferred mortgages, shall be certified by the collector and delivered to the mortgagor [22] after the record has been made.

[20] See footnote 21, § 3.32.

[21] "(a) A valid mortgage which at the time it is made, includes the whole of any vessel of the United States (other than a towboat, barge, scow, lighter, car float, canal boat, or tank vessel, of less than two hundred gross tons), shall, in addition, have in respect to such vessel and as of the date of the compliance with all the provisions of this subdivision, the preferred status given by the provisions of section 953 of this title, if—

"(1) The mortgage is endorsed upon the vessel's documents in accordance with the provisions of this section;

"(2) The mortgage is recorded as provided in section 921 of this title, together with the time and date when the mortgage is so endorsed;

"(3) An affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel;

"(4) The mortgage does not stipulate that the mortgagee waives the preferred status thereof; and

"(5) The mortgagee is a citizen of the United States and for the purposes of this section the Reconstruction Finance Corporation shall, in addition to those designated in sections 883 and 802 of this title, be deemed a citizen of the United States.

"(b) Any mortgage which complies in respect to any vessel with the conditions enumerated in this section is hereafter in this chapter called a 'preferred mortgage' as to such vessel.

"(c) There shall be indorsed upon the documents of a vessel covered by a preferred mortgage—

"(1) The names of the mortgagor and mortgagee;

"(2) The time and date the indorsement is made;

"(3) The amount and date of maturity of the mortgage; and

"(4) Any amount required to be indorsed by the provisions of subdivision (e) or (f) of this section.

"(d) Such indorsement shall be made (1) by the collector of customs of the port of documentation of the mortgaged vessel, or (2) by the collector of customs of any port in which the vessel is found, if such collector is directed to make the indorsement by the collector of customs of the port of documentation; and no clearance shall be issued to the vessel until such indorsement is made. The collector of customs of the port of documentation shall give such direction by wire or letter at the request of the mortgagee and upon the tender of the cost of communication of such direction. Whenever any new document is issued for the vessel, such indorsement shall be transferred to and indorsed upon the new document by the collector of customs.

"(e) A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a preferred mortgage so provides for the separate discharge, the amount of the portion of such payment shall be indorsed upon the documents of the vessel.

"(f) If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion of such payment shall be indorsed upon the documents of the vessel. In case such mortgage does not provide for the separate discharge of a vessel and the vessel is to be sold upon the order of a district court of the United States in a suit in rem in admiralty, the court shall determine the portion of the mortgage indebtedness increased by 20 per centum (1) which, in the opinion of the court, the approximate value of the vessel bears to the approximate value of all the vessels covered by the mortgage, and (2) upon the payment of which the vessel shall be discharged from the mortgage." (46 U. S. C. 922)

[22] "The collector of customs upon the recording of a preferred mortgage shall deliver two certified copies thereof to the mortgagor who shall place, and use due diligence to retain, one copy on board the mortgaged vessel and cause such copy and the documents of the vessel to be exhibited by the master to any person having business with the vessel, which may give rise to a maritime lien upon the vessel or to the sale, conveyance, or mortgage thereof. The master of the vessel shall, upon the request of any

The original shall be returned to the mortgagee and a receipt obtained.

(b) The affidavit of the mortgagor required by subsection D (a) (3) of the Ship Mortgage Act, 1920,[25] if not included in the mortgage, shall be presented with each preferred mortgage submitted for recording and shall be retained by the collector.[27] Any acknowledgment of such affidavit valid under the laws of the state where made may be accepted.

(c) No vessel covered by a preferred mortgage shall be granted clearance at any port until the preferred mortgage endorsement required by subsection D (c) of the Ship Mortgage Act, 1920,[28] has been placed on her marine document.

(d) In addition to the matters required by § 3.33 (c) the collector shall note on the index on customs Form 1364 the day, hour, and minute that (1) the proposed mortgage endorsement is placed on the marine document, and (2) such notation was made on the index.

(e) When a marine document bearing a preferred mortgage endorsement is surrendered[29] and a new document is issued before the mortgage is satisfied or the vessel released, the endorsement shall be placed on the new document.

(f) For the purposes of this section and the related statutes, an assignment of a preferred mortgage shall be regarded in all respects as a new preferred mortgage.

(g) A notice of claim of lien upon a vessel shall be recorded only if the vessel is covered by a preferred mortgage and if the notice is in the form of an affidavit.[30]

(h) Each notice of claim of lien and certificate of discharge of lien presented to a collector shall be recorded in a book to be kept for that purpose and indexed on customs Form 1364.

(i) When a preferred mortgage has been discharged in whole or in part and a certificate of such discharge has been filed with the collector of customs at the home port of any vessel covered by the discharge, the collector at the home port, or the collector at the port where the vessel is, at the direction of the collector at the home port, shall endorse the fact of such discharge upon the document of the vessel. No clearance shall be granted to such vessel until such endorsement has been made.[31] (Sec. 30 subsecs. C, D, E, G, H, O, W 41 Stat. 1000, 1001, 1002, 1004, 1006, 49 Stat. 424, secs. 204, 904, 49 Stat. 1987, 2016; 46 U. S. C. 921–923, 925, 926, 961, 963. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.39 *Certificate of ownership.* The certificate of ownership provided for in subsection I of the Ship Mortgage Act, 1920,[32] shall be executed on customs Form 1330. (Sec. 30, subsecs. I, W 41 Stat. 1002, 1006; 46 U. S. C. 927, 983. Sec. 102 Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.40 *Frontier enrollment and license.* (a) Vessels under frontier enrollment and license[33] may engage in foreign or coastwise trade or the fisheries in waters covered by the license.

(b) In similar cases frontier enrollments shall bear the same endorsements as are placed on registers. When the endorsement required by § 3.2 (c) class 1, or by § 3.2 (d) (1) is placed on a frontier enrollment and license, the word "Coasting" in the license shall be deleted, and the word "Fisheries" inserted in lieu thereof.

(c) A foreign-built vessel which is owned by a citizen but which was not so owned and documented prior to February 1, 1920, or which was not owned by the United States on June 5, 1920, shall not be granted a frontier enrollment and license, but shall be registered. (See § 3.42 (f))

(d) A yacht of less than 20 net tons enrolled and licensed to navigate the waters of the northern, northeastern, and northwestern frontiers otherwise than by sea shall not be required to surrender its enrollment and license and obtain a license when proceeding to ports in the United States, its territories, or possessions whether by sea or otherwise. (R. S. 4318, as amended, 4321, 49 Stat. 1367; 46 U. S. C. 258, 263; sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.41 *Transfer from frontier enrollment and license.* (a) When a vessel under frontier enrollment and license proceeds to sea, directly or via an intermediate port, she shall surrender her frontier document. If bound on a foreign voyage partly by sea, she shall be granted a register. If proceeding from one United States port to another via the St. Lawrence River and the sea, she shall be granted only a register,[34] but if she proceeds via the Hudson River to any United States port without going to sea, she shall retain her frontier enrollment and license.

(b) The collector at a seaport may issue a frontier enrollment and license. (R. S. 4318, as amended; 46 U. S. C. 258, Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp. Ch. IV)

§ 3.42 *Registry of foreign-built vessels.* (a) The application on customs Form 1320 for an official number for a foreign-built vessel (class 9) shall state, in addition to the information therein required, the name of the former owner.

(b) In lieu of the builder's certificate required for a vessel built in the United States, the application shall be accompanied by a photostatic or certified copy of the vessel's foreign register and of its foreign measurement certificate, if there be one. Satisfactory evidence shall be produced to establish that the transfer of registry has the approval of the foreign government concerned. If the vessel was built for the applicant and never under foreign registry the builder's certificate shall be produced. If the vessel was not built for the applicant, satisfactory evidence of ownership shall be produced as in the case of a vessel built in the United States. There shall also be produced a certificate of the merchant marine officer in charge that the vessel is safe to carry dry and perishable cargo, and if the vessel is required to possess a certificate of inspection,[35] it shall be produced.

(c) The applicant shall submit an affidavit stating that:

(1) The transfer of the vessel conveyed complete and unconditional title and ownership to the purchaser;

(2) There is no agreement or understanding reserving to the vendor, or to any person who is not a citizen, any interest in the vessel or its operation, or any right of control thereof;

(3) The transfer is intended to be permanent and not temporary, no right to repurchase the vessel is reserved to the

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such person, exhibit to him the documents of the vessel and the copy of any preferred mortgage of the vessel placed on board thereof." (46 U. S. C. 923)

[25] See footnote 24, § 3.37 (a).

[27] The collector of customs has no duty to ascertain whether there is any encumbrance on a vessel for which a preferred mortgage is presented to him for recording.

[28] See footnote 24, §3.37 (a).

[29] See footnote 19, § 3.30 (a).

[30] "The collector of customs of the port of documentation shall, upon the request of any person, record notice of his claim of a lien upon a vessel covered by a preferred mortgage, together with the nature, date of creation, and amount of the lien, and the name and address of the person. Any person who has caused notice of his claim of lien to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file with the collector of customs a certificate of such discharge. The collector of customs shall thereupon record the certificate." (46 U. S. C. 925 (a))

[31] "The mortgagor, upon a discharge in whole or in part of the mortgage indebtedness, shall forthwith file with the collector of customs for the port of documentation of the vessel, a certificate of such discharge. Such collector of customs shall thereupon record the certificate. In case of a vessel covered by a preferred mortgage, the collector of customs at the port of documentation shall (1) indorse upon the documents of the vessel, or direct the collector of customs at any port in which the vessel is found, to so indorse, the fact of such discharge, and (2) shall deny clearance to the vessel until such indorsement is made." (46 U. S. C. 925 (b))

[32] "Each collector of customs shall permit records made under the provisions of this chapter to be inspected during office hours, under such reasonable regulations as the collector may establish. Upon the request of any person the collector of customs shall furnish him from the records of the collector's office (1) a certificate setting forth the names of the owners of any vessel, the interest held by each owner, and the material facts as to any bill of sale or conveyance of, any mortgage covering, or any lien or other incumbrance upon, a specified vessel, (2) a certified copy of any bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel, or (3) a certified copy as required by subdivision (c) of section 926 of this title. * * *" (46 U. S. C. 927)

See § 4.98 of this chapter for fees to be collected.

[33] "Any vessel of the United States, navigating the waters on the northern, northeastern, and northwestern frontiers, otherwise than by sea shall be enrolled and licensed in such form as other vessels; such enrollment and license shall authorize any such vessel to be employed either in the coasting or foreign trade on such frontiers, and no certificate of registry shall be required for vessels so employed. Such vessel shall be, in every other respect, liable to the regulations and penalties relating to registered and licensed vessels." (46 U. S. C. 258)

[34] In such case, she is required by Canadian regulations to enter and clear at Montreal.

[35] See § 3.54.

vendor, and there is no understanding for its retransfer:

(4) The transfer was not made during a voyage of the vessel or while it was in a blockaded port; and

(5) The transfer was not made to avoid the consequences to which a vessel of a belligerent is exposed.

(d) The papers filed in connection with the application for documentation in accordance with the requirements of this section and any other pertinent information shall be forwarded to the Commissioner of Customs for consideration before the granting of a document to the vessel. Except as otherwise provided for in this section, the usual requirements for registry shall be complied with.

(e) No foreign-built vessel owned and documented prior to February 1, 1920, by a citizen nor one owned by the United States on June 5, 1920, and sold to and owned by a citizen shall engage in the American fisheries, but it is otherwise unlimited as to documents and trade so long as it continues in such ownership. When a marine document is issued to such a vessel, the following notation shall be made thereon:

As amended by section 5 of the Panama Canal Act and by the act of August 18, 1914, and sections 22, 27, and 38 of the Merchant Marine Act of June 5, 1920, as amended. This vessel shall not engage in the American fisheries.

If the vessel is owned by a corporation and is entitled to engage in the coastwise trade, the notation required by § 3.2 (d) shall also be made on the document.

(f) A foreign-built vessel which is owned by a citizen, but which was not so owned and documented on February 1, 1920, or which was not owned by the United States on June 5, 1920, is limited to the foreign trade. A foreign-built vessel admitted to American registry and thereafter sold foreign in whole or in part or placed under foreign registry is limited, upon afterward becoming the property of a citizen, to the foreign trade. When a register is issued to a vessel of either such class, the following notation shall be made thereon:

As amended by section 5 of the Panama Canal Act, by the act of August 18, 1914, by section 27 of the Merchant Marine Act of June 5, 1920, as amended, and by the act of May 24, 1938, entitling the vessel to engage only in trade with foreign countries or the islands of Guam, Tutuila, Wake, Midway, and Kingman Reef. This vessel shall not engage in the coastwise trade or the American fisheries.

(g) A foreign-built vessel which has been purchased from the Maritime Commission or the War Shipping Administration by a citizen shall not engage in the American fisheries, but it is otherwise unlimited as to documents and trade so long as it continues in such ownership. When a marine document is issued to such a vessel, the following notation shall be made thereon:

As amended by section 9 of the Shipping Act, 1916, as amended. This vessel shall not engage in the American fisheries.

If the vessel is owned by a corporation, the notation required by § 3.2 (d) shall also be made on the document. (R. S. 4132, as amended, sec. 2, 39 Stat. 729, as amended, sec. 9, 39 Stat. 730, as amended, sec. 22, 41 Stat. 997, sec. 27, 41 Stat. 999; 46 U. S. C. 11, 13, 802, 808, 883; sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.43 *Documentation of American-built foreign-flag vessels.* (a) In the case of an American-built foreign-flag vessel which has never been documented as a vessel of the United States, a builder's certificate shall be produced unless a certificate of record has been issued to the vessel previously. A certificate of admeasurement shall also be produced unless a certificate of record has been issued and the tonnage of the vessel has not since been changed. Application for an official number shall be made in accordance with § 3.42 (a).

(b) In the case of an American-built foreign-flag vessel which was documented as a vessel of the United States before being placed under foreign flag, the production of a builder's certificate shall not be required, nor shall the production of a certificate of admeasurement unless the tonnage of the vessel has been changed. The official number originally awarded to the vessel shall be retained and the vessel shall be documented in the name under which it was last documented as a vessel of the United States.

(c) The application for documentation shall be accompanied by a photostatic or certified copy of the vessel's foreign register and foreign measurement certificate, if there be one. Satisfactory evidence shall be produced to establish that the transfer of registry has the approval of the foreign government concerned. If the vessel was not built for the applicant, satisfactory evidence of ownership shall be presented as in the case of a vessel of the United States.

(d) The applicant shall submit an affidavit as required by § 3.42 (c)

(e) The papers filed in connection with the application for documentation in accordance with the requirements of this section and any other pertinent information shall be forwarded to the Commissioner of Customs for consideration before the granting of a document to the vessel. Except as otherwise provided for in this section, the usual requirements for registry shall be complied with.

(f) In appropriate cases, the notation required under class 1 of § 3.2 (c) shall be endorsed on a document issued under this section. (R. S. 4132, as amended, sec. 27, 41 Stat. 999, sec. 1, 49 Stat. 154, 442, sec. 204, 904, 49 Stat. 1937, 2016; 46 U. S. C. 11, 883; sec. 102, Reorg. Plan No. 3 of 1946 (3 CFR, 1946 Supp., Ch. IV)

§ 3.44 *Foreign-built yachts.* Any foreries." (R. S. 4132, as amended, R. S. of the United States may be documented upon compliance with all the requirements set forth in § 3.42. The collector of customs may then issue to any such yacht owned by a citizen a consolidated certificate of enrollment and yacht license on customs Form 1290 or, except upon the Great Lakes, a license of yacht under 20 tons on customs Form 1288. Any document issued to such a yacht shall have written across its face the legend, "This vessel shall not engage in the coastwise trade or the American fisheries." (R. S. 4132, as amended, R. S. 4214, as amended; 46 U. S. C. 11, 103. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.45 *Certificate of protection.* Any foreign-built undocumented yacht owned by a citizen is entitled to legal protection as property of a citizen.[23] The collector may issue to any such vessel a certificate that the bill of sale has been filed in his office and that it is valid in form and substance. This certificate shall be in substantially the following form:

FOREIGN-BUILT AMERICAN-OWNED YACHT

I, _____, collector of customs for the port of _____, State of _____, United States of America, do hereby certify that the bill of sale, bearing date of _____, 19____, of the _____
(Class and name)
net tonnage, sold and transferred by _____, of _____, in _____ to _____ of _____, State of _____, United States of America, is in form and substance valid and effective in law; that it has been filed in this office; and that the said _____ is a citizen of the
(Purchaser)
United States.

As witness my hand and seal this _____ day of _____ 19____.

[SEAL] (Signed) _____
Collector.

(R. S. 4130; 46 U. S. C. 61. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.46 *Recorded vessels.* In the documentation of a recorded vessel (class 3) no builder's certificate shall be required. No admeasurement certificate shall be required unless the vessel has been altered since the certificate of record was issued. (Sec. 102, Reorg. Plan 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.47 *Record of American-built vessels owned by aliens.* (a) A vessel built in the United States, never before documented, and belonging wholly or in part to an alien may be granted a certificate of record on customs Form 1316. Such a vessel may be documented as a vessel of the United States if transferred to a citizen.

(b) Before a certificate of record is issued, a builder's certificate on customs Form 1261 and a certificate of admeasurement on customs Form 1414 shall be filed with the collector.

(c) Whenever the master or name of a recorded vessel is changed, the collector at the port where the vessel is, or the collector at the port where the vessel next arrives if it is at sea or in a foreign port, shall endorse such change upon the certificate of record on the written application of one or more of the owners. (R. S. 4132, as amended, R. S. 4180, 4131, 4182, as amended, 4183, as amended; 46 U. S.

[23] "No document certifying or proving any vessel to be the property of a citizen of the United States shall be issued, except to vessels duly registered or enrolled and licensed as vessels of the United States, or to vessels which shall be wholly owned by citizens of the United States, and furnished with or entitled to customhouse documents." (46 U. S. C. 61)

C. 11, 54, 55, 56, 73. Sec. 102, Reorg. Plan 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.48 *Certificates of record.* Certificates of record shall be consecutively numbered. An exact copy of each certificate shall be placed in a permanent record kept for that purpose and a proper index made thereof on customs Form 1241 appropriately modified (on customs Form 2112 at New York) When a recorded vessel is documented, the certificate of record shall be surrendered, canceled, and forwarded to the Commissioner of Customs and the collector at the port of issue shall be notified. (Sec. 102, Reorg. Plan 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.49 *Prizes and forfeited vessels.* If application is made for documentation of a vessel of class 4 or 5, all the requirements relating to documentation, except the filing of a builder's certificate, shall be complied with, and the collector shall be furnished with a properly authenticated copy of the decree of condemnation and the proof of the applicant's ownership. (R. S. 4132, as amended; 46 U. S. C. 11. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.50 *Inspection of marine documents.* Except in the case of vessels within the purview of § 3.24 (e) and (f) the document of a documented vessel, when such vessel is in commission, shall be on board and accessible to the person in charge, except when such papers are in the custody of the collector, and shall be produced to any customs officer upon demand.[37] (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.51 *Change of name of documented vessel.* (a) The name of a documented vessel (including any documented yacht) shall not be changed except with the consent and approval of the collector of customs for the district in which the vessel's home port is located.[33]

(b) An application for change of name shall be executed by the owner or owners of the vessel, addressed to the collector, and shall be submitted in duplicate to the deputy collector at the vessel's home port.

(c) The application shall state the change desired, the reasons therefor, official number, rig, gross tonnage, name or names of the owner or owners of the vessel, and date and place of last inspection, if the vessel is subject to inspection. If the vessel is not subject to inspection, a certificate of seaworthiness issued by an officer in charge, marine inspection, United States Coast Guard, shall be obtained by the applicant and submitted with the application. A certificate of ownership on customs Form 1330 from the deputy collector at the vessel's home port shall be submitted with the application as evidence to the collector of the date and place of build and pecuniary liability of the vessel. The consent of the mortgagee or other beneficiary under each lien, mortgage, or other encumbrance of record at the vessel's home port shall be submitted in writing with the application, together with a certified copy of any approval of the United States Maritime Commission required by subsection O (a) of the Ship Mortgage Act, 1920.[33a]

(d) If the application is approved by the collector, he shall issue an order in writing authorizing the change of name as requested. A copy of the order shall be delivered to the applicant by the deputy collector at the vessel's home port.

(e) The applicant shall cause notice of the order for the change of name to be published in some daily or weekly newspaper of general circulation at or nearest to the home port of the vessel in at least four consecutive issues. The notice shall be in the following form:

Notice is hereby given that the collector of customs for this district has issued an order dated _____ authorizing the name of the _____
(rig) (name)
official number ____, owned by _____, of which _____ is the home port, to be changed to _____.

_____
Deputy Collector

_____
(Port)

(f) No document shall be issued to the vessel in the new name until the applicant has paid the fee prescribed by § 3.52 [33b] and, except as specified in paragraph (g) of this section, until he has complied with paragraph (e) of this section and has furnished to the deputy collector at the vessel's home port (1) an affidavit or declaration of publication executed by a proper representative of the newspaper in which the order for the change of name was published setting forth the wording of the order, the dates of publication, and the payment of the cost of advertising, or (2) a copy of each of the four consecutive issues of the newspaper in which the order appeared, together with a receipt for the payment of the cost of advertising.

(g) Documentation of the vessel in the new name shall not be withheld until notice of the order for the change has been published as required by paragraph (e) of this section, if the deputy collector at the vessel's home port is satisfied that the contract for publication has been entered into and he has been furnished with a receipt for the payment of the cost thereof, but the applicant shall within a reasonable time after publication furnish to the deputy collector the evidence prescribed in subparagraphs (1) or (2) of paragraph (f) of this section.

(h) The cost of advertising and of procuring any evidence required by this section shall be paid by the applicant.

(i) An accurate index of each change of name of a documented vessel under both the old and new names, and showing the dates of authorization, shall be kept by the collector.

(j) If there is a change in ownership of a vessel and the new owner applies for a change of name of the vessel, his designation of home port shall be in the name under which the vessel was last documented. A designation of home port shall not be required to be submitted merely by reason of a change of name.

(k) A vessel which is to be redocumented after being out of documentation shall be redocumented only under the name and official number in which it was last documented, but a vessel never before documented may be documented under any name. (Secs. 2, 3, 23 Stat. 118, 119, R. S. 4179, secs. 1-3, 41, Stat 436, 437; 46 U. S. C. 2, 3, 50-53. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 3.52 *Fee for change of vessel's name.* When a change in the name of a vessel is approved, the following fees shall be paid by the owners of vessels to collectors of customs: for a vessel of 99 gross tons or under, $10; for a vessel of 100 gross tons or up to and including 499 gross tons, $25; for a vessel of 500 gross tons or up to and including 999 gross tons, $50; for a vessel of 1,000 gross tons or up to and including 4,999 gross tons, $75; for a vessel of 5,000 gross tons or over, $100. (Sec. 3, 41 Stat. 437; 46 U. S. C. 53. Sec. 402, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§3.53 *Yacht privileges and obligations.* (a) A vessel documented as a yacht shall be used exclusively for pleasure and shall not transport merchandise nor carry passengers for pay. If so documented, such vessels may proceed from port to port within the United States without entering or clearing, and to foreign ports without clearing. A vessel of 15 gross tons or under which is so documented, which has not visited a hovering vessel, and which is not liable to seizure and forfeiture for any violation of the laws of the United States is not required to make entry. Any other vessel which is so documented shall enter on arrival from a foreign port.

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[37] "Any officer concerned in the collection of the revenue may at all times inspect the register or enrollment or license of any vessel or any document in lieu thereof; and if the master of any such vessel shall not exhibit the same, when required by such officer, he shall be liable to a penalty of $100, unless the failure to do so is wilful in which case he shall be liable to a penalty of $1,000 and to a fine of not more than $1,000 or imprisonment for not more than one year, or both." (46 U. S. C. 277)

[33] "The Director of the Bureau of Marine Inspection and Navigation [Commissioner of Customs] shall, under the direction of the Secretary of Commerce [Commissioner of Customs], be empowered to change the names of vessels of the United States on application of the owner or owners of such vessels when in his judgment there shall be sufficient cause for so doing." (46 U. S. C. 51. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

"No master, owner, or agent of any vessel of the United States shall in any way change the name of such vessel, or by any device, advertisement, or contrivance deceive or attempt to deceive the public, or any officer or agent of the United States, or of any State, or any corporation or agent thereof, or any person or persons, as to the true name or character of such vessel, on pain of the forfeiture of such vessel." (46 U. S. C. 50)

[33a] The requirement of subsection O (a) of the Ship Mortgage Act, 1920 (46 U. S. C. 961 (a)), that the document of a vessel covered by a preferred mortgage may not be surrendered without the approval of the United States Maritime Commission and the mortgagee applies to the surrender of the document of such a vessel for the purpose of changing its name.

[33b] The fee is due upon approval of the application whether or not the vessel is documented in the new name.

(b) Upon the application of the owner on customs Form 1250, submitted through a collector of customs, a commission may be issued by the Commissioner of Customs to any vessel licensed or enrolled and licensed as a yacht, belonging to a regularly organized and incorporated yacht club, to identify such yacht and its owner during a foreign voyage. This commission is a token of credit to any United States official and to the authorities of any foreign power for the privileges enjoyed under it.

(c) On the return of the vessel to the United States, a yacht so commissioned shall make entry at the customhouse and surrender its commission.

(d) A cruising license [2] may be issued to a yacht of a foreign country only if it has been made to appear to the satisfaction of the President of the United States that yachts of the United States are allowed to arrive at and depart from ports in such foreign country and to cruise in the waters of such ports without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes, or charges for cruising licenses. It has been made to appear to the satisfaction of the President of the United States that yachts of the United States are granted such privileges in the following countries:

Canada.
Great Britain.
Greece.
Honduras.
Jamaica.

(e) In order to obtain a cruising license for a yacht of any country listed in paragraph (d) of this section there shall be filed with the collector an application therefor executed by the yacht owner which shall set forth his address, and identity the vessel by flag, rig, name, and such other matters as are usually descriptive of a vessel. The application shall also include a description of the waters in which the yacht will cruise, and a statement of the probable time it will remain in such waters. Upon approval of the application, the collector of customs will issue a cruising license in the form prescribed by paragraph (f) of this section permitting the yacht, for a stated period not to exceed 6 months, to arrive at and depart from the United States and to cruise in specified waters of the United States without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entry and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money. The license shall be granted subject to the condition that the vessel shall not engage in trade or violate the laws of the United States in any respect. The master shall comply with section 433 of the Tariff Act of 1930 upon the vessel's arrival at every port or place within the United States.

(f) Cruising licenses shall be in the following form:

LICENSE TO CRUISE IN THE WATERS OF THE UNITED STATES

To Collectors of Customs:

For a period of _____ from _____ the _____
(Date) (Flag) (Rig)
yacht _____ belonging to
(Name)
_____ of _____,
(Owner's name) (Address)
shall be permitted to arrive at and depart from the United States and to cruise in the waters of the customs collection district of _____
(Name of district or districts)
without entering and clearing, without filing manifests and obtaining or delivering permits to proceed, and without the payment of entry and clearance fees, or fees for receiving manifests and granting permits to proceed, duty on tonnage, tonnage tax, or light money.

This license is granted subject to the condition that the yacht named herein shall not engage in trade or violate the laws of the United States in any respect. The master shall comply with section 433 of the Tariff Act of 1930 upon the vessel's arrival at every port or place within the United States.

Issued this _____ day of _____, 19____.

_____
Deputy Collector

(g) A foreign-flag yacht which is not in possession of a cruising license shall be required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the United States. (R. S. 4197, as amended, R. S. 4214, as amended, R. S. 4217, as amended, R. S. 4218, as amended, R. S. 4367, 4368, sec. 4, 28 Stat. 625, sec. 5, 35 Stat. 425, as amended, secs. 433, 434, 435, 624, 46 Stat. 711, 759; 19 U. S. C. 1433, 1434, 1435, 1624, 46 U. S. C. 91, 103–107, 313, 314, sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.54 *Vessels to be inspected before documentation.* The following vessels shall undergo inspection by the proper officers and receive certificates of inspection before marine documents are issued to them:

(a) Every steam vessel over 65 feet in length, and every steam-propelled tugboat or towboat of any length, except public vessels of the United States, but including vessels owned or operated by the United States Maritime Commission or any corporation organized or controlled by it.

(b) Every vessel above 15 gross tons carrying freight or passengers for hire, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors. A motor vessel of 15 gross tons plus a fraction of a ton is considered to be over 15 gross tons.

(c) Every ferryboat, canal boat, yacht, or other small vessel of like character over 65 feet in length and propelled by steam.

(d) Every sail vessel over 700 tons carrying passengers for hire.

(e) Every seagoing barge of 100 gross tons or over.

(f) Every other vessel over 100 gross tons carrying passengers for hire.

(g) Every seagoing vessel of 300 gross tons and over propelled in whole or in part by an internal-combustion engine, except those engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry.

(h) Every passenger-carrying vessel of a class set forth in paragraphs (a) (b) or (c) of this section, when navigated on Irondequoit Bay, N. Y.

(i) Every vessel, regardless of tonnage, size, or means of propulsion, whether self-propelled or not, and whether carrying freight or passengers for hire or not, that shall have on board any inflammable liquid cargo in bulk, except public vessels owned by the United States and not engaged in commercial service. (R. S. 4197, as amended, R. S. 4214, as amended, R. S. 4217, as amended, R. S. 4218, as amended, secs. 434, 624, 46 Stat. 711, 759; 19 U. S. C. 1434, 1624, 46 U. S. C. 91, 103, 105, 106; sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.55 *Citizenship of masters of documented vessels.* Every vessel of the United States shall be commanded by a citizen or surrender her document. (R. S. 4131; 46 U. S. C. 121, 221. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.56 *Revocation or denial of document.* (a) Before revoking the document of a vessel which is being, or is intended to be, used illegally,[3] the collector of customs shall present charges to the owner of the vessel and give such

[2] "Whenever it shall be made to appear to the satisfaction of the President of the United States that yachts used and employed exclusively as pleasure vessels and belonging to any resident of the United States are allowed to arrive at and depart from any foreign port and to cruise in the waters of such port without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes or charges for cruising licenses, the Commissioner of Customs may authorize and direct the customs authorities at the various ports of entry of the United States to allow yachts from such foreign port used and employed exclusively as pleasure vessels to arrive at and depart from any port of the United States and to cruise in waters of the United States without the payment of any charges for entering or clearing, dues, duty per ton, or tonnage taxes, but the Commissioner of Customs may, in his discretion, direct that such foreign yachts shall be required to obtain licenses to cruise, in a form prescribed by him, before they shall be allowed under the provisions of this section to cruise in waters of the United States. Such licenses shall be issued without cost to such yachts and shall prescribe such limitations as to length of time, direction, and place of cruising and action, and such other particulars as the Commissioner of Customs may deem proper." (46 U. S. C. 104. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[3] "Subject to appeal to the Secretary of Commerce [Commissioner of Customs] and under such regulations as he may prescribe, whenever the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, licensed, or numbered, is shown upon evidence which he deems sufficient that such vessel is being, or is intended to be, employed to smuggle, transport, or otherwise assist in the unlawful introduction or importation into the United States of any merchandise or person, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever, from the design or

owner a reasonable time to reply under oath; except that, if the evidence is practically conclusive and immediate action is necessary, the collector shall forthwith revoke the document, subject to an appeal by the owner to the Commissioner of Customs.

(b) Any appeal from a revocation or denial of document by a collector shall be in writing and sworn to before a notary public or other officer authorized by law to administer oaths generally. It shall be filed in triplicate with the collector, who shall retain one copy in his office. The owner may submit with his appeal corroborative evidence in the form of affidavits from persons having actual knowledge of the facts, and, if pertinent, a detailed description and blueprints of the vessel. Such evidence, with two copies of the owner's appeal, shall be promptly forwarded to the Commissioner of Customs, together with the collector's report, which shall present in detail the facts and evidence supporting his action and any additional comments he desires to make regarding any facts not before him at the time of his original action. (Sec. 4, 49 Stat. 519; 19 U. S. C. 1704. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.57 *Report of laid-up vessels.* Each collector shall submit to the Commissioner of Customs a report of all vessels of the United States laid up in his district on December 31 of each year. (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

DOCUMENTATION OF VESSELS UNDER THE ACT OF JUNE 6, 1941, AS EXTENDED

AUTHORITY: §§ 3.60 to 3.74 issued under 55 Stat. 242, 56 Stat. 370; 50 U. S. C. App. 1271–1275; E. O. 9054; sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV.

§ 3.60 *Vessels entitled to documents.* (a) Any vessel of 20 net tons or over (except a vessel constructed under the provisions of the Merchant Marine Act, 1936, as amended) not documented under the laws of the United States, which is acquired by or made available to the United States Maritime Commission, may be registered under the act of June 6, 1941, as extended.[41]

(b) Vessels registered pursuant to this section shall not engage in the coastwise trade unless in possession of a valid unexpired permit to engage in that trade issued by the Maritime Commission under authority of section 5 (c) of the act of June 6, 1941, or by the War Shipping Administration under authority of that section as modified by Executive Order No. 9054, dated February 7, 1942.

(c) Any vessel of 20 net tons or over which is entitled under the provisions of paragraph (a) of this section to be registered may be enrolled and licensed for the coasting trade under the act of June 6, 1941, provided a valid unexpired permit to engage in the coastwise trade, issued by the Maritime Commission under authority of section 5 (c) of the act of June 6, 1941, or by the War Shipping Administration under authority of that act as modified by Executive Order No. 9054, dated February 7, 1942, is filed with the collector of customs to whom application for enrollment and license is made.

§ 3.61 *Provisional registers.* (a) Subject to prior authorization by the Commissioner of Customs in each case, consular officers of the United States, the captains of the Ports of Cristobal and Balboa, C. Z., and the Governor of Guam may issue provisional registers to vessels abroad which have been acquired by or made available to the Maritime Commission.

(b) A copy of every provisional register issued under this section shall be forwarded immediately by the issuing officer through the usual channels to the Commissioner of Customs.

(c) Such provisional register shall entitle the vessel to the privilege of a vessel of the United States in trade with foreign countries or American Samoa, or the Island of Guam, until the expiration of 6 months from the date thereof, until 10 days after the vessel's arrival in a port of the United States, or until the effective date of an order of the Commissioner of Customs requiring its surrender, whichever may happen first, and no longer.

§ 3.62 *Marine documents; classes; period of validity.* (a) Marine documents issued under the act of June 6, 1941, shall consist of registers and enrollments and licenses.

(b) All marine documents (except provisional registers) issued under the act of June 6, 1941, shall be permanent whether granted to vessels at their home ports or at ports other than their home ports.

(c) Every marine document issued under the act of June 6, 1941, shall be valid until the effective date of an order of the Commissioner of Customs requiring its surrender, unless sooner terminated as provided for by any of the provisions of §§ 3.60 to 3.74.

(d) Any document issued under the act of June 6, 1941, shall be valid only so long as the vessel to which it is granted is owned and of the description stated therein.

(e) Any enrollment and license issued under the act of June 6, 1941, shall be valid only so long as the permit issued to the vessel by the Maritime Commission or the War Shipping Administration remains in force.

(f) Any document issued under the act of June 6, 1941, shall be surrendered at any time that such surrender may be ordered by the Commissioner of Customs. No vessel, the surrender of the documents of which has been so ordered, shall, after the effective date specified in such order, have the status of a vessel of the United States unless documented anew.

§ 3.63 *Marine documents; execution of.* All marine documents issued under the act of June 6, 1941, shall be executed as prescribed in § 3.7.

§ 3.64 *Marine documents to include dimensions and tonnage.* Every marine document issued to a vessel under the act of June 6, 1941, shall, whenever possible express the data specified in § 3.9, except the number of masts.

§ 3.65 *Application for official number and signal letters.* (a) Application for an official number for a vessel to be documented under the act of June 6, 1941, shall be made in duplicate by the Maritime Commission to the collector of customs at any port of documentation at which the Commission or the Administration desires to have the document for the vessel granted. The application may contain a request that signal letters be awarded, and shall state:

(1) That the United States, represented by the United States Maritime Commission is the owner of the vessel.

(2) That the vessel is not documented under the laws of the United States.

(3) That it has been acquired by or made available to the Commission or the Administration, as the case may be.

(4) That it has not been constructed under the provisions of the Merchant Marine Act, 1936, as amended.

(5) The material of which the hull is constructed.

(6) The date and place of build of the vessel, if possible.

(7) The matters required by § 3.64 to be shown on the document.

(b) Official numbers issued to such vessels shall be prefaced by the letters MC. The issuance shall be as provided for in § 3.13 (c)

§ 3.66 *Designation of home port.* Prior to documentation, the approval of the Commissioner of Customs of the designation of a home port shall be obtained by the Maritime Commission. The designation shall be made by the Commission in triplicate on customs Form 1319 and delivered to the Commissioner of Customs directly or through the collector of customs at the home port so designated, or through the collector of customs at the port at which the Commission intends to document the vessel.

§ 3.67 *Coastwise permit.* Before an enrollment and license may be issued under the act of June 6, 1941, there shall be filed with the collector at the port at which the document is to issue a valid unexpired permit in duplicate issued by the Maritime Commission under authority of section 5 (c) of the act of June 6, 1941, or by the War Shipping Administration under authority of that section as modified by Executive Order No. 9054, dated February 7, 1942, authorizing the vessel to engage in the coastwise trade.

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fittings, of any vessel or the nature of any repairs made thereon, it is apparent to such collector that such vessel has been built or adapted for the purpose of smuggling merchandise, the said collector shall revoke the registry, enrollment, license, or number of said vessel or refuse the same if application be made therefor, as the case may be. Such collector and all persons acting by or under his direction shall be indemnified from any penalties or actions for damages for carrying out the provisions of this section." (19 U. S. C. 1704. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

[41] It is not necessary that the name and hailing port be marked prior to documentation on a vessel to be documented under §§ 3.60–3.74 of these regulations.

A vessel may be documented under such sections although no certificate of inspection has been issued or filed with the collector.

The master and watch officers of a vessel documented under such sections shall be citizens of the United States, except in those cases where that requirement of law is waived as provided for in section 5 (b) of the act of June 6, 1941.

§ 3.68 *Marking of official number and net tonnage.* The official number and the net tonnage of every vessel documented under authority of the act of June 6, 1941, shall be marked upon the main beam. Such marking shall not, however, be required prior to the issue of a document to the vessel.

§ 3.69 *Home port; change of.* If the Maritime Commission desires to change the home port of a vessel documented under the act of June 6, 1941, application shall be made for the approval of the new home port in the manner prescribed in § 3.66.

§ 3.70 *Master's oath for enrollment and license.*[42] (a) Prior to the granting or renewing of the enrollment and license of any vessel under the act of June 6, 1941, the master shall swear that such license shall not be used for any other vessel or for any other employment than the coasting trade, or in any manner whereby the revenue of the United States may be defrauded.

(b) This oath may be taken before any officer authorized by law to administer oaths generally and may be mailed to the collector together with the enrollment and license, whereupon action shall be taken as if the oath had been administered by the collector.

§ 3.71 *Change of master.* When the master of any vessel documented under the act of June 6, 1941, is changed, the new master shall report the change to the collector at the port where the change takes place or where the vessel shall first arrive after the change, and shall produce to the collector the vessel's document and make oath that he is the new master of the vessel. The collector shall then endorse upon the document the name of the new master.

§ 3.72 *Issue, record, and surrender of documents.* (a) The provisions of §§ 3.22 (a) and (b) and 3.26 shall apply with respect to documents issued under the act of June 6, 1941.

(b) No enrollment and license shall be issued for a longer period than is authorized by the permit referred to in § 3.67.

§ 3.73 *Renewal of document.* A document granted to any vessel under the act of June 6, 1941, shall be presented to the collector of the port at which the vessel may be at the time of its expiration within 3 days after that time, or if the vessel be at sea at that time, within 3 days after her first arrival at a port of the United States. Such a document may be renewed by the collector of customs upon request of the master or the Maritime Commission, if at the time of such request the documentation of the vessel is not prohibited by the act of June 6, 1941, by any order of the Commissioner of Customs issued under authority of that act requiring surrender of the vessel's document, or by any provision of the regulations in this part.

§ 3.74 *Exchange of documents.* (a) Any vessel enrolled and licensed under the act of June 6, 1941, may be registered.

(b) Any vessel registered under the act of June 6, 1941, may be enrolled and licensed for the coasting trade if a permit in duplicate issued by the Maritime Commission under section 5 (c) of the act of June 6, 1941, or by the War Shipping Administration under that section is modified by Executive Order No. 9054, dated February 7, 1942, authorizing the vessel to engage in the coasting trade is filed with the collector of customs.

REGISTRATION OF PRIVATE CODE SIGNALS, HOUSE FLAGS, AND FUNNEL MARKS

AUTHORITY: §§ 3.80 and 3.81, issued under secs. 2, 3, 23 Stat. 118, 119, sec. 7, 35 Stat. 426; 46 U. S. C. 2, 3, 49.

§ 3.80 *Application for registration of rockets, lights, or other similar code signals, house flags, or funnel marks.* (a) Application for the registration of private code signals by rockets, lights, or other similar means shall be submitted in duplicate through the office of a collector of customs to the Commissioner of Customs by the owner of the vessel or vessels by which they are to be used. The application shall describe in detail the signals which it is desired to use and shall state the purpose for which they will be used.

(b) Application for the registration of a house flag or funnel mark, or both, shall be submitted in duplicate through the office of a collector of customs to the Commissioner of Customs by the owner of the vessel or vessels on which they are to be used. The application for registration of a house flag shall describe such flag in detail, giving the colors, shape, and proportionate dimensions of the fly, field, union, or canton, and any insignia, markings, or stripes thereon in relation to the length of the hoist. Funnel marks shall be described in detail giving the colors to be used, the position of any insignia, markings, or stripes with relation to the top or collar of the funnel, the size of such insignia, markings, or stripes in relation to the diameter of the funnel, and the color of the remainder of the funnel. In addition there shall be submitted three replica drawings of the house flag or funnel, or both, drawn to scale, in the colors to be used, in ink, watercolor, oil pigments, or other permanent colors, and not exceeding 6 by 4 inches in size. (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 3.81 *Registration of rockets, lights, or other similar signals, house flags, or funnel marks.* (a) Except as stated in paragraph (b) of this section, upon the filing of an application duly executed in accordance with § 3.80, the Commissioner of Customs will register private code signals by rockets, lights, or other similar means, house flags, and funnel marks, and will cause a description of such signals, flags, or funnel marks to be filed with the Division of the Federal Register, together with one replica drawing of the house flag or funnel mark, or both.

(b) The Commissioner will refuse to register any signals which in his opinion cannot easily be distinguished from signals of distress, signals for pilots, or signals prescribed by laws for preventing collisions. The Commissioner will also refuse to register any signal, flag, or funnel mark which is identical or nearly identical with one previously registered.

(c) Applicants will be notified of the action of the Commissioner through the office of the collector transmitting the application. (Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

ARRIVAL AND ENTRY OF VESSELS

Sec.
4.1 Boarding of vessels; cutter and dock passes.
4.2 Reports of arrival of vessels.
4.3 Vessels required to enter.
4.4 Canal Zone; arrival and entry from.
4.5 Army and Navy transports.
4.6 Departure or unlading before report or entry.
4.7 Inward foreign manifest; production on demand; contents and form.
4.8 Preliminary entry.
4.9 Formal entry.
4.10 Request for overtime services.
4.11 Sealing of stores.
4.12 Correction of manifest.
4.13 Alcoholic liquors on vessels of not over 500 tons.
4.14 Equipment and repairs to American vessels.
4.15 Fishing vessels touching and trading at foreign places.
4.16 Entry and clearance on board vessels.
4.17 Vessels from discriminating countries.

TONNAGE TAX AND LIGHT MONEY

4.20 Tonnage taxes.
4.21 Exemptions from tonnage taxes.
4.22 Exemptions from special tonnage taxes.
4.23 Certificate of payment.
4.24 Application for refund of tonnage tax.

LANDING AND DELIVERY OF CARGO

4.30 Permits and special licenses for unlading and lading.
4.31 Unlading or transshipment due to casualty.
4.32 Vessels in distress; landing of cargo.
4.33 Diversion of cargo.
4.34 Prematurely discharged, overcarried, and undelivered cargo.
4.35 Unlading outside port of entry.
4.36 Delayed discharge of cargo.
4.37 Lay order; general order.
4.38 Release of cargo.
4.39 Stores and equipment of vessels and crews' effects; unlading or lading and retention on board.
4.40 Equipment, etc., from wrecked or dismantled vessels.
4.41 Cargo of wrecked vessel.

PASSENGERS ON VESSELS

4.50 Passenger lists.
4.51 Examination of vessels with steerage passengers.
4.52 Deaths of passengers.

FOREIGN CLEARANCES

4.60 Vessels required to clear.
4.61 Requirements for clearance.
4.62 Accounting for inward cargo.
4.63 Outward foreign manifest; shippers' export declarations.
4.64 Documentation.
4.65 Verification of nationality and tonnage.
4.66 Verification of inspection.
4.67 Closed ports or places.
4.68 Crew; passengers.
4.69 Shipping articles and enforcement of Seamen's Act.
4.70 Pratique.
4.71 Inspection of vessels carrying livestock.

[42] No master's oath is required for the issuance of a register under the act of June 6, 1941.

Sec.
4.72 Inspection of meat, meat-food products, and inedible fats.
4.73 Neutrality; exportation of arms and munitions.
4.74 Incomplete manifest; incomplete export declarations; bond.

COASTWISE PROCEDURE

4.80 Vessels entitled to engage in coastwise trade.
4.81 Reports of arrivals and departures in coastwise trade.
4.82 Touching at foreign port while in coastwise trade.
4.83 Trade between United States ports on the Great Lakes and other ports of the United States.
4.84 Trade with noncontiguous territory.
4.85 Vessels with residue cargo for domestic ports.
4.86 Intercoastal residue-cargo procedure; optional ports.
4.87 Vessels proceeding foreign via domestic ports.
4.88 Vessels with residue cargo for foreign ports.
4.89 Vessels in foreign trade proceeding via domestic ports and touching at intermediate foreign ports.
4.90 Simultaneous vessel transactions.
4.91 Diversion of vessel; transshipment of cargo.
4.92 Towing.

GENERAL

4.95 Records of entry and clearance of vessels.
4.96 Fisheries.
4.97 Salvage vessels.
4.98 Navigation fees.

ARRIVAL AND ENTRY OF VESSELS

§ 4.1 *Boarding of vessels; cutter and dock passes.* (a) When any vessel or vehicle which might have on board any article subject to customs treatment comes within the limits of any port of entry or within customs waters, customs officers may board the vessel or vehicle to inspect its manifest and other documents and papers and to examine, inspect, and search the vessel or vehicle and the persons and articles on board.[1]

(b) Every vessel which has arrived from outside the customs territory of the United States is subject to such supervision while in port as the collector deems necessary. When he deems it desirable, the collector may detail customs officers to remain on board a vessel to secure the enforcement of these regulations. All baggage landed from United States naval vessels which have touched at a port outside customs territory of the United States is subject to customs examination.

(c) No person, with or without the consent of the master, except a pilot, officer of the customs or coast guard, immigration officer, health officer, agent of the vessel, or consular officer, shall go on board or, except for the purpose of reporting the arrival of the vessel as required by law, leave any vessel arriving from outside the customs territory of the United States without permission of the collector of customs or the customs officer in charge until such vessel has been properly inspected by the customs and brought to the dock or anchorage at which cargo is to be laden or unladen and until all passengers and their baggage have been landed from the vessel;[2] nor shall the master of any vessel authorize the boarding or leaving of the vessel by any person in violation of this paragraph. Every person permitted to go on board shall be subject to customs and quarantine regulations.

(d) A collector of customs, in his discretion, may issue a cutter pass on customs Form 3093 to permit the holder to board an incoming vessel after it has been inspected by the quarantine authorities and taken in charge by an officer of the customs, as follows: (1) To persons on official business; (2) to news reporters, newspaper photographers, photographers of established motion-picture companies, and broadcasters of established radio-broadcasting companies; and (3) in cases of special exigency in which the collector is satisfied as to the urgent need for the boarding and that its allowance will not result in undue interference with the performance of official business. Term passes, for a period not to exceed six months, may be issued in the discretion of the collector, to persons on official business and to duly accredited news reporters and newspaper photographers. Passes are not transferable and shall be forfeited upon presentation by others than those to whom issued.

(e) No person in charge of a tugboat, rowboat, or other vessel shall bring such conveyance alongside an incoming vessel heretofore described and put on board thereof any person, except as authorized by law or regulations.

(f) Upon application on customs Form 3137 or in other suitable manner, a collector may, in his discretion, issue a pass on customs Form 3095 to go on the dock to meet persons arriving from abroad. (Sec. 2, 23 Stat. 118, sec. 9, 22 Stat. 189, secs. 1, 2, 3, 31 Stat. 58, sec. 1, 33 Stat. 711, sec. 1, 37 Stat. 736, R. S. 251, sec. 624, 46 Stat. 759, 19 U. S. C. 1624, 46 U. S. C. 2, 158, 163)

§ 4.2 *Reports of arrival of vessels.* (a) The report of arrival required by section 433, Tariff Act of 1930,[3] shall be made by any means of communication to the collector of customs or to a customs officer assigned to board the vessel.

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[1] "Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters * * * and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance." (19 U. S. C. 1581 (a))

"If the master of any vessel shall obstruct or hinder, or shall intentionally cause any obstruction or hindrance to any officer in lawfully going on board such vessel, for the purpose of carrying into effect any of the revenue or navigation laws of the United States, he shall for every such offense be liable to a penalty of not more than $2,000 nor less than $500." (R. S. 3068, sec. 307, 49 Stat. 528)

[2] "It shall not be lawful for the master of any such steamship or other vessel,* not in distress, after the arrival of the vessel within any collection district of the United States, to allow any person or persons, except a pilot, officer of the customs, or health officer, agents of the vessel, and consuls, to come on board of the vessel, or to leave the vessel, until the vessel has been taken in charge by an officer of the customs, nor, after charge so taken, without leave of such officer, until all the passengers, with their baggage, have been duly landed from the vessel. * * *" (46 U. S. C. 158)

"The Secretary of Commerce [Commissioner of Customs] is authorized and directed to prescribe from time to time and enforce regulations governing the boarding of vessels arriving at the seaports of the United States, before such vessels have been properly inspected and placed in security, and for that purpose to employ any of the officers of that department. Each person violating such regulations shall be subject to a penalty of not more than $100 or imprisonment not to exceed six months, or both, in the discretion of the court. This section shall be construed as supplementary to section 158 and section 708 of this title." (46 U. S. C. 163. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

"Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, shall be fined not more than $200 or imprisoned not more than six months, or both.

"The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law." (18 U. S. C. 2279)

"If, within twenty-four hours after the arrival of any vessel at any port in the United States, any person, then being on board such vessel, solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such vessel any effects of any seaman, except under his personal direction, and with the permission of the master, he shall, for every such offense, be punishable by a fine of not more than $50, or by imprisonment for not more than three months. This section shall apply to vessels of the United States engaged in the foreign trade and to foreign vessels." (46 U.S.C. 709)

* A vessel from a noncontiguous foreign place carrying steerage passengers.

[3] "Within twenty-four hours after the arrival of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, at any port or place within the United States at which such vessel shall come to, the master shall, unless otherwise provided by law, report the arrival of the vessel at the nearest customhouse, under such regulations as the Secretary of Commerce [Commissioner of Customs] may prescribe." (Tariff Act of 1930, sec. 433; 19 U. S. C. 1433. Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

"* * * For the purposes of sections 432, 433, 434, 448, 585, and 586 of this Act, any vessel which has visited any hovering vessel shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place." (Tariff Act of 1930, sec. 401 (n), as amended; 19 U. S. C. 1432a)

"The term 'hovering vessel' means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in viola-

(b) For the purposes of this part, the time of arrival of a vessel shall be that time when she first comes to rest, whether at anchor or at a dock, in any harbor within the customs territory of the United States.

(c) In the case of vessels described in section 441 (4) Tariff Act of 1930, as amended,[4] the report may be filed by either the master, owner, or agent, and shall be in the form and give the information required by that statute. A derelict vessel shall be considered one in distress and any person bringing it into port may report its arrival.

(d) The report of baggage and merchandise on a vessel within the purview of section 441 (2) Tariff Act of 1930, as amended,[4] shall be made as provided for in that section and shall be in addition to the required report of arrival. (Secs. 433, 441, 624, 46 Stat. 711, 712, 579, sec. 302, 49 Stat. 527, sec. 1, 50 Stat. 638; 19 U. S. C. 1433, 1441, 1624. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.3 *Vessels required to enter.* (a) Except as specified in section 441, Tariff Act of 1930, as amended,[5] R. S. 4218, as amended,[6] R. S. 2792,[7] R. S. 2793, as amended,[8] or as otherwise specified in this part, every American vessel arriving in the United States from a foreign port or place and every foreign vessel[9] arriving at a port in the United States from another such port or from a foreign port or place shall make entry[10] at the customhouse within 48 hours after arrival.[11]

(b) For the purposes of this part the time of departure of a vessel shall be that time when she gets under way on her outward voyage and proceeds on the voyage without thereafter coming to rest in the harbor from which she is going. (R. S. 251, 2793, sec. 2, 23 Stat. 118, secs. 434, 435, 441, 624, 46 Stat. 711, 712, 759, secs. 301, 302, 49 Stat. 527, sec. 1, 50 Stat. 638, 55 Stat. 733, sec. 624; 19 U. S. C. 66, 1434, 1435, 1441, 1624, 283, 46 U. S. C. 2, 111. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR 1946, Supp., Ch. IV)

§ 4.4 *Canal Zone; arrival and entry from.* For the purposes of the laws relating to reports of arrival and entry of vessels, the Canal Zone shall be regarded as foreign territory. Vessels which merely transit the Canal Zone without transacting any business there shall not be required to report their arrival or to enter because of such transit. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.5 *Army and Navy transports.* (a) No vessel of the Army or Navy Transport Service arriving from a foreign port without commercial cargo shall be required to enter at the customhouse, but the commanding officer or master of the vessel shall prepare in triplicate a manifest which shall include a list of all cabin and other passengers on board and their baggage, specifying the number and description of the pieces of baggage belonging to each, a list of all baggage not accompanied by any passenger, and a list of all articles acquired abroad by officers, crew members, and passengers (including enlisted personnel of the armed forces of the United States) other than cabin passengers,[12] in the following form:

UNITED STATES ARMY AND NAVY TRANSPORT

CUSTOMS DECLARATIONS

U. S. S._____ Port of arrival

TO THE COLLECTOR OF CUSTOMS:

Herewith is submitted a list of articles acquired in foreign countries by me, the respective officers and members of the crew under my command, and passengers (includ-

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tion of the laws respecting the revenue * * *" (Tariff Act of 1930, sec. 401 (n), as amended; 19 U. S. C. 1401 (n))

"Every master who fails to make the report or entry provided for in section 433, 434, or 435 of this Act shall, for each offense, be liable to a fine of not more than $1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than $2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment. * * *" (Tariff Act of 1930, sec. 436, as amended; 19 U. S. C. 1436)

[4] See footnote 5.

[5] "The following vessels shall not be required to make entry at the customhouse:

"(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade;

"(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel shall be required to report such baggage and merchandise to the collector within twenty-four hours after arrival;

"(3) Yachts of fifteen gross tons or under not permitted by law to carry merchandise or passengers for hire and not visiting any hovering vessel, nor having at any time or, if forfeited to the United States or to a foreign government, at any time after forfeiture, become liable to seizure and forfeiture for any violation of the laws of the United States;

"(4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board; and

"(5) Tugs enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers when towing vessels which are required by law to enter and clear." (Tariff Act of 1930, sec. 441, as amended. 19 U. S. C. 1441.)

[6] "Every yacht, except those of 15 gross tons or under exempted by law, visiting a foreign country under the provisions of sections 103, 105, and 109 of this title shall, on her return to the United States, make due entry at the customhouse of the port at which, on such return, she shall arrive: *Provided*, That nothing in this section shall be so construed as to exempt the master or person in charge of a yacht or vessel arriving from a foreign port or place with dutiable articles on board from reporting to the customs officer of the United States at the port or place at which said yacht or vessel shall arrive, and deliver in to said officer a manifest of all dutiable articles brought from a foreign country in such yachts or vessels." (46 U. S. C. 106)

[7] "Vessels used exclusively as ferryboats carrying passengers, baggage, and merchandise, shall not be required to enter and clear, nor shall the masters of such vessels be required to present manifests, or to pay entrance or clearance fees, or fees for receiving or certifying manifests, but they shall, upon arrival in the United States, be required to report such baggage and merchandise to the proper officer of the customs according to law." (46 U. S. C. 110)

"Any passenger vessel engaged triweekly or oftener in trade between ports of the United States and foreign ports shall be exempt from entrance and clearance fees while such service triweekly or oftener is maintained." (46 U. S. C. 112)

[8] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from entering and clearing under such rules and regulations as the Secretary of Commerce [Commissioner of Customs] may prescribe, notwithstanding any other provisions of law: *Provided*, That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seaman by mutual consent, or engage any seaman to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U. S. C. 288 and Sup. I, E. O. 9083, Title 3, *supra*)

[9] Every undocumented vessel of 5 net tons or over owned by an alien, whether or not such alien is a resident of the United States, is a foreign vessel.

[10] "Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided*, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U. S. C. 91a)

"* * * Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 434 or 435 of this Act, knowing the same to be forged, altered or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than $5,000 nor less than $50 or to imprisonment for not more than two years, or to both such fine and imprisonment." (Tariff Act of 1930, sec. 436, as amended; 19 U. S. C. 1436)

[11] See § 4.2 (b).

[12] See § 10.25 (a).

ing enlisted personnel of the armed forces of the United States) other than cabin passengers, which list is correct to the best of my knowledge and belief:

Owner	Rank	Description of articles	Cost or value

(Name) _____
(Rank) _____
Commanding Officer or Master.
Date _____, 19_____.

(b) The original manifest shall be filed with the collector within 48 hours after the arrival of the vessel and a copy shall be mailed or delivered to the comptroller of customs for the port. The other copy shall be made available for use by the discharging inspector at the pier. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1493, 1624. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.6 *Departure or unlading before report or entry.* (a) The provisions of section 585 Tariff Act of 1930, as amended,[12] apply to foreign as well as American vessels, but shall not be applied to a vessel merely passing through waters within the limits of a collection district in the ordinary course of her voyage.

(b) The "limits of any collection district" as used herein are those defined by § 1.1 of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries. (Secs. 585, 624, 46 Stat. 749, 759, sec. 303, 49 Stat. 527; 19 U. S. C. 1585, 1624; sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.7 *Inward foreign manifest; production on demand, contents and form.* (a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930.[14] The manifest shall be legible and complete on customs Form 7527–A, except that a collector of customs is authorized to permit the use of customs Form 7527–B in his district, in lieu of customs Form 7527–A, to such extent as customs Form 7527–B will meet his requirements. The original and one copy of the manifest shall be ready for production on demand.[15] In addition, there shall be at least two other copies except when only one is required for local customs purposes, but a reasonable time shall be allowed by the boarding officer for the preparation of the additional copy or copies. If the manifest is in a foreign language, a translation shall be furnished with the original and with each copy.

(b) The master shall deliver the original and one copy of the manifest to the boarding officer, one copy to the discharging inspector, when required, and shall mail or deliver one copy to the comptroller of customs in accordance with section 439, Tariff Act of 1930.[16]

(c) The list of passengers and their baggage required by the fifth subdivision of section 431, Tariff Act of 1930, shall be on customs and immigration Forms I–415 and I–416 or a substantially similar form. An additional copy of such list shall be filed with the original manifest and shall be placed in a permanent record kept for that purpose. No such list or copy shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connecting or tributary waters.[16a]

(d) The manifest shall separately specify articles to be retained aboard at sea or ship's stores, as required by section 432, Tariff Act of 1930.[17] Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(e) All articles on board the vessel acquired abroad by officers and members of the crew, except such articles as are exclusively for use on the voyage, shall be specified in the list of sea stores in the following form:

Name of officer or member of crew	Description of articles	Cost or value

(Secs. 431, 581 (a) 583, 624, 46 Stat. 710, 747, 748, 759; sec. 203, 49 Stat. 521, 19 U. S. C. 1431, 1531 (a) 1583, 1264. Sec. 102 Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[12] "If any vessel or vehicle from a foreign port or place arrives within the limits of any collection district and departs or attempts to depart, except from stress of weather or other necessity, without making a report or entry under the provisions of this chapter, or if any merchandise is unladen therefrom before such report or entry, the master of such vessel shall be liable to a penalty of $5,000, and the person in charge of such vehicle shall be liable to a penalty of $500, and any such vessel or vehicle shall be forfeited, and any officer of the customs may cause such vessel or vehicle to be arrested and brought back to the most convenient port of the United States. (Tariff Act of 1930, sec. 585, as amended 19 U. S. C. 1585)

[14] "The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest in a form to be prescribed by the Secretary of the Treasury and signed by such master under oath as to the truth of the statements therein contained. Such manifest shall contain:

"First. The names of the ports or places at which the merchandise was taken on board and the ports of entry of the United States for which the same is destined, particularly describing the merchandise destined to each such port: *Provided*, That the master of any vessel laden exclusively with coal, sugar, salt, nitrates, hides dyewoods, wool, or other merchandise in bulk consigned to one owner and arriving at a port for orders, may destine such cargo for orders, and within fifteen days thereafter, but before the unlading of any part of the cargo such manifest may be amended by the master by designating the port or ports of discharge of such cargo, and in the event of failure to amend the manifest within the time permitted such cargo must be discharged at the port at which the vessel arrived and entered.

"Second. The name, description, and build of the vessel, the true measure or tonnage thereof, the port to which such vessel belongs, and the name of the master of such vessel.

"Third. A detailed account of all merchandise on board such vessel, with the marks and numbers of each package, and the number and description of the packages according to their usual name or denomination, such as barrel, keg, hogshead, case, or bag.

"Fourth. The names of the persons to whom such packages are respectively consigned in accordance with the bills of lading issued therefor, except that when such merchandise is consigned to order the manifest shall so state.

"Fifth. The names of the several passengers aboard the vessel, stating whether cabin or steerage passengers, with their baggage, specifying the number and description of the pieces of baggage belonging to each, and a list of all baggage not accompanied by passengers.

"Sixth. An account of the sea stores and ship's stores on board of the vessel." (Tariff Act of 1930, sec. 431; 19 U. S. C. 1431)

[15] "The master of every vessel and the person in charge of every vehicle bound to a port or place in the United States shall deliver to the officer of the customs or Coast Guard who shall first demand it of him, the original and one copy of the manifest of such vessel or vehicle, and such officer shall certify on the back of the original manifest to the inspection thereof and return the same to the master or other person in charge." (Tariff Act of 1930, sec. 583; 19 U. S. C. 1583)

"Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of $500, * * * *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, * * * said penalties shall not be incurred. * * *" (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584)

[16] "Immediately upon arrival and before entering his vessel, the master of a vessel from a foreign port or place required to make entry shall mail or deliver to the comptroller of customs for the district in which the port of entry is located, a copy of the manifest, and shall on entering his vessel make affidavit that a true and correct copy was so mailed or delivered, and he shall also mail or deliver to said comptroller of customs a true and correct copy of any correction of such manifest filed on entry of his vessel. Any master who fails so to mail or deliver such copy of the manifest or correction thereof shall be liable to a penalty of not more than $500." (Tariff Act of 1930, sec. 439; 19 U. S. C. 1439)

[16a] "Notwithstanding any provision of law to the contrary, no collector of customs shall require a master or owner of a vessel arriving, otherwise than by sea, at a port or place in the United States on the Great Lakes, or their connecting or tributary waters, from a port or place in the Dominion of Canada to furnish a list of passengers on board such vessel." (60 Stat. 882.)

[17] "The manifest of any vessel arriving from a foreign port or place shall separately specify the articles to be retained on board of such vessel as sea stores, ship's stores, or bunker coal, or bunker oil, and if any other or greater quantity of sea stores, ship's stores, bunker coal, or bunker oil is found on board of any such vessel than is specified in the manifest, or if any such articles, whether shown on the manifest or not are landed without a permit therefor issued by the collector, all such articles omitted from the manifest or landed without a permit shall be subject to forfeiture, and the master shall be liable to a penalty equal to the value of the articles." (Tariff Act of 1930, sec. 432; 19 U. S. C. 1432)

§ 4.8 *Preliminary entry.* If it is desired to discharge or take on passengers, baggage, or cargo prior to formal entry of the vessel, preliminary entry of the vessel shall be made by compliance with § 4.30 and execution by the master on customs Form 3255 of the oath prescribed by section 448 (a) Tariff Act of 1930.[18] (Secs. 448, 624, 46 Stat. 714, 759; 19 U. S. C. 1448, 1624. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.9 *Formal entry.* (a) The formal entry of a vessel of the United States shall be in accordance with section 434, Tariff Act of 1930.[19] The required oath shall be on customs Form 3251. Such entry of a foreign vessel shall be in accordance with section 435, Tariff Act of 1930.[20]

(b) Upon the entry of an American vessel, a certified copy of the crew list shall be filed with the collector in the manner and form prescribed by the United States Coast Guard. The master shall deposit his register or frontier enrollment with the collector before or at the time of entry. The collector may give the master a certificate of deposit on customs Form 1370. If the collector gives the master such a certificate, it shall be exchanged for the vessel's document upon clearance of the vessel, or upon its departure if clearance is not required.

(c) The master of any foreign vessel shall exhibit his register to the collector on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the collector the certificate required by section 435 of the tariff act. If not delivered to the consul, the register shall be deposited in the customhouse.[21]

(d) The master of every vessel required to make entry shall present on entry the pratique required by the pertinent regulations of the United States Public Health Service (42 CFR, Ch. I) and shall pay all required fees and penalties incurred.

§ 4.10 *Request for overtime services.* Request for overtime services in connection with the entry or clearance of a vessel, including the boarding of a vessel for the purpose of preliminary entry,[22] if made at the time the application to unlade or lade is filed, may be on customs Form 3171 in the space provided therefor, but if made thereafter the request for overtime services shall be on customs Form 3853. Such request for overtime services shall not be approved by the collector unless the required bond on customs Form 7567 or 7569 shall have been filed. (Secs. 448, 624, 46 Stat. 714, 759, sec. 451, 46 Stat. 715, sec. 9, 52 Stat. 1082; 19 U. S. C. 1448, 1451, 1624. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 4.11 *Sealing of stores.* Upon the arrival of a vessel from a foreign port, or a vessel engaged in the foreign trade from a domestic port, sea stores and ship's stores not required for immediate use or consumption on board while the vessel is in port and articles acquired abroad by officers and members of the crew, for which no permit to land has been issued, shall be placed under seal, unless the customs officer is of the opinion that the circumstances do not require such action. Customs inspectors in charge of the vessel, from time to time, as in their judgment the necessity of the case requires, may issue stores from under seal for consumption on board the vessel by its passengers and crew. (See § 4.39.) (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 19 U. S. C. 1624. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.12 *Correction of manifest.* (a) If the inward foreign manifest is shown by the inspector's report on customs Form 5931 or otherwise to be incorrect, it shall be corrected promptly. Collectors of customs shall, by such means as they may deem appropriate, notify masters or agents of vessels of shortages or overages in cargoes which require the filing of shortage affidavits or post entries.

(b) If any manifested merchandise is not found on board,[23] the manifest shall be corrected by filing with the collector an affidavit on customs Form 3249.

(c) If there is on board any merchandise, including bulk merchandise and baggage, which is not included in, or does not agree with, the manifest,[24] the

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[18] "* * * the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse, as provided by this Act. * * *" (Tariff Act of 1930, sec. 448 (a); 19 U. S. C. 1448 (a))

[19] "Except as otherwise provided by law, and under such regulations as the Secretary of Commerce [Commissioner of Customs] may prescribe, the master of a vessel of the United States arriving in the United States from a foreign port or place shall, within forty-eight hours after its arrival within the limits of any customs collection district, make formal entry of the vessel at the customhouse by producing and depositing with the collector the vessel's crew list, its register, or document in lieu thereof, the clearance and bills of health issued to the vessel at the foreign port or ports from which it arrived, together with the original and one copy of the manifest, and shall make oath that the ownership of the vessel is as indicated in the register, or document in lieu thereof, and that the manifest was made out in accordance with section 431 of this Act." (Tariff Act of 1930, sec. 434, as amended; 19 U. S. C. 1434. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[20] "The master of any foreign vessel arriving within the limits of any customs collection district shall, within forty-eight hours thereafter, make entry at the customhouse in the same manner as is required for the entry of a vessel of the United States, except that a list of the crew need not be delivered, and that instead of depositing the register or document in lieu thereof such master may produce a certificate by the consul of the nation to which such vessel belongs that said documents have been deposited with him: *Provided,* That such exception shall not apply to the vessels of foreign nations in whose ports American consular officers are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nations." (Tariff Act of 1930, sec. 435; 19 U. S. C. 1435)

[21] "It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 435 of this Act until such master shall produce to him a clearance in due form from the collector of the port where such vessel has been entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than $5,000." (Tariff Act of 1930, sec. 438; 19 U. S. C. 1438)

[22] "Except as provided in section 441 of this Act (relating to vessels not required to enter), no merchandise, passengers, or baggage shall be unladen from any vessel or vehicle arriving from a foreign port or place until entry of such vessel or report of the arrival of such vehicle has been made and a permit for the unlading of the same issued by the collector: *Provided,* That the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse, as provided by this Act. After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. * * *" Tariff Act of 1930, section 448 (a); 19 U. S. C. 1448 (a).

[23] "* * * If any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle shall be subject to a penalty of $500: *Provided,* That if the collector shall be satisfied that the manifest * * * is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * *" (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584)

[24] "If there is any merchandise or baggage on board such vessel which is not included in or which does not agree with the manifest, the master of the vessel shall make a post entry thereof, and mail or deliver a copy to the comptroller of customs for the district in which the port of entry is located and for failure so to do shall be liable to a penalty of $500." (Tariff Act of 1930, sec. 440; 19 U. S. C. 1440)

"* * * and if any merchandise, including sea stores, is found on board of or after having been unladen from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty equal to the value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge

manifest shall be corrected by the execution in duplicate of a post entry on customs Form 3257. The original shall be filed with the collector and the duplicate shall be mailed or delivered promptly to the comptroller of customs.

(d) A correction in the manifest shall not be required in the case of bulk merchandise if the collector is satisfied that the difference between the manifested quantity and the quantity unladen, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the port of lading, or other similar reason.

(e) If the discrepancy is not explained to the satisfaction of the collector, the penalties prescribed by section 584, Tariff Act of 1930, as amended, shall be imposed. For the purpose of assessing such penalties the value of the merchandise is that defined in § 23.12 of this chapter. The fact that the master or owner had no knowledge that the discrepancy existed does not relieve him from the penalty. (R. S. 161, secs. 440, 584, 624, 46 Stat. 712, 748, 759, sec. 204, 49 Stat. 523; 5 U. S. C. 22; 19 U. S. C. 1440, 1584, 1624. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.13 *Alcoholic liquors on vessels of not over 500 tons.*[25] (a) When a vessel of not over 500 net tons which arrives from any foreign port or place or from a visit to a hovering vessel has on board any alcoholic liquors, other than sea stores, destined to the United States, a certificate on Form 149–Consular for the importation of such liquors shall be delivered to the boarding officer with the inward foreign manifest.

(b) When any shipment of spirits, wines, or other alcoholic liquors found on board a vessel not exceeding 500 net tons is shown to have a bona fide destination outside the United States, the master shall furnish a landing bond on customs Form 7593 (see T. D. 47886) with an authorized corporate surety unless the shipment is accompanied by a certificate on Form 149–Consular.

(c) The condition of the landing bond shall be satisfied by the delivery to the collector of customs within 6 months from the date of the bond of a landing certificate or certificates of a revenue officer of the country of destination, or on consular Form 150 if it is impossible to obtain the certificate of a revenue officer, showing that all the alcoholic liquors have been landed at their foreign destination. (R. S. 161, sec. 7, 49 Stat. 520; 5 U. S. C. 22, 19 U. S. C. 1707)

§ 4.14 *Equipment and repairs to American vessels.* (a) When the master of a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in such trade, makes entry for his vessel, he shall make an affidavit in duplicate on customs Form 3415 or 3417 as to whether or not any equipment, repair part, or material has been purchased for the vessel, or any expense for repairs has been incurred, in a foreign country,[26] within the purview of section 466, Tariff Act of 1930.[27] The duplicate copy of such affidavit shall be mailed or delivered by the master to the comptroller of customs.

(b) Entry on customs Form 7535 shall be made for such equipment or repairs and estimated duties deposited or a bond on customs Form 7567 or 7569 given therefor before the vessel shall be allowed clearance, except that vessels owned by the United States, although subject to the provisions of the said section 466, shall be allowed to proceed without the deposit of duties or the filing of a bond if operated by the United States Maritime Commission or a similar agency of the United States or if operated by private parties under an agreement providing that such agencies shall pay duties accruing under said section 466. Vessels owned by the United States and operated by private parties who are liable by agreement for duties accruing under section 466 shall be treated in all respects the same as privately owned vessels.

(c) No consular invoice shall be required, but the master shall file with the entry receipts showing the costs of the items enumerated in the said section 466. If, however, it is impracticable to produce such receipts at the time of entry, liquidation of the entry shall be suspended pending the furnishing of a complete account of the items liable to duty. In such cases the collector shall cause an examination of such equipment or repairs to be made by a representative of the appraiser's office, if possible, in order to verify the cost declared on entry. If the cost of the equipment or repairs, as shown by the complete account when filed, differs from that declared on entry, the collector may permit the entry to be amended accordingly.

(d) When the entry has been completed by the filing of proper evidence of cost and no application for relief as provided for in paragraph (e) of this section, has been filed within the time authorized or, if filed, has been finally acted upon, or the collector is informed that no such application will be filed, the entry shall be liquidated.

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of such vehicle, shall be subject to forfeiture, * * *. *Provided*, That if the collector shall be satisfied that the manifest * * * is incorrect by reason of clerical error or other mistake * * * said penalties shall not be incurred." (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584)

[25] "In addition to any other requirement of law, every vessel, not exceeding five hundred net tons, from a foreign port or place, or which has visited a hovering vessel, shall carry a certificate for the importation into the United States of any spirits, wines, or other alcoholic liquors on board thereof (sea stores excepted), destined to the United States, said certificate to be issued by a consular officer of the United States or other authorized person pursuant to such regulations as the Secretary of State and the Secretary of the Treasury may jointly prescribe. Any spirits, wines, or other alcoholic liquors (sea stores excepted) found, or discovered to have been, upon any such vessel at any place in the United States, or within the customs waters, without said certificate on board, which are not shown to have a bona fide destination without the United States, shall be seized and forfeited and, in the case of any such merchandise so destined to a foreign port or place, a bond shall be required in double the amount of the duties to which such merchandise would be subject if imported into the United States, conditioned upon the delivery of said merchandise at such foreign port or place as may be certified by a consular officer of the United States or otherwise as provided in said regulations: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred nor shall such bond be required. * * *" (19 U. S. C. 1707)

[26] The Canal Zone and the Virgin Islands are not "foreign countries" within the meaning of sec. 466, Tariff Act of 1930, and equipment, repair parts, or materials there purchased or repairs there made on a vessel of the United States are not dutiable.

[27] "Sections 3114 and 3115 of the Revised Statutes, as amended by the Tariff Act of 1922, are amended to read as follows:

"'Sec. 3114. The equipments, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in a foreign country upon a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum on the cost thereof in such foreign country; and if the owner or master of such vessel shall willfully and knowingly neglect or fail to report, make entry, and pay duties as herein required, such vessel, with her tackle, apparel, and furniture, shall be seized and forfeited. For the purposes of this section, compensation paid to members of the regular crew of such vessel in connection with the installation of any such equipments or any part thereof, or the making of repairs, in a foreign country, shall not be included in the cost of such equipment or part thereof, or of such repairs.

"'Sec. 3115. If the owner or master of such vessel furnishes good and sufficient evidence—

"'(1) That such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty to put into such foreign port and purchase such equipments or make such repairs, to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination; or

"'(2) That such equipments or parts thereof or repair parts or materials, were manufactured or produced in the United States, and the labor necessary to install such equipments or to make such repairs was performed by residents of the United States, or by members of the regular crew of such vessel, then the Secretary of the Treasury is authorized to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for the same shall be satisfied, from the oath of the owner or master, that all such equipments and repairs made within the year immediately preceding such application have been duly accounted for under the provisions of this and the preceding sections, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.'" (Tariff Act of 1930, sec. 466; 19 U. S. C. 257, 258. These provisions of law were temporarily suspended by Public Law 200, approved December 17, 1943 (57 Stat. 601; 19 U. S. C. 257, 258 (note).)

(e) An application for relief may be filed with the collector of customs alleging (1) that an item covered by the entry is not within the class of items liable to duty under section 3114, Revised Statutes, (2) that such item is within the provisions of section 3115, Revised Statutes, or (3) both of the foregoing. To insure consideration in liquidation of the entry, the application shall be filed within 90 days from the date of the entry and, unless the collector is definitely advised that no application will be filed, the liquidation shall be suspended for that period of time to afford an opportunity for such filing. In meritorious cases the collector may authorize a further suspension of 90 days upon written request therefor. Inasmuch as an unprotested liquidation, insofar as it relates to the classification of items for the purposes of section 3114, Revised Statutes, is final at the expiration of 60 days, a subsequent application in regard to such classification cannot be considered in the absence of a timely protest.

(f) When relief is claimed under subparagraph (1) of section 3115, Revised Statutes, there shall be submitted to the collector of customs an affidavit of the master, itemized bills covering the cost of the repairs made or equipment purchased, abstracts of the vessel's log, and a certificate of the proper officer when the repairs were made in order to obtain a certificate of seaworthiness, all of which shall be in duplicate if the vessel is owned or operated by the United States Maritime Commission, or a similar agency of the United States.

This affidavit shall set out fully the following information:

(1) The nature of the casualty or stress of weather encountered;

(2) When and where the casualty or stress of weather occurred;

(3) The damage done by the casualty or stress of weather;

(4) The port where the repairs were made or the equipment secured; and

(5) A statement of the master of the vessel as to whether or not the repairs or equipments were required to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination.

(g) When relief is claimed under subparagraph (2) of section 3115, Revised Statutes, an affidavit of the master shall be submitted to the Collector of Customs, accompanied by the evidence in support of the claim.

(h) The evidence referred to in paragraphs (f) and (g) of this section, or offered in support of an application filed under paragraph (e) (1) of this section, shall be furnished to the collector of customs within 90 days after an application is filed. If such evidence is not received within the 90-day period the entry shall be liquidated without regard to the application unless the collector of customs shall have approved an extension of such period.

(i) The master shall certify as true copies or originals, as the case may be, one copy of each repair bill, abstract of the vessel's log, report of survey, and other documents submitted in support of the application for relief. If a document is written in a foreign language, it shall be accompanied by a translation certified to be accurate. (Secs. 466, 498, 46 Stat. 719, 728; 19 U. S. C. 257, 258, 1498)

(j) When the evidence referred to in paragraphs (f), (g), or (h) of this section has been received and examined by the collector of customs he shall notify the owner or operator of the vessel, or other party in interest, of his decision, but if any doubt exists the case shall first be referred to the Bureau for advice. Thirty days after the date of such notice the collector shall proceed to liquidate the entry unless within that period the owner or operator of the vessel, or other party in interest, shall file a petition as provided for in paragraph (k) of this section.

(k) The owner or operator of the vessel involved, or other party in interest, may file with the collector of customs a petition addressed to the Commissioner of Customs for a review of the collector's decision on an application claiming relief under section 3115, Revised Statutes (paragraph (e) (2) or (3) of this section) Such petition shall be filed in duplicate within 30 days from the date of the notice of the collector's decision, shall completely identify the case, and shall set forth in detail the exceptions to the collector's decision. When such a petition has been filed, the collector shall immediately transmit both copies thereof and the entire file to the Bureau, together with any comments he may desire to submit. When the Commissioner's decision has been received the entry shall be liquidated in accordance therewith.

§ 4.15 *Fishing vessels touching and trading at foreign places.* (a) Before any vessel enrolled and licensed or licensed to engage in the fisheries shall touch and trade at a foreign port or place, the master shall obtain from a collector of customs a permit on customs Form 1379 to touch and trade.[23]

(b) Upon the arrival of a vessel enrolled and licensed or licensed for the fisheries which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

(c) If a vessel which has been granted a permit to touch and trade arrives at a port in the United States, whether or not the vessel has touched at a foreign port or place, such permit shall forthwith be surrendered to the collector of customs.

(d) No permit to touch and trade shall be issued to a vessel enrolled and licensed or licensed for the coasting trade and mackerel fishery which is departing on a foreign voyage to engage exclusively in a trade other than the fisheries. For such a voyage the vessel shall be registered and the master shall obtain clearance for the foreign port or place. (R. S. 161, 4364, 4365, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2, 310, 311. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR 1946 Supp., Ch. IV)

§ 4.16 *Entry and clearance on board vessels.* (a) A master, owner, or agent of a vessel described in the act of June 16, 1937,[24] who desires that arrival may be reported, entry made, and clearance obtained on board the vessel shall file with the collector an application on customs Form 3853 and a bond on customs Form 7567 in such penal sum as the collector deems sufficient but not less than $1,000, or the usual term bond on customs Form 7569.

(b) If the application is approved, the collector of customs or such deputy collector of customs as may be designated by him shall receive the report of arrival and the entry of the vessel and grant it clearance on board the vessel.

(c) For the purposes of the said act the term "at night" shall include the hours from 5 p. m. of one day to 8 a. m. of the following day, and the term "holiday" shall include only national holidays. (50 Stat. 303; 19 U. S. C. 1435b. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.17 *Vessels from discriminating countries.* The prohibition against im-

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[23] "Whenever any vessel, licensed for carrying on the fisheries, is intended to touch and trade at any foreign port, it shall be the duty of the master or owner to obtain permission for that purpose from the collector of the district where such vessel may be, previous to her departure, and the master of every such vessel shall deliver like manifests, and make like entries, both of the vessel and of the merchandise on board, within the same time, and under the same penalty, as are by law provided for vessels of the United States arriving from a foreign port." (46 U. S. C. 310)

"Whenever a vessel, licensed for carrying on the fisheries, is found within three leagues of the coast, with merchandise of foreign growth or manufacture, exceeding the value of $500, without having such permission as is directed by section 310 of this title, such vessel together with the merchandise of foreign growth or manufacture imported therein, shall be subject to seizure and forfeiture." (46 U. S. C. 311) (See also 46 U. S. C. 325)

If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there.

[24] "In order to expedite the dispatch of vessels carrying passengers operating on regular schedules and arriving at night or on a Sunday or a holiday at a port in the United States at which such vessel is required by law to report arrival and make entry and from which it is required to obtain a clearance, the collector of customs, or any deputy collector of customs designated by him, if the vessel departs during the same night, Sunday, or holiday on which it arrives may, under such regulations as may be prescribed jointly by the Secretary of Commerce [Commissioner of Customs] and the Secretary of the Treasury, receive the report of arrival and entry of such vessel from and give clearance for such vessel to the master or other proper officer thereof on board such vessel: *Provided*, That bond, as prescribed in section 1451 of this title, is given to secure reimbursement to the Government for the compensation of, and expenses incurred by, such customs officers in performing such services, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to lading or unlading at night or on Sunday or a holiday." (19 U. S. C. 1435b. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

ports in, and forfeiture of, certain vessels from countries which discriminate against American vessels provided for in subsections 2 and 3 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U. S. C. 130, 131), shall be enforced only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury. (See also §§ 4.20 (c) and 16.19 of this chapter) (R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

TONNAGE TAX AND LIGHT MONEY

§ 4.20 *Tonnage taxes.* (a) Except as specified in § 4.21, a regular tonnage tax or duty [32] of 2 cents per net ton, not to exceed in the aggregate 10 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, Newfoundland, or the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), and regular tonnage tax of 6 cents per net ton, not to exceed 30 cents per net ton per annum, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port.

(b) The tonnage year shall be computed from the date of the first entry of the vessel concerned, without regard to the rate of the payment made at that entry, and shall expire on the day preceding the corresponding date of the following year.[37]

(c) A vessel shall also be subject on every entry from a foreign port or place, whether or not regular tonnage tax is payable on the particular entry, to the payment of a special tonnage tax [33] and to the payment of light money [32] at the rates and under the circumstances specified in the following table:

Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	$0.02 or $0.06		
2. All others:			
(i) If all the officers are citizens	.02 or .06		
(ii) If any officer is not a citizen	.02 or .06	[1] $0.60	[1] $0.60
Undocumented vessels which are owned by citizens [2]	.02 or .06	.60	.60
Vessels of Philippine registry, owned by citizens of the Philippine Islands			
Foreign vessels: [4]			
1. Of nations whose vessels are exempted from special tax or light money	.02 or .06		
2. Entering from a foreign port or place where vessels of the United States are not ordinarily permitted to enter and trade	.02 or .06	[5] 2.00	[5] .60
3. All others:			
(i) Built in the United States	.02 or .06	.30	.60
(ii) Not built in the United States	.02 or .06	.60	.60

[1] This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.

[2] The special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.

[3] This does not apply if the vessel is under a certificate of protection and the owner or master files with the collector the oath required by 46 U. S. C. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U. S. C. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

[4] Regular tax at the 6-cent rate is to be collected from every foreign vessel entering from the Philippine Islands, in addition to any special tax or light money shown in the table.

[5] This is to be collected on each entry of a vessel from such a port or place.

(d) Tonnage tax shall be imposed upon a vessel even though she enters a port of the United States only for orders.

(e) The fact that a vessel passes through the Canal Zone does not affect the rate of tonnage tax otherwise applicable to the vessel.

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, customs Form 1002, and on the master's oath, customs Form 3251.

(g) The decision of the Commissioner of Customs is final on any question of interpretation relating to the collection of tonnage tax or to the refund of such tax when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions. (R. S. 161, sec. 3, 23 Stat. 119, R. S. 4219, as amended, 4131, as amended, 4153, 4154, as amended, 4225, sec. 2, 28 Stat. 743; 5 U. S. C. 22, 46 U. S. C. 3, 77, 78, 81, 121, 128, 221. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.21 *Exemptions from tonnage taxes.* (a) Tonnage taxes and light money shall be suspended in whole or in part whenever the President by proclamation shall so direct.

(b) A vessel is exempt from the payment of any tonnage taxes or light money if:

(1) It comes into port for bunkers (including water) sea stores, or ship's stores; transacts no other business in the port; and departs within 24 hours after its arrival.

(2) It arrives in distress, even though required to enter.

(3) It is brought into port by orders of United States naval authorities and transacts no business while in port other than the taking on of bunkers, sea stores, or ship's stores.

(4) A vessel of war.

(5) A public vessel employed for the conveyance of letters and dispatches, or of fuel for war vessels, and not carrying passengers or merchandise in trade.

[32] "Upon vessels which shall be entered in the United States from any foreign port or place there shall be paid duties as follows: On vessels built within the United States but belonging wholly or in part to subjects of foreign powers, at the rate of thirty cents per ton; on other vessels not of the United States, at the rate of fifty cents per ton, and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of fifty cents per ton.

"A tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, is imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and a duty of 6 cents per ton, not to exceed 30 cents per ton per annum, is imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port, not, however, to include vessels in distress or not engaged in trade.

"Upon every vessel not of the United States, which shall be entered in one district from another district, having on board goods, wares, or merchandise taken in one district to be delivered in another district, duties shall be paid at the rate of 50 cents per ton: *Provided,* That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States. On all foreign vessels which shall be entered in the United States from any foreign port or place, to and with which vessels of the United States are not ordinarily permitted to enter and trade, there shall be paid a duty at the rate of $2 per ton; and none of the duties on tonnage above-mentioned shall be levied on the vessels of any foreign nation if the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nations, so far as they operate to the disadvantage of the United States, have been abolished. Any rights or privileges acquired by any foreign nation under the laws and treaties of the United States relative to the duty of tonnage on vessels shall not be impaired; and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of 50 cents per ton." (46 U. S. C. 121)

[37] There may be five payments at the maximum (6-cent) and five at the minimum (2-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to 40 cents per net ton for the tonnage year of a vessel engaged in alternating trade.

[33] See footnote 36.

[32] "A duty of 50 cents per ton, to be denominated 'light money', shall be levied and collected on all vessels not of the United States which may enter the ports of the United States. Such light money shall be levied and collected in the same manner and under the same regulations as the tonnage duties: *Provided,* That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States." (46 U. S. C. 128)

(6) A yacht or other pleasure vessel not carrying passengers or merchandise in trade.

(7) Engaged exclusively in scientific activities.

(8) Engaged exclusively in laying or repairing cables.

(9) Engaged in whaling or other fisheries, even though it may have entered a foreign port for fuel or supplies, if it did not carry passengers or merchandise in trade.

(10) It is a passenger vessel making three trips or more a week between a port of the United States and a foreign port.

(11) It is used exclusively as a ferry boat, including a car ferry.

(12) It is a tug under frontier enrollment and license, when towing vessels which are required to make entry.

(13) It is a vessel under frontier enrollment and license which has touched at an intermediate foreign port or ports during a coastwise voyage.

(14) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse dues or equivalent taxes are not imposed on vessels of the United States.[42a]

(15) It is owned by a citizen of the Philippine Islands and is documented by the Philippine Government.

(16) It is a vessel entering directly from the Virgin Islands (U. S.) the Canal Zone, American Samoa, the islands of Guam, Wake, Midway, Canton, or Kingman Reef, or Guantanamo Bay Naval Station.

(17) It is a vessel making regular daily trips between any port of the United States and any port in Canada wholly upon interior waters not navigable to the ocean, except that such a vessel shall pay tonnage taxes upon her first arrival in each calendar year. (R. S. 161, 2792, 2793, 4214, 4220, 4221, 4225, 4226, 4227, sec. 3, 23 Stat. 119, sec. 2, 35 Stat. 70, 36 Stat. 234, sec. 1, 39 Stat. 286, sec. 441, 46 Stat. 712, sec. 302, 49 Stat. 527, sec. 1, 50 Stat. 638; 5 U. S. C. 22, 19 U. S. C. 1441, 46 U. S. C. 3, 103, 122, 123, 124, 125, 127, 128, 129, 130, 132, 135. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.22 *Exemptions from special tonnage taxes.* Vessels of the following nations are exempted by treaties or Presidential proclamations from the payment of any higher tonnage duties than are applicable to vessels of the United States, and are exempted from the payment of light money:

Argentina.	Canada.
Australia.	Chile.
Belgium.	China.
Bolivia.	Colombia.
Brazil.	Costa Rica.
Burma.	Cuba.
Denmark.	Mexico.
Dominican Republic.	Muscat (Oman).
Ecuador.	Netherlands.
Egypt.	New Zealand.
El Salvador.	Nicaragua.
Estonia.	Norway.
Fiji.	Palestine.
Finland.	Panama.
France.	Paraguay.
Great Britain.	Peru.
Greece.	Poland.
Greenland.	Portugal.
Guatemala.	Saudi Arabia.
Haiti.	Spain.
Honduras.	Sweden.
Iceland.	Switzerland.
India.	Thailand.
Iran.	Turkey.
Iraq.	Union of Soviet Socialist Republics.
Ireland (Eire).	Uruguay.
Italy.	Venezuela.
Latvia.	Yugoslavia.
Liberia.	

(R. S. 161, 4219, 4225, sec. 3, 23 Stat. 119; 5 U. S. C. 22, 46 U. S. C. 3, 121, 128. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp, Ch. IV)

§ 4.23 *Certificate of payment.* Upon each payment of tonnage tax or light money, the collector of customs shall give to the master of the vessel a certificate on customs Form 1002, completely executed as to the payment then made and as to each payment previously made for the same vessel during the current tonnage year. This certificate shall constitute the official evidence of such payments. In the absence of such certificate, evidence of payment of tonnage tax shall be obtained from the Commissioner of Customs. (R. S. 161, sec. 3, 23 Stat. 119; 5 U. S. C. 22, 46 U. S. C. 3. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.24 *Application for refund of tonnage tax.* (a) Each application for refund of tonnage tax or light money[43] shall be in duplicate, each signed, addressed to the Commissioner of Customs, and submitted through the collector of customs to whom payment was made.

(b) The application shall be a direct request for the refund of a definite sum, showing concisely the reasons therefor, the nationality, rig, and name of the vessel, and the date, place, and amount of each payment for which refund is asked. A protest against a payment shall not be accepted as an application for its refund.

(c) The application shall be made within 1 year from date of the payment.

(d) The collector of customs to whom payment was made shall make any refund authorized by the Commissioner of Customs. Unless the payment from which refund is authorized has been deposited in special deposit account, an authorized refund shall be made only to the owner of the vessel concerned or to its charterer. If the payment has been deposited in special deposit account, an authorized refund shall be made only to the payor.

LANDING AND DELIVERY OF CARGO

§ 4.30 *Permits and special licenses for unlading and lading.* (a) Except as prescribed in paragraph (e) or (f) of this section and except in the case of a vessel exempt from entry or clearance under 19 U. S. C. 288[44] no passengers,[45] cargo,[46] baggage,[47] or other article[48] shall be un-

[42a] "Vessels entering otherwise than by sea from a foreign port at which tonnage or lighthouse dues or other equivalent tax or taxes are not imposed on vessels of the United States shall be exempt from the tonnage duty of 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year." (46 U. S. C. 132.) This statute applies to a vessel arriving in the United States on a voyage otherwise than by sea from a port in the province of Ontario, Canada, only.

[43] "Whenever any fine, penalty, forfeiture, exaction, or charge arising under the laws relating to vessels or seamen has been paid to any collector of customs or consular officer, and application has been made within 1 year from such payment for the refunding or remission of the same, the Secretary of Commerce [Commissioner of Customs], if on investigation he finds that such fine, penalty, forfeiture, exaction, or charge was illegally, improperly, or excessively imposed, shall have the power, either before or after the same has been covered into the Treasury, to refund so much of such fine, penalty, forfeiture, exaction, or charge as he may think proper, from any moneys in the Treasury not otherwise appropriated." (18 U. S. C. 643. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

[44] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessels shall, notwithstanding, be required to enter and clear; * * *" (19 U. S. C. 283 and Supp. I.)

[45] "If any passenger is unladen from any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, shall each be liable to a penalty of $500 for each such passenger so unladen." (Tariff Act of 1930, sec. 454; 19 U. S. C. 1454)

[46] "* * * After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the matter of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the entry of the vessel or report of the vehicle, unless a longer time is granted by the collector as provided in section 484, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage, until entry thereof is made." (Tariff Act of 1930, sec. 448 (a); 19 U. S. C. 1448 (a))

[47] "Vessels arriving in the United States from foreign ports may retain on board, without the payment of duty, all coal and other fuel, supplies, ships' stores, sea stores, and the legitimate equipment of such vessels. Any such supplies, ships' stores, sea stores, or equipment landed and delivered from such vessel shall be considered and treated as imported merchandise: *Provided*, That bunker coal, bunker oil, ships' stores, sea stores, or the legitimate equipment of vessels belonging to regular lines plying between foreign ports and the United States, which are delayed in port for any cause, may be transferred under a permit by the collector and under customs supervision from the vessel so delayed to

laden from a vessel which arrives directly or indirectly from any port or place outside the customs territory of the United States and no cargo, baggage, or other article shall be laden [59] on a vessel destined to a port or place outside the customs territory of the United States, until the collector shall have issued a permit or special license therefor on customs Form 3171.

(b) Application for such a permit or special license shall be made by the master, owner, or agent of the vessel on customs Form 3171, and shall indicate the type of operations desired.

(c) No unlading [60] or lading [61] requiring customs supervision shall be done at night or on a Sunday or holiday unless the application on customs Form 3171 is supplemented by a request of the master, owner, or agent of the vessel for overtime services of customs officers and the request is approved by the collector. Such approval, together with the permit, shall constitute a special license. The request for overtime services of customs officers, if made at the time the application to unlade or lade is filed, may be on customs Form 3171 in the space provided therefor, but if made thereafter, shall be on customs Form 3853. Such request for overtime services shall not be approved by the collector unless a bond [62] on customs Form 7567 or 7569 shall have been filed, except that, when a carrier has on file a bond on customs Form 3587, no further bond shall be required solely by reason of the unlading or lading at night or on a Sunday or holiday of merchandise or baggage covered by bonded transportation entries.

(d) Except as prescribed in paragraph (e) or (f) of this section, a separate application for a permit or special license shall be filed in the case of each arrival. The permit or special license shall not become effective until the master shall have made preliminary or formal entry or, in the case of vessels not required to enter, the master shall have reported the arrival of the vessel.

(e) A special license on customs Form 3851 running for any period up to 1 month and in multiples of months thereafter but not to exceed 1 year nor longer than the period of the supporting bond may be granted to a carrier operating passenger vessels making three or more trips a week between a port in the United States and a foreign port, or vessels used as ferryboats, including car ferries, to unlade merchandise, passengers, or baggage, or to lade merchandise or baggage in the case of any or all of such vessels at night or on a Sunday or holiday when customs supervision is required. The application for such a special license shall be on customs Form 3851 supplemented by a request on customs Form 3853 for overtime services of customs officers. Such request for overtime services must show the exact times when overtime services will be needed unless arrangements are made so that the proper customs officer will be seasonably notified during official hours in advance of the services requested as to the exact times that the services will be needed. The special license shall not be granted unless the required bond on customs Form 3587, 7567, or 7569 shall have been filed.

(f) The collector may also issue a permit running for any period up to 1 month, and in multiples of months thereafter but not to exceed 1 year, to unlade or lade vessels specified in paragraph (e) of this section during official hours. Customs Form 3851 (modified) shall be used for such purpose.

(g) A special license for the unlading or lading of a vessel at night shall be refused by the collector if the character of the merchandise or the conditions or facilities at the place of unlading or lading render the issuance of such special license dangerous to the revenue. In no case shall a special license for unlading or lading on a Sunday or holiday be granted except on the ground of commercial necessity.

(h) The collector shall not issue a permit to unlade cargo or equipment of vessels arriving directly or indirectly from any port or place outside the customs territory of the United States, except on compliance with one or more of the following conditions:

(1) The merchandise shall have been duly entered and permits issued; or

(2) A vessel bond on customs Form 7567 or 7569 shall have been given; or

(3) The merchandise is to be discharged into the custody of the collector of customs as provided for in section 490 (b) Tariff Act of 1930.[63]

(i) Bonds are not required under this section for vessels owned by the United States and operated for its account. (R. S. 2793, secs. 446, 448, 450, 452, 453, 454, 490, 624, 46 Stat. 713, 714, 715, 716, 726, 759, sec. 451, 46 Stat. 715, sec. 9, 52 Stat. 1082; 19 U. S. C. 288, 1446, 1448, 1450, 1451, 1452, 1453, 1454, 1490, 1624. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.31 *Unlading or transshipment due to casualty.* (a) When any cargo or stores of a vessel have been unladen or transshipped at any place in the United States or its customs waters other than a port of entry because of accident, stress of weather, or other necessity, no penalty shall be imposed under section 453 [64] or 586 (a) [65] Tariff Act of 1930, if due notice

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another vessel of the same line and owner, and engaged in the foreign trade, without the payment of duty thereon." (Tariff Act of 1930, sec. 446; 19 U. S. C. 1446)

The provisions of section 446, Tariff Act of 1930, do not apply to vessels of less than 5 net tons. (T. D. 45431)

[59] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture." (Tariff Act of 1930, section 453; 19 U. S. C. 1453)

[60] "No merchandise, baggage, or passengers arriving in the United States from any foreign port or place, and no bonded merchandise or baggage being transported from one port to another, shall be unladen from the carrying vessel or vehicle on Sunday, a holiday, or at night, except under special license granted by the collector under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, section 450; 19 U. S. C. 1450)

The term "at night" includes the hours from 5 p. m. of any day to 8 a. m. of the following day.

[61] "No merchandise or baggage entered for transportation under bond or for exportation with the benefit of drawback, or other merchandise or baggage required to be laden under customs supervision, shall be laden on any vessel or vehicle at night or on Sunday or a holiday, except under special license therefor to be issued by the collector under the same conditions and limitations as pertain to the unlading of imported merchandise or merchandise being transported in bond." (Tariff Act of 1930, sec. 452, 19 U. S. C. 1452)

[62] "Before any such special license to unlade shall be granted, the master, owner, or agent, of such vessel or vehicle shall be required to give a bond in the penal sum to be fixed by the collector conditioned to indemnify the United States for any loss or liability which might occur or be occasioned by reason of the granting of such special license and to pay the compensation and expenses of the customs officers and employees assigned to duty in connection with such unlading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the Act entitled 'An Act to provide for the lading, or unlading of vessels at night, the preliminary entry of vessels, and for other purposes,' approved February 13, 1911, as amended. In lieu of such bond the owner, or agent, of any vessel or vehicle or line of vessels or vehicles may execute a bond in a penal sum to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unlading of vessels or vehicles belonging to such line for a period of one year from the date thereof. * * *" (Tariff Act of 1930, sec. 451, as amended, 19 U. S. C. 1451)

[63] "At the request of the consignee of any merchandise, or of the owner or master of the vessel, or the person in charge of the vehicle in which the same is imported, any merchandise may be taken possession of by the collector after the expiration of one day after the entry of the vessel or report of the vehicle and may be unladen and held at the risk and expense of the consignee until entry thereof is made." (Tariff Act of 1930, section 490 (b); 19 U. S. C. 1490 (b))

[64] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture." (Tariff Act of 1930, sec. 453; 19 U. S. C. 1453)

[65] "The master of any vessel from a foreign port or place who allows any merchandise (including sea stores) to be unladen from such vessel at any time after its arrival within the customs waters and before such vessel has come to the proper place for the discharge of such merchandise and before he has received a permit to unlade, shall be liable to a penalty equal to twice the value of the merchandise but not less than $1,000,

is given to the collector of customs at the port at which the vessel thereafter first arrives and satisfactory proof is submitted to him as provided for in section 586 (f) Tariff Act of 1930, as amended.[c3] The collector may accept the affidavits of the master and two or more officers or members of the crew of the vessel, of whom the person next to the master in command shall be one, as proof that the unlading or transshipment was necessary by reason of unavoidable cause.

(b) The collector may then permit entry of the vessel and its cargo and permit the unlading of the cargo in such place in his district as he may deem proper. Unless its transportation has been in violation of the coastwise laws, the cargo may be cleared through customs at the port where it is discharged or forwarded to the port of original destination under an entry for immediate transportation or for transportation and exportation, as the case may be. All regulations shall apply in such cases as if the unlading and delivery took place at the port of original destination. (Secs. 453, 624, 46 Stat. 716, 759, sec. 586, 46 Stat. 749, sec. 205, 49 Stat. 524; 19 U. S. C. 1453, 1586, 1624)

§ 4.32 *Vessels in distress; landing of cargo.* (a) When a vessel from a foreign port arrives in distress at a port other than that to which it is destined, a permit to land merchandise or baggage may be issued if such action is necessary. Merchandise and baggage so unladen shal be taken into customs custody and, if it has not been transported in violation of the coastwise laws, may be entered and disposed of in the same manner as any other imported merchandise or may be reladen without entry to be carried to its destination on the vessel from which it was unladen, subject only to charges for storage and safekeeping.

(b) A bond on customs Form 7567 shall be given in an amount to be determined by the collector to insure the proper disposition of the cargo, whether such cargo be dutiable or free. (R. S. 251, secs. 449, 624, 46 Stat. 715, 759; 19 U. S. C. 66, 1449, 1624)

§ 4.33 *Diversion of cargo.* (a) If an emergency exists at the port of destination and authority under section 449, Tariff Act of 1930,[c1] is desired for a collector to permit a vessel which has entered with imported merchandise or baggage shown by the manifest to be destined to his port to proceed to another port of entry in accordance with the residue-cargo bond procedure, the owner or the agent of the vessel shall make written application for such authorization stating the reasons and agreeing to hold the collector and the Government harmless for such diversion.

(b) Merchandise and baggage unladen at the second port under these circumstances may be (1) entered in the same manner as other imported merchandise and baggage, (2) treated as unclaimed, or (3) reladen without entry for transportation to its original destination.

(c) The destination in the United States of foreign cargo appearing on the inward foreign manifest may be changed at any domestic port to permit the landing of such cargo at any other domestic port if the vessel's owner or agent files with the collector a written application therefor accompanied by a bond, in an appropriate amount, conditioned that the collector shall be held blameless for any consequence of the act. The owner or agent of the vessel shall be required to furnish an amended manifest which shall also be under oath and shall be in duplicate if filed at a port other than the one at which the vessel's bond was filed. The certified manifest shall not be altered or added to in any way by the master or agent, but in any instance where the application for change of destination is approved, that fact and a specific reference to the manifest sheet number and the bills of lading numbers, if any, shall be included in the certification on the certified (traveling) manifest. (Secs. 449, 624, 46 Stat. 715, 759; 19 U. S. C. 1449, 1624)

§ 4.34 *Prematurely discharged, overcarried, and undelivered cargo.* (a) On written application of the owner or agent of a vessel, the collector may permit inward foreign cargo remaining on the dock, which was prematurely landed and left behind by the importing vessel, to be reladen on board the next available vessel of the same line on which it may be forwarded to the destination shown on the inward foreign manifest of the first vessel, provided the importing vessel actually entered the port of destination of the prematurely landed cargo. Unless so forwarded within 30 days from the date of landing, such cargo shall be appropriately entered for customs clearance or for forwarding in bond; otherwise, it shall be sent to general order as unclaimed.

(b) The collector may permit merchandise not landed at destination and overcarried to another domestic port through error or on account of an emergency to be returned in the importing vessel, or in another vessel of the same line, to the destination shown on the inward foreign manifest of the importing vessel, provided that vessel actually entered the port of such destination.

(c) Cargo so stowed as to be inaccessible upon arrival at destination may be retained on board, carried forward to another domestic port or ports, and returned to the port of destination in the importing vessel or in another vessel of the same line in the same manner as other overcarried cargo.

(d) Prematurely landed or overcarried cargo forwarded to destination by the importing vessel or another vessel of the same line shall be distinctively manifested in triplicate with appropriate notations on an inward foreign manifest as set forth in § 4.7 (a). The abstract manifests shall be certified and the vessel cleared on a permit to proceed, customs Form 1385, on which shall be shown the full details of all the vessel transactions and such information as is required in the case of regular residue cargo by the collector at the port where this cargo is to be discharged. A separate certificate on customs Form 3221, specifying foreign ports and the dates of departure of the importing vessel therefrom, shall be issued in instances where merchandise is forwarded in a vessel other than the one in which the cargo was imported.

(e) A vessel carrying prematurely landed or overcarried cargo upon arrival at each intermediate port and at destination shall comply in respect to such cargo with all the requirements prescribed in this part for a vessel arriving with cargo from a foreign port via a domestic port.

(f) Merchandise shipped from a domestic port, but undelivered at the foreign destination and brought back, shall be manifested as "Undelivered—To be returned to original foreign destination," if such return is intended. The collector may issue a permit to retain such merchandise on board, or he may, upon written application of the steamship company issue a permit on customs Form 7500–A allowing such merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the vessel bond. The items shall be remanifested outward and an explanatory reference of the attending circumstances and compliance with export requirements noted. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 4.35 *Unlading outside port of entry.* (a) Upon written application from the interested party, the Commissioner of Customs, if he considers it necessary, will permit any vessel laden with merchandise in bulk to proceed, after entry, to any

and such vessel and its cargo and the merchandise so unladen shall be seized and forfeited." (Tariff Act of 1930, sec. 586 (a), as amended; 19 U. S. C. 1586 (a))

[c2] "Whenever any part of the cargo or stores of a vessel has been unladen or transshipped because of accident, stress of weather, or other necessity, the master of such vessel and the master of any vessel to which such cargo or stores has been transshipped shall, as soon as possible thereafter, notify the collector of the district within which such unlading or transshipment has occurred, or the collector within the district at which such vessel shall first arrive thereafter, and shall furnish proof that such unlading or transshipment was made necessary by accident, stress of weather, or other unavoidable cause, and if the collector is satisfied that the unlading or transshipment was in fact due to accident, stress of weather, or other necessity, the penalties described in this section shall not be incurred." (Tariff Act of 1930, sec. 586 (f), as amended, 19 U. S. C. 1586 (f))

[c1] "Except as provided in sections 442 and 447 of this Act (relating to residue cargo and to bulk cargo, respectively), merchandise and baggage imported in any vessel by sea shall be unladen at the port of entry to which such vessel is destined, unless (1) such vessel is compelled by any cause to put into another port of entry, and the collector of such port issues a permit for the unlading of such merchandise or baggage, or (2) the Secretary of the Treasury, because of an emergency existing at the port of destination, authorizes such vessel to proceed to another port of entry. Merchandise and baggage so unladen may be entered in the same manner as other imported merchandise or baggage and may be treated as unclaimed merchandise or baggage and stored at the expense and risk of the owner thereof, or may be reladen without entry upon the vessel from which it was unladen for transportation to its destination." (Tariff Act of 1930, sec. 449; 19 U. S. C. 1449)

place outside the port where the vessel entered which he may designate for the purpose of unlading such cargo.[69]

(b) In such case a deposit of a sum sufficient to reimburse the Government for the compensation, travel, and subsistence expenses of the officers detailed to supervise the unlading and delivery of the cargo may be required by the collector. (Secs. 447, 624, 46 Stat. 714, 759; 19 U. S. C. 1447, 1624)

§ 4.36 *Delayed discharge of cargo.* (a) When, pursuant to section 457, Tariff Act of 1930,[69] customs officers are placed on a vessel which has retained merchandise on board more than 25 days after the date of the vessel's arrival, their compensation and subsistence expenses shall be reimbursed to the Government by the owner or master.

(b) The compensation of all customs officers and employees assigned to supervise the discharge of a cargo within the purview of section 458, Tariff Act of 1930,[70] after the expiration of 25 days after the date of the vessel's entry shall be reimbursed to the Government by the owner or master of the vessel.

(c) When a cargo within the purview of the proviso to the first subdivision of section 431, Tariff Act of 1930,[71] is manifested "for orders" upon the arrival of the vessel, no amendment of the manifest to show another port of discharge shall be permitted after 15 days after the date of the vessel's arrival, except as provided for in § 4.33.

(d) All reimbursements payable in accordance with this section shall be paid or secured to the collector before clearance is granted to the vessel. (R. S. 4206, secs. 431, 457, 458, 624, 46 Stat. 710, 716, 717, 759; 19 U. S. C. 1431, 1457, 1458, 1624, 46 U. S. C. 100)

§ 4.37 *Lay order; general order* (a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain on the wharf or pier until 5 p. m. on the second working day after the day the vessel was entered.[72] At the expiration of such period, any merchandise or baggage so remaining shall be deposited in the public stores or a general-order warehouse, except that, at the written request of the owner, agent, or master of the vessel, filed in duplicate on customs Form 3189, and at the risk of the owner of the vessel, the collector may issue a lay order allowing such merchandise or baggage to remain on the wharf or pier properly protected for a further period, which shall be specified in the order.

(b) All merchandise or baggage unladen from a vessel for which no permit has been received before expiration of the original 2-day period, or extension thereof, shall be sent to the public stores or a general-order warehouse and held as unclaimed at the risk and expense of the consignee or owner.[73]

(c) Merchandise unladen after the expiration of the 25-day period, prescribed in section 457, Tariff Act of 1930, for which no customs permit has been presented to the discharging inspector, shall be sent forthwith by the collector to the public stores or a general-order warehouse and stored at the expense and risk of the owner of such merchandise.[74]

(d) Merchandise taken into the custody of the collector pursuant to section 490 (b), Tariff Act of 1930,[74] shall be sent to the public stores or a general-order warehouse after 1 day after the day the vessel was entered, to be held there at the risk and expense of the owner.

(e) Any merchandise which is apt to decrease in weight after importation shall be weighed before it is deposited in the public stores or a general-order warehouse. (Secs. 448, 457, 490, 624, 46 Stat. 714, 716, 726, 759; 19 U. S. C. 1448, 1457, 1490, 1624)

§ 4.38 *Release of cargo.* No imported merchandise shall be released from customs custody until a permit to release such merchandise has been granted. Such permit shall be issued by the collector only after the merchandise has been entered and, except as provided for in § 8.28 (c) or § 8.59 of this chapter, the duties thereon, if any, have been estimated and paid. (R. S. 251, secs. 448, 505, 624, 46 Stat. 714, 732, 759; 19 U. S. C. 66, 1448, 1505, 1624. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.39 *Stores and equipment of vessels and crews' effects; unlading or lading and retention on board.* (a) The provisions of § 4.30 relating to the unlading of articles other than cargo and baggage under a permit on customs Form 3171 are applicable to the unlading of any such article which has been laden on a vessel at a port or place outside the customs territory of the United States if the article has not thereafter been entered, regardless of the trade in which the vessel may be engaged at the time of unlading.

(b) Any such article landed for delivery for consumption in the United States shall be treated in the same manner as other imported articles.[75] A notation as to the landing of such articles, together with the number of the entry made therefor, shall be made on the vessel's store list, but such notation shall not subject the articles to the requirement of being included in a post entry to the manifest.

(c) Bags or dunnage constituting equipment of a vessel may be landed temporarily and reladen on such vessel under customs supervision without entry.

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[69] "It shall be unlawful * * * to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: *Provided*, * * * That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unlading such cargo, under the supervision of customs officers if the collector shall consider the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest." (Tariff Act of 1930, sec. 447; 19 U. S. C. 1447)

[69] "Whenever any merchandise remains on board any vessel or vehicle from a foreign port more than twenty-five days after the date on which report of said vessel or vehicle was made, the collector may take possession of such merchandise and cause the same to be unladen at the expense and risk of the owners thereof, or may place one or more inspectors or other customs officers on board of said vessel or vehicle to protect the revenue. The compensation and expenses of any such inspector or customs officer for subsistence while on board of such vessel or vehicle shall be reimbursed to the Government by the owner or master of such vessel or vehicle." (Tariff Act of 1930, sec. 457; 19 U. S. C. 1457)

[70] "The limitation of time for unlading shall not extend to vessels laden exclusively with merchandise in bulk consigned to one consignee and arriving at a port for orders, but if the master of such vessel requests a longer time to discharge its cargo, the compensation of the inspectors or other customs officers whose services are required in connection with the unlading shall, for every day consumed in unlading in excess of twenty-five (25) days from the date of the vessel's entry, be reimbursed by the master or owner of such vessel." (Tariff Act of 1930, sec. 458; 19 U. S. C. 1458)

[71] "* * * the master of any vessel laden exclusively with coal, sugar, salt, nitrates, hides, dyewoods, wool, or other merchandise in bulk consigned to one owner and arriving at a port for orders, may destine such cargo for orders, and within 15 days thereafter but before the unlading of any part of the cargo such manifest may be amended by the master by designating the port or ports of discharge of such cargo, and in the event of failure to amend the manifest within the time permitted such cargo must be discharged at the port at which the vessel arrived and entered. * * *" (Tariff Act of 1930, sec. 431; 19 U. S. C. 1431)

[72] "* * * After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, the collector may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unlading without a permit therefor having been issued. Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the enry of the vessel or report of the vehicle, unless a longer time is granted by the collector, as provided in section 484, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage until entry thereof is made." (Tariff Act of 1930, sec. 448 (a); 19 U. S. C. 1448 (a))

[73] "Whenever entry of any imported merchandise is not made within the time provided by law or the regulations prescribed by the Secretary of the Treasury, or whenever entry of such merchandise is incomplete because of failure to pay the estimated duties, or whenever, in the opinion of the collector, entry of such merchandise cannot be made for want of proper documents or other cause, or whenever the collector believes that any merchandise is not correctly and legally invoiced, he shall take the merchandise into his custody and send it to a bonded warehouse or public store, to be held at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production." (Tariff Act of 1930, sec. 490 (a); 19 U. S. C. 1490 (a))

[74] See footnote 63, § 4.30.

[75] See footnote 58, § 4.30.

(d) Articles claimed to be sea or ships' stores which are in excess of the reasonable requirements of the vessel on which they are found shall be treated as cargo of such vessel.

(e) Under section 446, Tariff Act of 1930, collectors may permit narcotic drugs, except smoking opium, in reasonable quantities and properly listed as medical stores to remain on board vessels if satisfied that such drugs are adequately safeguarded and used only as medical supplies.

(f) Application for permission to transfer bunkers, stores, or equipment as provided for in the proviso to section 446, Tariff Act of 1930, shall be made and the permit therefor granted on customs Form 3171. (Secs. 432, 446, 624, 46 Stat. 710, 713, 759; 19 U. S. C. 1432, 1446, 1624)

§ 4.40 *Equipment, etc., from wrecked or dismantled vessels.* Ship's or sea stores, supplies, and equipment of a vessel wrecked either in the waters of the United States or outside such waters, on being recovered and brought into a United States port, and like articles landed from a vessel dismantled in a United States port shall be subject to the same customs treatment as would apply if the articles were landed from a vessel arriving in the ordinary course of trade. Parts of the hull and fittings recovered from a vessel which arrived in the United States in the course of navigation and was wrecked in the waters of the United States or was dismantled in this country are free of duties and import taxes, but if such articles are recovered from vessels outside the waters of the United States and brought into a United States port, they shall be treated as imported merchandise. (R. S. 161, 251, secs. 446, 624, 46 Stat. 713, 759; 5 U. S. C. 22, 19 U. S. C. 66, 1446, 1624)

§ 4.41 *Cargo of wrecked vessel.* (a) Any cargo landed from a vessel wrecked in the waters of the United States or on the high seas shall be subject at the port of entry to the same entry requirements and privileges as the cargo of a vessel regularly arriving in the foreign trade. In lieu of an inward foreign manifest to cover such cargo, the owner, underwriter (if the merchandise has been abandoned to him) or the salvor of the merchandise shall make written application for permission to enter the wrecked cargo, and any such applicant shall be regarded as the consignee of the merchandise for customs purposes.[70]

(b) All such merchandise shall be taken into possession by the collector of the port in which it shall first arrive and be retained in his custody pending entry. If it is not entered by the person entitled to make entry, or is not disposed of pursuant to court order, it shall be subject to sale as unclaimed merchandise.

(c) If such merchandise is from a vessel which has been sunk in waters of the United States for 2 years or more and has been abandoned by the owner, any person who has salvaged the cargo shall be permitted to enter the merchandise in the district in which the vessel was wrecked free of duty upon the facts being established to the satisfaction of the collector at the port of entry.[71] Any other such merchandise is subject to the same tariff classification as like merchandise regularly imported in the ordinary course of trade.

(d) If the merchandise is libeled for salvage,[72] the collector shall notify the United States attorney of the claim of the United States for duties, and request him to intervene for such duties. (R. S. 161, 251, secs. 310, 483, 624, 46 Stat. 690, 721, 759; 5 U. S. C. 22, 19 U. S. C. 66, 1310, 1483, 1624)

PASSENGERS ON VESSELS

§ 4.50 *Passenger lists.* (a) The master of every vessel arriving at a port of the United States from foreign territory and required to make entry except a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connecting or tributary waters,[72a] shall submit for inspection to the customs officer who first makes demand therefor, and shall subsequently deliver with his inward foreign manifest on entry of the vessel, a correct list in duplicate on customs and immigration Forms I–415 and I–416, signed and verified under oath by the master, of all passengers on board, specifying the name of each passenger; the age of each child of 8 years or under; sex; whether married or single; location of compartment or space occupied during the voyage, if the passenger be other than a cabin passenger; whether a citizen of the United States; and the number of pieces of his baggage. If any passenger dies on the voyage, the list shall specify his age and the manner and cause of his death. (See § 4.7 (c))

(b) A passenger within the meaning of this part, except § 4.51, is any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business. (R. S. 161, sec. 9, 22 Stat. 189, sec. 2, 23 Stat. 118, sec. 1, 33 Stat. 711, sec. 1, 37 Stat. 736, sec. 431, 46 Stat. 710; 5 U. S. C. 22, 19 U. S. C. 1431, 46 U. S. C. 2, 158. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.51 *Examination of vessels with steerage passengers.* The collector (the surveyor at New York) of the port at which any vessel carrying steerage passengers arrives from non-contiguous foreign territory shall direct an officer to make an examination of the vessel and to admeasure the compartments or spaces occupied by passengers[73] other than cabin passengers during the voyage for the purpose of enforcing the Passenger Act of 1882. (46 U. S. C. 151–162.) Such admeasurement shall be made in the manner provided by law for admeasuring vessels for tonnage. Such officer shall compare the number of passengers found on board with the list of passengers furnished on customs and immigration Forms I–415 and I–416 by the master to the collector and shall make a report on customs Form 1462 in duplicate to the collector (through the surveyor at New York) who shall forward one copy to the Commissioner of Customs. (R. S. 161, sec. 11, 22 Stat. 190, sec. 10, 32 Stat. 829, sec. 2, 23 Stat. 118, sec. 1, 37 Stat. 736; 5 U. S. C. 22, 46 U. S. C. 2, 160. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1446, Supp., Ch. IV)

§ 4.52 *Deaths of passengers.* The penalty of $50 provided for in section 10 of the Passenger Act of 1882 (46 U. S. C. 159) shall be imposed upon the master or agent of every vessel bringing steerage passengers from noncontiguous foreign territory unless there is paid to the collector, within 24 hours after the entry of the vessel, $10 for every death by natural disease which occurred on board the vessel among such passengers over 8 years of age during the voyage and prior to the arrival of the vessel within the collection district. (R. S. 161, sec. 10, 22 Stat. 190, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2, 159. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

FOREIGN CLEARANCES

§ 4.60 *Vessels required to clear.* (a) Except as otherwise provided for in this section, every vessel bound for a foreign port or ports shall be cleared[74] for a defi-

[70] "* * * The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees. * * *" (Tariff Act of 1930, sec. 483; 19 U. S. C. 1483)

[71] "Whenever any vessel laden with merchandise, in whole or in part subject to duty, has been sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years and is abandoned by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 310; 19 U. S. C. 1310)

[72] Salvors have an uncertain interest in the goods salved, dependent upon the decree of a competent tribunal, and have a preemptive right without such decree to possession of merchandise salved by them from abandoned wrecks. The salvors are entitled in either case to make entry of derelict or wrecked goods.

[72a] See footnote 16a to § 4.7 (c).

[73] For the purposes of this section and the Passenger Act of 1882, the term "passenger" has the meaning stated in § 4.50 (b), except that it does not include any person under 1 year of age nor any person picked up at sea, and two children between 1 and 8 years of age shall be counted as one passenger.

[74] "The master or person having the charge or command of any vessel bound to a foreign port shall deliver to the collector of the district from which such vessel is about to depart a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof; whereupon the collector shall grant a clearance for such vessel and her cargo, but without specifying the particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port (other than a licensed yacht not engaging in any trade nor in any way violating the revenue laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is

nite port or ports in the order of its itinerary, but an application to clear for a port or place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

(b) The following vessels are not required to clear:

(1) A licensed yacht.[90]

(2) Any vessel under frontier enrollment and license which during a voyage on the Great Lakes will touch at a foreign port only for taking on bunker fuel.[91] (See § 4.82)

(3) A vessel exempted from entry by section 441, Tariff Act of 1930.[92]

(c) For the purposes of the laws relating to clearance of vessels, the Canal Zone is foreign territory. The certificate of clearance on customs Form 1378 shall be modified by striking out "to a foreign port" and substituting "to the Canal Zone." Vessels which will merely transit the Canal Zone without transacting any business there shall not be required to be cleared because of such transit. A vessel under enrollment and license or license is permitted to trade with the Canal Zone.

(d) In the event that departure is delayed beyond the second day after clearance, the delay shall be reported within 72 hours after clearance to the collector who shall note the fact of detention on the certificate of clearance and on the official record of clearance. When the proposed voyage is canceled after clearance, the reason therefor shall be reported in writing within 24 hours after such cancelation and the certificate of clearance and related papers shall be surrendered.

(e) No vessel shall be cleared for the high seas.[93] (R. S. 161, 4197, as amended, sec. 2, 23 Stat. 118, 55 Stat. 733; 5 U. S. C. 22, 46 U. S. C. 2, 91, 19 U. S. C. 288, 46 U. S. C. 111, 123. (Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.61 *Requirements for clearance.* (a) The master of a vessel intending to depart for a foreign port shall apply orally for clearance, which shall be granted on customs Form 1378.

(b) Before clearance is granted to a vessel bound to a foreign port the collector shall verify compliance with the requirements in respect of the following matters which are more fully stated in the provisions of law or of this part indicated in the list:

(1) Accounting for inward cargo (§ 4.62).
(2) Outward foreign manifests; shippers' export declarations (§ 4.63).
(3) Documentation (§ 4.64).
(4) Verification of nationality and tonnage (§ 4.65).
(5) Verification of inspection (§ 4.66).
(6) Inspection under state laws.[94]
(7) Closed ports or places (§ 4.67).
(8) Crew; passengers (§ 4.68).
(9) Shipping articles and enforcement of Seamen's Act (§ 4.69).
(10) Medicine and slop chests.[95]
(11) Load line regulations.[96]
(12) Carriage of United States securities, etc.[97]
(13) Carriage of mail.[98]
(14) Pratique (§ 4.70).
(15) Inspection of vessels carrying livestock (§ 4.71).
(16) Inspection of meat, meat-food products, and inedible fats (§ 4.72).
(17) Tobacco seed and plants.[99]
(18) Neutrality; exportation of arms and munitions (§ 4.73).
(19) Payment of State and Federal fees.[100]

(c) A new vessel built in the United States for foreign account shall be cleared under a certificate of record, customs Form 1316, in lieu of a marine document.

(d) Clearance shall not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel.[101]

(e) Although not required for the clearance of vessels, at ports where officers of the United States Public Health Service are not available port sanitary statements on Public Health Service Form 1964 will be issued by collectors of customs. (R. S. 161, sec. 2, 23 Stat. 118, sec. 14, 54 Stat. 11, 5 U. S. C. 22, 22 U. S. C. 454, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.62 *Accounting for inward cargo.* Inward cargo discrepancies shall be accounted for and adjusted by correction of the manifest, but the vessel may be cleared and the adjustment deferred if the discharging officer's return has not been received. (See § 4.12.) (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.63 *Outward foreign manifest; shippers' export declarations.* (a) Except as provided for in § 4.74, no vessel shall be cleared for a foreign port until there have been filed with the collector a manifest on customs Form 1374, covering the complete lading of the vessel, and such export declarations as are required by the pertinent regulations of

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delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than $1,000 or less than $500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than $5,000 nor less than $1,000 for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured: * * *" (46 U. S. C. 91)

"Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: *Provided,* That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels." (46 U. S. C. 91a) (For clearance via domestic ports, see § 4.87)

[91] "Enrolled or licensed vessels engaged in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports, shall not thereby become liable to the payment of entry and clearance fees, as if from or to foreign ports; but such vessel shall, notwithstanding, be required to enter and clear; except that when such vessels are on such voyages on the Great Lakes and touch at foreign ports for the purpose of taking on bunker fuel only, they may be exempted from regulations as the Secretary of Commerce entering and clearing under such rules and [Commissioner of Customs] may prescribe, notwithstanding any other provisions of law: *Provided,* That this exception shall not apply to such vessels if, while at such foreign port, they land or take on board any passengers, or any merchandise other than bunker fuel, receive orders, discharge any seamen by mutual consent, or engage any seamen to replace those discharged by mutual consent, or transact any other business save that of taking on bunker fuel." (19 U. S. C. and Supp., 288, Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[92] See footnote 5, § 4.3.

[93] Collectors may permit vessels to proceed to sea to adjust compasses, try out new machinery, clean tanks, etc., without requiring formal clearance.

[94] "The collectors and other officers of the customs shall pay due regard to the inspection laws of the States in which they may respectively act, in such manner that no vessel having on board goods liable to inspection shall be cleared until the master, or other proper person, shall have produced such certificate that all such goods have been duly inspected, as the laws of the respective States may require to be produced to collectors or other officers of the customs." (46 U. S. C. 97)

[95] See 46 U. S. C. 666, 669, 670, and 671.

[96] See 46 U. S. C. ch. 2A and the Coast Guard Load Line Regulations.

[97] "All vessels belonging to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States shall, before clearance, receive on board all such bullion, coin, United States notes and bonds and other securities, as the Government of the United States or any department thereof, or any minister, consul, vice consul, or other agent of the United States abroad, shall offer, and shall securely convey and promptly deliver the same to the proper authorities or consignees, on arriving at the port of destination; and shall receive for such service such reasonable compensation as may be allowed to other carriers in the ordinary transactions of business." (46 U. S. C. 98)

[98] See § 4.63 (b), 18 U. S. C. 1724, and 39 U. S. C. 496.

[99] "It shall be unlawful to export any tobacco seed and/or live tobacco plants from the United States or any Territory subject to the jurisdiction thereof, to any foreign country, port, or place, unless such exportation and/or transportation is in pursuance of a written permit granted by the Secretary of Agriculture. Such permit shall be granted by the Secretary only upon application therefor and after proof satisfactory to him that such seed or plants are to be used for experimental purposes only." (7 U. S. C. 516)

[100] "Previous to a clearance being granted to any vessel, outward bound, the legal fees which shall have accrued on such vessel shall be paid at the offices where such fees are respectively payable; and receipts for the same shall be produced to the collector or other officer whose duty it may be to grant clearances, before a clearance is granted." (46 U. S. C. 100)

[101] "It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel." (22 U. S. C. 454a)

the Bureau of the Census, Department of Commerce.

(b) The master's oath on customs Form 1374 shall be properly executed before the manifest is accepted. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4197, as amended, 4200, as amended, 4198, 4199, 48 Stat. 663; 5 U. S. C. 22, 46 U. S. C. 2, 91, 91a, 92, 93, 94. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.64 *Documentation.* No clearance shall be granted to any vessel of the United States bound to a foreign port or place[102] unless it is under register or frontier enrollment and license. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4337; 5 U. S. C. 22, 46 U. S. C. 2, 278. Sec. 102, Reorg. Plan No. 3 of 1947; 3 CFR, 1946 Supp., Ch. IV)

§ 4.65 *Verification of nationality and tonnage.* The nationality and tonnage of a vessel shall be verified by examination of its marine document. If such examination discloses that insufficient tonnage tax was collected on entry of the vessel, no clearance shall be granted until the deficiency is paid. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1947; 3 CFR, 1946 Supp., Ch. IV)

§ 4.66 *Verification of inspection.* (a) No clearance shall be granted unless the collector is satisfied that a proper certificate of inspection is in force and the vessel is in compliance with such certificate, if the vessel is:

(1) A vessel of the United States required to be inspected, as specified in § 3.54 of this chapter;

(2) A foreign vessel carrying passengers from the United States; or

(3) A foreign sea-going motor vessel of 300 gross tons or over carrying passengers from the United States.

(b) In the case of foreign nations which are signatories of the Safety of Life at Sea Convention, 1929, an unexpired safety certificate issued under the authority of that Convention may be accepted in lieu of a certificate of inspection. (R. S. 161, sec. 2, 23 Stat 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.67 *Closed ports or places.* No foreign vessel shall be granted a clearance or permit to proceed to any port or place from which such vessels are excluded by orders or regulations of the United States Navy Department except with the prior approval of that Department. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp. Ch. IV)

§ 4.68 *Crew; passengers.* (a) No vessel to which R. S. 4573 applies shall be granted final clearance for a foreign port or a whaling voyage until a crew list is presented to the collector in duplicate on coast guard Form 710–A. The collector shall certify the duplicate copy and return it to the master.

[102] A vessel of the United States may be cleared for Guantanamo Bay Naval Station or the Canal Zone under enrollment and license or license.

(b) No foreign vessel shall be granted final clearance, wherever bound, until there has been presented to the collector a list sworn to by the master and showing the name and nationality of each member of the crew of the vessel.

(c) No vessel shall be granted a clearance while it has on board any citizen of the United States except in accordance with the rules and regulations prescribed by the Secretary of State pursuant to Proclamation 2523 issued by the President on November 14, 1941. (R. S. 161, 4573, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2, 674. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.69 *Shipping articles and enforcement of Seamen's Act.* No vessel of the United States bound for a foreign port outside the British North American possessions, the West Indies, and Mexico, shall be granted final clearance until there has been presented to the collector at the port of final departure the shipping articles of the vessel executed in duplicate before a shipping commissioner on coast guard Form 705, 705–A, or 705–B, and the collector shall have attached his certificate on coast guard Form 1435 to the duplicate copy of the articles and returned it together with the original to the master; nor shall any vessel, bound for a foreign port, be granted final clearance until the collector is satisfied that there has been full compliance with the pertinent requirements of sections 11 and 13 of the Seamen's Act of March 4, 1915 (46 U. S. C. 599, 672), and the coast guard regulations issued thereunder, relating to allotments of wages, the language test, and the crew. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.70 *Pratique.* No clearance shall be granted to a vessel subject to the foreign quarantine regulations of the Public Health Service unless it has been issued a certificate of free pratique or has been remanded to another port in the United States. (See Part IV, Appendix.) (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.71 *Inspection of vessels carrying livestock.* A proper notice of inspection by the Bureau of Animal Industry, Department of Agriculture, shall be filed before the clearance of a vessel carrying horses, mules, asses, cattle, sheep, swine, or goats. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.72 *Inspection of meat, meat-food products, and inedible fats.* (a) No clearance shall be granted to any vessel carrying meat or meat-food products, as defined and classified by the Bureau of Animal Industry, Department of Agriculture, until there have been filed with the collector such copies of export certificates concerning such meat or meat-food products as are required by the pertinent regulations of the Bureau of Animal Industry, Department of Agriculture (9 CFR, Parts 24 and 29).

(b) No clearance shall be granted to any vessel carrying tallow, stearin, oleo oil, or other rendered fat derived from cattle, sheep, swine, or goats for export from the United States, which has not been inspected, passed, and marked by the United States Department of Agriculture, unless the collector is furnished with an affidavit by the exporter that the article is inedible. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.73 *Neutrality; exportation of arms and munitions.* (a) Clearance shall not be granted to any vessel if the collector has reason to believe that her departure or intended voyage would be in violation of any provision of the Neutrality Act of 1939 or other neutrality law of the United States,[121] or of any regulation or instruction issued pursuant to any such law.

(b) The collector shall refuse clearance for and detain any vessel manifestly built for warlike purposes and about to depart from the United States with a cargo consisting principally of arms and munitions of war[123] when the number of men intending to sail or other circumstances render it probable that the vessel is intended to commit hostilities against the subjects, citizens, or property or any foreign country with which the United States is at peace, until the decision of the President thereon is received, or until the owners shall have given bond or security in double the value of the vessel and its cargo that she will not be so employed.

(c) A collector shall promptly communicate all the facts to the Bureau if he learns while the United States is at peace that any vessel of a belligerent power which has arrived as a merchant vessel is altering, or will attempt to alter, her status as a merchant vessel so as to become an armed vessel or an auxiliary to armed vessels of a foreign power.

(d) If a collector has reason to believe during the existence of a war to which the United States is not a party that any vessel in his district is about to carry arms, munitions, supplies, dispatches, information, or men to any warship or tender or supply ship of a belligerent nation, he shall withhold the clearance of such vessel and report the facts promptly to the Bureau. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.74 *Incomplete manifest; incomplete export declarations; bond.* (a) If a master desiring to clear his vessel for a foreign port does not have available for filing with the collector a complete cargo manifest[123] or all required

[121] See 18 U. S. C. ch. 45, secs. 14, 16, and 17 of the Criminal Code (35 Stat. 1090–1091) and 22 U. S. C. Chapter 9.

[123] Clearance for vessel shall not be denied for the sole reason that her cargo contains contraband of war.

[123] "• • • *Provided*, That in order that the commerce of the United States may move with expedition and without undue delay, the Secretary of Commerce [Commissioner of Customs] is hereby authorized to make regu-

export declarations,[107] he shall file at the time of applying for clearance a bond executed by the owner of the vessel or his attorney in fact on customs Form 7301 or 7567, unless a term bond executed by such owner or attorney on customs Form 7569 is on file. (See § 25.4 of this chapter.)

(b) The master of the vessel may execute the bond in behalf of the owner as his attorney in fact.

(c) Such bonds shall not be required for vessels owned by the United States

lations permitting the master of any vessel taking on cargo for a foreign port or for a port in noncontiguous territory belonging to the United States to file a manifest as hereinbefore provided, and if the manifest be not a complete manifest and it so appears upon such manifest, the collector of customs may grant clearance to the vessel in the case of an incomplete manifest, taking from the owner of the vessel, who may act in the premises by a duly authorized attorney in fact, a bond with security approved by the collector of customs, in the penal sum of $1,000, conditioned that the master or someone for him will file a completed outward manifest not later than the fourth business day after the clearance of the vessel. In the event that the said complete outward manifest be not filed as required by the provisions of this section and the regulations made by the Secretary of Commerce [Commissioner of Customs] in pursuance hereof, then a penalty of $50 for each day's delinquency beyond the allowed period of four days for filing the completed manifest shall be exacted, and if the completed manifest be not filed within the three days following the four-day period, then for each succeeding day of delinquency a penalty of $100 shall be exacted. Suit may be instituted in the name of the United States against the principal and surety on the bond for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond." (46 U. S. C. 91. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[107] "* * * *Provided*, That in order that the commerce of the United States may move with expedition and without undue delay, the Secretary of Commerce [Commissioner of Customs] is hereby authorized to make regulations permitting the clearance of a vessel having on board cargo destined to a foreign port or to a port in noncontiguous territory belonging to the United States, before delivery to the collector of customs of shippers' manifests or export declarations of the cargo laden on board, upon receipt by the collector of a bond with security approved by him in the penal sum of $1,000, conditioned that the complete shippers' manifests or export declarations of all cargo laden aboard such vessel shall be filed with him not later than the fourth business day after the clearance of the vessel. In the event that all of the shippers' manifests or export declarations are not filed as required by the provisions of this section and the regulations made by the Secretary of Commerce [Commissioner of Customs] in pursuance hereof, then a penalty of $50 for each day's delinquency beyond the allowed period of four days for filing all of the shippers' manifests or export declarations shall be exacted, and if all of the shippers' manifests or export declarations are not filed within the three days following the four-day period, then for each succeeding day of delinquency, a penalty of $100 shall be exacted. Suit may be instituted in the name of the United States against the principal and surety on the bond for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond." (46 U. S. C. 92. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

Maritime Commission and operated for its account.

(d) The statutory grace period of 4 days for filing the complete manifest and missing export declarations begins to run on the day following the date on which a clearance certificate is issued on customs Form 1378 or 1385.

(e) The following oath shall be executed by the vessel's agent who files a complete manifest and export declarations after clearance of the vessel:

I, _____, attorney for the master of the _____ which cleared from this port _____ do truly swear to the best of my knowledge and belief that the within manifest is a true statement of all the goods, wares, and merchandise laden on board said vessel and that the values of the separate items are as stated in the shipper's export declarations, duplicates of which are filed herewith.

_____

Sworn to before me this ____ day of _____, 19____.

_____,
Deputy Collector.

(f) During any period covered by a proclamation of the President that a state of war exists between foreign nations, or that a war exists in which the United States is a party, no vessel shall be cleared for a foreign port until a complete outward foreign manifest and all required export declarations have been filed with the collector. (R. S. 161, 4197, as amended, 4200, as amended, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2, 91, 92. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

NOTE: Compliance with § 4.74 (f) waived until further notice by T. D. 51628 dated Feb. 10, 1947.

COASTWISE PROCEDURE

§ 4.80 *Vessels entitled to engage in coastwise trade.* (a) No vessel shall transport any passenger or merchandise between points in the United States embraced within the coastwise laws, including points within a harbor, unless it is:

(1) Owned by a citizen, as defined in § 3.19 (a) and (b) of this chapter, and is so documented under the laws of the United States as to permit it to engage in the coastwise trade; or

(2) Owned by a citizen, as defined in § 3.19 (a) and (b) of this chapter, is exempt from documentation,[110] and is entitled to or, except for its tonnage, would be entitled to be enrolled and licensed or licensed for the coastwise trade; or

(3) Owned by a partnership or association in which at least a 75 percent interest is owned by such a citizen, is exempt from documentation, and is entitled to or, except for its tonnage, or citizenship of its owner, or both, would be entitled to be enrolled and licensed or licensed for the coastwise trade. (See § 3.19 (d) of this chapter.)

(b) Any vessel of the United States, whether or not entitled under paragraph (a) of this section to engage in the coastwise trade, and any foreign vessel may proceed between points in the United States embraced within the coastwise laws to discharge cargo or passengers laden at a foreign port, to lade cargo or passenger for a foreign port, or in ballast. Cargo laden at a foreign port may be retained on board during such movements. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4311, sec. 27, 41 Stat. 999, as amended; 5 U. S. C. 22, 46 U. S. C. 2, 251, 883. Sec. 201, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.81 *Reports of arrivals and departures in coastwise trade.* (a) No vessel which is enrolled and licensed or licensed for the coastwise trade, registered, or owned by a citizen and exempt from documentation, and which is in ballast or laden only with domestic products or passengers being carried only between points in the United States shall be required to report arrival or to enter when coming into one port of the United States from any other such port, except as provided for in §§ 4.83 and 4.84, nor to obtain a clearance or permit to proceed when going from one port in the United States to any other such port except a port in noncontiguous territory.[111]

(b) When the facts are as above stated except that the vessel is carrying bonded merchandise, the master shall report its arrival as provided for in § 4.2.

(c) The master of a registered vessel operating within the purview of this section shall deposit the vessel's register with the collector upon arrival at each

[110] "No merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title: * * * *Provided further*, That this section shall not apply to merchandise transported between points within the continental United States, excluding Alaska, over through routes heretofore or hereafter recognized by the Inter-State Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further* That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the United States Maritime Commission shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: * * *" (46 U. S. C. 883)

"If any merchandise is laden at any port or placed in the United States upon any vessel belonging wholly or in part to a subject of a foreign country, and is taken thence to a foreign port or place to be reladen and reshipped to any other port in the United States, either by the same or by another vessel, foreign or American, with intent to evade the provisions relating to the transportation of merchandise from one port or place of the United States to another port or place of the United States in a vessel belonging wholly or in part to a subject of any foreign power, the merchandise shall, on its arrival at such last-named port or place, be seized and forfeited to the United States, and the vessel shall pay a tonnage duty of 50 cents per net ton." (Tariff Act of 1930, sec. 588; 19 U. S. C. 1588)

(See § 3.5 of this chapter for vessels exempt from documentation.)

[111] See § 4.84.

port in the United States. The register shall be carefully examined to determine whether the vessel is entitled to engage in the coastwise trade, and shall be returned to the master upon the departure of the vessel.

(d) Before any foreign vessel shall depart in ballast from any port in the United States for any other such port, the master shall apply to the collector for a permit to proceed and file his oath in duplicate on customs Form 1385 (subdivision 4) When the collector grants the permit on subdivision 5 of Form 1385, the duplicate copy of the form shall be returned to the master. Within 24 hours after arrival at the second port in the United States, the master shall report his arrival to the collector and shall make entry within 48 hours by filing with the collector the permit to proceed with his oath executed on subdivision 6 of the form, and the document of the vessel. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4132, as amended, 4311, 4367, 4368; sec. 27, 41 Stat. 999, as amended, sec. 433, 46 Stat. 711, 5 U. S. C. 22, 19 U. S. C. 1433, 46 U. S. C. 2, 11, 251, 313, 314, 883. Sec. 102, Reorg. Plan No. 3 of 1946; 3 C. F. R., 1946 Supp., Ch. IV)

§ 4.82 *Touching at foreign port while in coastwise trade.* (a) A vessel under unlimited register or frontier enrollment and license which, during a voyage between ports in the United States, touches at one or more foreign ports and there discharges or takes on merchandise, passengers, baggage, or mail [112] shall obtain a permit to proceed or clearance at each port of lading in the United States for the foreign port or ports at which it is intended to touch. The outward foreign manifest shall show only the cargo for foreign destination. (See §§ 4.61 and 4.87)

(b) The master shall also present to the collector a coastwise manifest in triplicate of the merchandise to be transported via the foreign port or ports to the subsequent ports in the United States. It shall describe the merchandise and show the marks and numbers of the packages, the names of the shippers and consignees, and the destinations. The collector shall certify the two copies and return them to the master. Merchandise carried by the vessel in bond under a transportation entry and manifest, customs Form 7512, shall not be shown on the coastwise manifest.

(c) Upon arrival from the foreign port or ports at the subsequent port in the United States, a report of arrival and entry of the vessel shall be made, and tonnage taxes shall be paid unless the vessel is under a frontier enrollment and license. The master shall present inward foreign manifests in accordance with § 4.7 and the certified copies of the coastwise manifest.

(d) All merchandise on the vessel upon its arrival at the subsequent port in the United States is subject to such customs examination and treatment as may be necessary to protect the revenue. Any article on board which is not identified to the satisfaction of the collector, by the coastwise manifest or otherwise, as part of the coastwise cargo, shall be treated as imported merchandise.[113] (R. S. 161, 2793, as amended, 3126, 3127, 4318, sec. 624, 49 Stat. 759; 5 U. S. C. 2, 19 U. S. C. 293, 294, 1624, 46 U. S. C. 123, 258. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.83 *Trade between United States ports on the Great Lakes and other ports of the United States.* (a) A vessel proceeding from or to a port of the United States on the Great Lakes to or from any other port of the United States via the St. Lawrence River shall be registered and shall manifest its cargo, clear from the port of departure, and report its arrival and make entry at the port of arrival in accordance with §§ 4.2 and 4.9. No fee shall be collected for the clearance of the vessel if it intends to touch at no foreign port other than Montreal and to transact no business at Montreal, nor shall any entry fee or tonnage tax be collected if the vessel touched at no foreign port other than Montreal and transacted no business at Montreal.

(b) A vessel in the coastwise trade only, which is proceeding from or to a port of the United States on the Great Lakes via the Hudson River and otherwise than by sea, may operate under enrollment and license or frontier enrollment and license and shall not be required to clear, report its arrival, or make entry. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 2793, 4197, as amended, 4200, as amended, 4318, as amended; 5 U. S. C. 22, 46 U. S. C. 2, 91, 92, 258, 111, 123. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946, Supp., Ch. IV)

§ 4.84 *Trade with noncontiguous territory.* (a) No vessel shall depart from a port in noncontiguous territory of the United States for any other port in such territory or for any port in the continental United States, nor from any port in the continental United States for any port in such territory, until a clearance for the vessel has been granted, except that clearance is not required for a vessel departing from a port in Alaska or Hawaii for any port in any noncontiguous territory of the United States or in the continental United States or for a vessel departing from a port in any such territory or in the continental United States for a port in Alaska or Hawaii.[114] Such clearance shall be granted in accordance with the applicable provisions of § 4.61, except that the customs Form 1378 shall be modified by striking out "to a foreign port" and substituting "to noncontiguous territory of the United States" or "to the United States," as the case may be, unless the vessel is simultaneously engaged in one or more of the transactions listed in § 4.90 (a) (2) (4) (5) and (6) In the latter case clearance shall be granted only on customs Form 1385. See § 4.90 (b)

(b) The master of every foreign vessel arriving at any port in the United States or its noncontiguous territory from any port in such territory to which the coastwise laws do not apply, or arriving at any port in noncontiguous territory of the United States to which the coastwise laws do not apply from any port embraced within the coastwise laws, shall report its arrival within 24 hours and make entry for the vessel within 48 hours after its arrival.

(c) The master of a vessel of the United States arriving at any port within the customs territory of the United States from any port in noncontiguous territory outside its customs territory shall report its arrival within 24 hours and shall prepare, produce, and file manifests in the form and manner and at the times specified in §§ 4.7 and 4.9 but shall not be required to make entry. If such a vessel proceeds to subsequent ports in the United States, the master shall prepare, produce, and file manifests in the form and manner and at the times specified in § 4.85, but no permit to proceed shall be required. No cargo shall be unladen from any such vessel until manifests have been filed and a permit to unlade has been issued in accordance with the procedure outlined in § 4.30.

(d) No vessel shall bring guano to the United States from a guano island appertaining to the United States, as provided for in Chapter 8, Title 48, United States Code, unless entitled to engage in the coastwise trade. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4197, as amended, R. S. 4200, as amended, 32 Stat. 172; 5 U. S. C. 22, 46 U. S. C. 2, 91, 92, 95. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.85 *Vessels with residue cargo for domestic ports.* (a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license,

[112] "Any vessel, on being duly registered in pursuance of the laws of the United States, may engage in trade between one port in the United States and one or more ports within the same, with the privilege of touching at one or more foreign ports during the voyage, and land and take in thereat merchandise, passengers and their baggage, and letters, and mails. All such vessels shall be furnished by the collectors of the ports at which they shall take in their cargoes in the United States, with certified manifests, setting forth the particulars of the cargoes, the marks, number of packages, by whom shipped, to whom consigned, at what port to be delivered; designating such merchandise as is entitled to drawback, or to the privilege of being placed in warehouse; and, the masters of all such vessels shall, on their arrival at any port of the United States from any foreign port at which such vessel may have touched, as herein provided, conform to the laws providing for the delivery of manifests of cargo and passengers taken on board at such foreign port, and all other laws regulating the report and entry of vessels from foreign ports, and be subject to all the penalties therein prescribed." (19 U. S. C. 293)

[113] "Any foreign merchandise taken in at one port of the United States to be conveyed in registered vessels to any other port within the same, either under the provisions relating to warehouses, or under the laws regulating the transportation coastwise of merchandise entitled to drawback, as well as any merchandise not entitled to drawback, but on which the import duties chargeable by law shall have been duly paid, shall not become subject to any import duty by reason of the vessel in which they may arrive having touched at a foreign port during the voyage." (19 U. S. C. 294)

[114] For clearance via domestic ports, see § 4.87.

arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port.[115]

(b) When applying for clearance from the port of first arrival, the master of the vessel shall present to the collector a manifest in duplicate of all the foreign cargo then retained on board for delivery at other domestic or foreign ports. This manifest, referred to hereinafter as an abstract manifest, may be a legible copy of the complete inward foreign manifest with the items deleted which cover cargo previously discharged.

(c) The application for permit to proceed shall be submitted in triplicate on customs Form 1385 with subdivision 1 completely executed. It shall be accompanied by customs Form 3221 in duplicate with the information called for by the form shown thereon in conformity with the data shown on the oath filed by the master on customs Form 3251 (see § 4.9 (a)) The collector shall execute subdivision 2 of Form 1385 and attach the second and third copies to the two copies of the abstract manifest which shall be returned to the master. A certified copy of the complete inward foreign manifest (traveling manifest) with a signed copy of the Form 3221 attached shall also be returned to the master, together with the vessel's document if on deposit.[116]

(d) On arrival at the next and each succeeding domestic port, the master shall report arrival and make entry within 24 hours by presenting both abstract manifests received by him on clearance from the last port with the Form 1385 attached, duplicate lists of all unentered articles acquired abroad by the officers and crew of the vessel which are still retained on board and on the stores on board, and the traveling manifest with Form 3221 attached.[117] He shall also file his oath on customs Form 3251. No additional vessel bond on customs Form 7567 or 7569 need be filed. Upon each departure for another domestic port, the same procedure shall be followed as on departure from the port of first arrival, except that the collector may endorse on the new certificate on customs Form 3221 attached to the traveling manifest at each such port the following notation:

For foreign ports and dates of departure therefrom see attached Form 3221 issued at ----------, the first domestic port of entry. These movements shall be recorded as foreign transactions.

(e) If any error or omission in the preparation of the Form 3221 is discovered after clearance of the vessel from the port of first arrival, it shall be corrected by the master or agent of the vessel by filing a supplemental oath on customs Form 3251 with the collector at the port where the error or omission is first discovered. That collector shall notify the collector at any preceding port of the correction and forward the supplemental oath to the collector at the port of first arrival.

(f) The traveling manifest with all certificates issued at the preceding ports shall be surrendered to the collector at the final port of discharge for retention in his files.

(g) Whenever the vessel calls at a subsequent port in the same comptroller district as the port of first arrival, whether or not for discharge of cargo, the master shall furnish to the comptroller of customs for that district a report on customs Form 3253 in lieu of a copy of the manifest. If any correction is necessary, the master shall mail to the comptroller a true and correct copy of the record thereof filed at the subsequent port.

(h) Whenever the vessel proceeds to a port in another comptroller district, immediately upon arrival at the first port in the new district and before entry of the vessel, the master shall mail or deliver to the comptroller for the district a manifest of the foreign cargo remaining on board and of all unentered articles acquired abroad by the officers and crew of the vessel and stores on board, and then proceed in accordance with the preceding paragraph.

(i) After correction of the manifest (see § 4.12) and upon request of the master or agent of the vessel, the collector at each port in the United States after the port of first arrival shall furnish a certificate on customs Form 3225 to cover the cargo landed at that port. Such certificates shall be forwarded to the collector at the port of first arrival for cancelation of the charge against the vessel bond on file at that port. (R. S. 161, 251, sec. 2, 23 Stat. 118, secs. 439, 442, 443, 444, 624, 46 Stat. 712, 713, 759; 5 U. S. C. 22, 19 U. S. C. 66, 1439, 1442, 1443, 1444, 1624, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.86 *Intercoastal residue-cargo procedure; optional ports.* (a) When a vessel arrives at an Atlantic or Pacific coast port from a foreign port with cargo for delivery at optional ports on the opposite coast and the master, owner, or agent is unable at that time to designate the specific port or ports of discharge, the manifest filed on entry shall show all such optional ports of discharge. The traveling manifest and each abstract manifest shall show at the time of clearance from each port on the coast of first arrival all the optional ports of delivery. Upon arrival at the first port on the opposite coast, the privilege of optional port of delivery expires and the master, owner, or agent shall then designate the port or ports where the residue cargo is to be discharged as required by section 431, Tariff Act of 1930.

(b) On clearance from the first and each succeeding port on the second coast, the certificate on customs Form 3221 shall show the actual ports of discharge as determined at the first port.

(c) The names of the ports of destination, as designated at the first port of arrival on the second coast, shall be reported to the collector at the port of first arrival on the first coast by endorsement on a certified copy of the complete inward foreign manifest which shall be forwarded by the agent of the vessel. (R. S. 161, 251, sec. 2, 23 Stat. 118, secs. 442, 443, 444, 624, 46 Stat. 713, 759; 5 U. S. C. 2, 19 U. S. C. 1442, 1443, 1444, 1624, 66, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.87 *Vessels proceeding foreign via domestic ports.* (a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license may proceed from port to port in the United States to lade cargo or passengers for foreign ports.

(b) When applying for a clearance from the first and each succeeding port of lading, except the final port of departure from the United States, the master of the vessel shall present to the collector a manifest in duplicate on customs Form 1374 of all the cargo laden on board for export with the port of lading indicated for each item.

(c) The application for permit to proceed shall be submitted in duplicate on customs Form 1385 with subdivision 1 completely executed. Upon compliance with the applicable provisions of § 4.61, the collector shall execute subdivision 2 of Form 1385 and attach a copy to each of the two copies of the manifest. One copy of the manifest shall then be certified and returned to the master, together with the vessel's document if on deposit.

(d) On arrival at the next and each succeeding domestic port, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting the vessel's document, the certified manifest received by him upon clearance from the last port, and duplicate lists of all unentered articles acquired abroad by the officers and crew

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[115] "* * * Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to port or from district to district for the unlading thereof." (Tariff Act of 1930, sec. 442; 19 U. S. C. 1442)

[116] "Merchandise arriving in any vessel for delivery in different districts or ports of entry shall be described in the manifest in the order of the districts or ports at or in which the same is to be unladen. Before any vessel arriving in the United States with any such merchandise shall depart from the port of first arrival, the master shall obtain from the collector a permit therefor with a certified copy of the vessel's manifest showing the quantities and particulars of the merchandise entered at such port of entry and of that remaining on board." (Tariff Act of 1930, sec. 443; 19 U. S. C. 1443)

"If the master of any such vessel shall proceed to another port or district without having obtained a permit therefor and a certified copy of his manifest, or if he shall fail to produce such permit and certified copy of his manifest to the collector at the port of destination, or if he shall proceed to any port not specified in the permit, he shall be liable to a penalty, for each offense, of not more than $500." (Tariff Act of 1930, sec. 445; 19 U. S. C. 1445)

[117] "Within twenty-four hours after the arrival of such vessel at another port of entry, the master shall report the arrival of his vessel to the collector at such port and shall produce the permit issued by the collector at the port of first arrival, together with the certified copy of his manifest." (Tariff Act of 1930, sec. 444; 19 U. S. C. 1444)

of the vessel which are still retained on board and of the stores on board. Subdivision 3 of the Form 1385 attached to such manifest shall be completely executed upon delivery of the manifest to the collector.

(e) Clearance shall be granted at the final port of departure from the United States in accordance with § 4.61.

(f) If a complete manifest or all required export declarations are not available for filing at any port, clearance on customs Form 1385 (Form 1378 at the last port) may be granted in accordance with § 4.74, subject to the limitation in § 4.74 (f)

(g) The master shall place on each manifest required to be filed by paragraph (b) of this section a notation in the following form, with the inapplicable words deleted:

Manifest for cargo laden at _____ complete (incomplete). Shipper's export declarations have been (will be) filed and export requirements have been (will be) met at port of lading. Certified copy of complete manifest will be filed by vessel's owner or agent with the collector at final port of departure from the United States.

(h) When the procedure outlined in paragraph (f) of this section is followed, the owner or agent of the vessel shall deliver within 4 days[115] a manifest in duplicate on customs Form 1374 and the missing export declarations to cover the cargo laden for export at that port. The collector shall certify one copy of such manifest and return it to the owner or agent, who shall thereupon deliver it to the collector at the final port of departure of the vessel from the United States. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4197, as amended, 4200, as amended, 4367,4368, secs. 433, 435, 437, 624, 46 Stat. 711, 759; 5 U. S. C. 22, 19 U. S. C. 1433, 1435, 1437, 1624, 46 U. S. C. 2, 91, 92, 313, 314)

§ 4.88 *Vessels with residue cargo for foreign ports.* (a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license which arrives at a port in the United States from a foreign port shall not be required to unlade any merchandise manifested for a foreign destination.[119]

(b) The collector shall designate the items of such merchandise, if any, for which foreign landing certificates[120] will be required and an appropriate charge shall be made against the vessel bond, customs Form 7567 or 7569, for the production of such certificates. Such charges shall be canceled upon the production of all the required certificates or other satisfactory evidence of the foreign landing of the designated merchandise.

(c) If the vessel clears directly foreign from the first port of arrival, the outward foreign manifest shall describe each item of the cargo from a foreign port which has been retained on board.

(d) If the vessel is proceeding to other ports in the United States, the cargo from a foreign port retained on board shall be treated in the same manner as residue cargo for domestic ports and the procedure outlined in § 4.85 shall be followed with respect thereto. (R. S. 161, sec. 2, 23 Stat. 118, secs. 442, 622, 624, 46 Stat. 713, 758, 759; 5 U. S. C. 22, 19 U. S. C. 1442, 1622, 1624, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.89 *Vessels in foreign trade proceeding via domestic ports and touching at intermediate foreign ports.* (a) A vessel proceeding from port to port in the United States in accordance with §§ 4.85, 4.86, or 4.87 may touch at an intermediate foreign port or ports to lade or discharge cargo or passengers. In such a case the vessel shall obtain clearance from the last port of departure in the intermediate foreign port or ports at the United States before proceeding to which it is intended to touch. The outward foreign manifest shall show the cargo for such foreign destination.

(b) The master shall also present to the collector the manifest or manifests required by §§ 4.85, 4.86, or 4.87, and obtain a permit to proceed to the next port in the United States at which the vessel will touch.

(c) Upon arrival at the next port in the United States after touching at a foreign port or ports a report of arrival and entry shall be made. The inward foreign manifest shall list the cargo laden at the intermediate foreign port or ports.

(d) The master shall also present to the collector the permit to proceed and the manifests from the last previous port in the United States as provided for in §§ 4.85, 4.86, or 4.87. (R. S. 161, 251, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 19 U. S. C. 66, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.90 *Simultaneous vessel transactions.* (a) A vessel may proceed from port to port in the United States for the purpose of engaging in two or more of the following transactions simultaneously,[121] subject to the limitations hereafter mentioned in this section and the conditions stated in the sections indicated in the list:

(1) Coastwise trade (§ 4.80).
(2) Touching at a foreign port while in coastwise trade (§ 4.82).
(3) Trade with noncontiguous territory of the United States (§ 4.84).
(4) Carriage of residue cargo or passengers from foreign ports (§§ 4.85–4.86).
(5) Carriage of cargo or passengers laden for foreign ports (§ 4.87).
(6) Carriage of residue cargo for foreign ports (§ 4.88).

(b) When a vessel is engaged simultaneously in two or more such transactions, the master shall indicate each type of transaction in which the vessel is engaged in his application for clearance on subdivision 1 of customs Form 1385. The master shall conform simultaneously to all requirements of these regulations with respect to each transaction in which the vessel is engaged.

(c) A foreign vessel is not authorized by this section to engage in the coastwise trade, including trade with noncontinguous territory embraced within the coastwise laws.

(d) A vessel of the United States may engage in transactions (2), (4) (5) or (6) only if under register or frontier enrollment and license. Such a vessel shall not engage in transactions (1) or (3) unless permitted by its register or frontier enrollment and license so to do.

(e) When one vessel bond on customs Form 7567 or 7569 is filed at any port and applicable to the current voyage of the vessel, it shall cover all simultaneous transactions engaged in on that voyage and no other like bond need be filed. (R. S. 161, sec. 2, 23 Stat. 118, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624, 46 U. S. C. 2, Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.91 *Diversion of vessel; transshipment of cargo.* (a) If any vessel cleared from one port in the United States for another such port as provided for in §§ 4.81 (d) 4.85, 4.87, or 4.88 is, while en route, diverted to a port in the United States other than the one specified in the permit to proceed, customs Form 1385,[122] the owner or agent of the vessel immediately shall give notice of the diversion to the collector who granted the permit, informing him of the new destination of the vessel and requesting him to notify the collector at the latter port. Such notification by the collector shall constitute an amendment of the clearance (permit) previously granted, shall authorize the vessel to proceed to the new destination, and shall be filed by the collector at the latter port with the Form 1385 submitted on entry of the vessel.

(b) In a case of necessity, a collector may grant an application on customs Form 3171 of the owner or agent of an established line for permission to transship[123] all cargo and passengers from one vessel of the United States to another such vessel under customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or 4.88. (R. S. 161, sec. 2, 23 Stat. 118, sec. 1624, 46 Stat. 759; 5 U. S. C. 2, 19 U. S. C. 1624, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.92 *Towing.* The prohibition against the use of foreign vessels in tow-

[115] See footnotes 106 and 107.

[119] "Any vessel having on board merchandise shown by the manifest to be destined to a foreign port or place may, after the report and entry of such vessel under the provisions of this Act, proceed to such foreign port of destination with the cargo so destined therefor, without unlading the same and without the payment of duty thereon. * * *" (Tariff Act of 1930, sec. 442; 19 U. S. C. 1442)

[120] "The Secretary of the Treasury may by regulations require the production of landing certificates in respect of merchandise exported from the United States, or in respect of residue cargo, in cases in which he deems it necessary for the protection of the revenue." (Tariff Act of 1930, sec. 622; 19 U. S. C. 1622)

[121] For the purposes of this part, an inward foreign voyage is completed at the port of final discharge of inbound passengers or cargo, and an outward foreign voyage begins at the port where cargo or passengers are first laden for carriage to a foreign destination.

[122] See § 4.83.

[123] See § 4.81.

ing operations[124] shall be enforced with respect to such operations between any points embraced within the coastwise laws. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4370, 54 Stat. 304; 5 U. S. C. 22, 46 U. S. C. 2, 316. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

GENERAL

§ 4.95 *Records of entry and clearance of vessels.* Permanent records shall be prepared in duplicate at each customhouse of all entries of vessels on customs Form 1400 and of all clearances and permits to proceed on customs Form 1401 (customs Forms 1400–A and 1401–A at New York)[125] These records shall be indexed on customs Form 1404 or 1407 and shall be open to public inspection, except that, during any period covered by a proclamation of the President that a state of war exists in which the United States is neutral or a belligerent, no such record shall be disclosed to other than a party in interest without written authorization from the Commissioner of Customs. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.96 *Fisheries.* (a) No vessel employed in fishing, except vessels of the United States and vessels of less than 5 net tons owned in the United States, shall come into a port of the United States except in distress or to secure supplies, equipment, or repairs.

(b) A vessel of the United States to be employed in fishing may be enrolled and licensed or licensed, depending upon its size, or registered. If registered, the vessel must be entitled to be enrolled and licensed or licensed for the fisheries. (See §§ 3.2 and 3.42 of this chapter.)

(c) A registered vessel may be cleared for a whaling voyage[131] under the same terms and conditions as though it were enrolled and licensed for the whale fishery. (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4132, 4311, 4339; 5 U. S. C. 22, 46 U. S. C. 2, 11, 251, 280., Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.97 *Salvage vessels.* (a) Only a vessel of the United States, a numbered motorboat owned by a citizen,[132] or a vessel operating within the purview of paragraph (d) or (e) of this section, shall engage in any salvage operation in territorial waters of the United States unless an application addressed to the Commissioner of Customs to use another specified vessel in a completely described operation has been granted.[133]

(b) Upon receipt of such an application, the Commissioner of Customs will cause an investigation to be made immediately to determine whether a suitable vessel of the United States or a suitable numbered motorboat owned by a citizen is available for the operation. If he finds that no such vessel is available and that the facts otherwise warrant favorable action, he will grant the application.

(c) If the application is granted, the applicant shall make a full report of the operation as soon as possible to the collector of customs at the port nearest the place where the operation was conducted.

(d) A Canadian vessel may engage in salvage operations on any vessel in any territorial waters of the United States in which Canadian vessels are permitted to conduct such operations by article II of the treaty between the United States and Great Britain signed on May 18, 1903,[134] or by section 725, title 46, United States Code.[135] If any such vessel engages in a salvage operation in territorial waters of the United States, the owner or master of the vessel shall make a full report of the operation as soon as possible to the

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[124] "It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of registry, a certificate of enrollment, or a license, issued pursuant to this title, or a certificate of award of number issued pursuant to section 288 of this title, to tow any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbor of such places. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than $250 nor more than $1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of $50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit." (46 U. S. C. 316 (a))

"Any foreign railroad company or corporation, whose road enters the United States by means of a ferry, tugboat, or towboat, may own such vessel and operate the same in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by such road, together with the passengers, freight, express matter, baggage, and mails transported in such cars, without bein gsubject to any other or different restrictions than those imposed by law on any vessel of the United States entering ports of the United States from ports in the same foreign country: *Provided,* That except as authorized by section 883 of this title, such ferry, tugboat, or towboat shall not, under penalty of forfeiture, be used in connection with the transportation of any merchandise shipped from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same." (46 U. S. C. 316 (c))

"Every undocumented vessel, operated in whole or in part by machinery owned in the United States and found on the navigable waters thereof, except public vessels, and vessels not exceeding sixteen feet in length measured from end to end over the deck excluding sheer, temporarily equipped with detachable motors, shall be numbered. * * *" (46 U. S. C. 288)

(See § 3.19 (a)).

[125] For regulations of the Bureau of the Census relating to statistics from these records, see 15 CFR Part 30.

[131] "All vessels which may clear with registers for the purpose of engaging in the whale fishery shall be deemed to have lawful and sufficient papers for such voyages, securing the privileges and rights of registered vessels, and the privileges and exemptions of vessels enrolled and licensed for the fisheries." (46 U. S. C. 280)

[132] See § 3.19 (a) of this chapter.

[133] "No foreign vessel shall, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or in accordance with the provisions of section 725 of this title: *Provided, however,* That if, on investigation, the Secretary of Commerce [Commissioner of Customs] is satisfied that no suitable vessel wholly owned by a person who is a citizen of the United States and documented under the laws of the United States or numbered pursuant to section 288 of this title, is available in any particular locality he may authorize the use of a foreign vessel or vessels in salvaging operations in that locality and no penalty shall be incurred for such authorized use." (46 U. S. C. 316 (d). Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

"Nothing in this section shall be held or construed to prohibit or restrict any assistance to vessels or salvage operations authorized by Article II of the treaty between the United States and Great Britain 'concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage' signed at Washington, May 18, 1908 (35 Stat. 2036), or by the treaty between the United States and Mexico 'to facilitate assistance to and salvage of vessels in territorial waters,' signed at Mexico City, June 13, 1935 (49 Stat. 3359)." (46 U. S. C. 316 (e). Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

[134] "The High Contracting Parties agree that vessels and wrecking appliances, either from the United States or from the Dominion of Canada, may salve any property wrecked and may render aid and assistance to any vessels wrecked, disabled or in distress in the waters or on the shores of the other country in that portion of the St. Lawrence River through which the International Boundary line extends, and, in Lake Ontario, Lake Erie, Lake St. Clair, Lake Huron, and Lake Superior, and in the Rivers Niagara, Detroit, St. Clair, and Ste. Marie, and the canals at Sault Ste. Marie, and on the shores and in the waters of the other country along the Atlantic and Pacific Coasts within a distance of thirty miles from the International Boundary on such coasts.

"It is further agreed that such reciprocal wrecking and salvage privileges shall include all necessary towing incident thereto, and that nothing in the Customs, Coasting or other laws or regulations of either country shall restrict in any manner the salving operations of such vessels or wrecking appliances.

"Vessels from either country employed in salving in the waters of the other shall, as soon as practicable afterwards, make full report at the nearest custom house of the country in whose waters such salving takes place." (35 Stat. 2036)

[135] "Canadian vessels and wrecking appurtenance may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada.

"This section shall be construed to apply to the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the Saint Mary's River and Canal: * * *" (46 U. S. C. 725)

The waters of Lake Michigan are not contiguous to the Dominion of Canada within the meaning of this statute.

collector of customs at the port nearest the place where the operation was conducted.

(e) A Mexican vessel may engage in a salvage operation on a Mexican vessel in any territorial waters of the United States in which Mexican vessels are permitted to conduct such operations by the treaty between the United States and Mexico signed on June 13, 1935.[123] (R. S. 161, sec. 2, 23 Stat. 118, R. S. 4370, 54 Stat. 304; 5 U. S. C. 22, 46 U. S. C. 2, 316. Sec. 102, Reorg. Plan No. 3, 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 4.98 *Navigation fees.* (a) The table of navigation fees required to be posted in customs offices[127] shall be on customs Form 1010. The respective fees shall be designated in correspondence and reports by numbers as follows:

Fee No. and service

1 Entry of vessel, including American, from foreign port (19 U. S. C. 58)
   (*a*) Less than 100 net tons.
   (*b*) 100 net tons and over.
2 Clearance of vessel, including American, to foreign port (19 U. S. C. 58)
   (*a*) Less than 100 net tons.
   (*b*) 100 net tons and over.
3 Issuing permit to foreign vessel to proceed from district to district, and receiving the manifest (46 U. S. C. 329, 330).
4 Receiving manifest of foreign vessel on arrival from another district and granting a permit to unlade (R. S. 4381, 4382; 46 U. S. C. 329, 330).
5 Receiving post entry (19 U. S. C. 58, 46 U. S. C. 330).
6 Changing name of vessel (46 U. S. C. 53).
   (*a*) Less than 100 gross tons.
   (*b*) 100 and not exceeding 499 gross tons.
   (*c*) 500 and not exceeding 999 gross tons.
   (*d*) 1,000 and not exceeding 4,999 gross tons.
   (*e*) 5,000 gross tons and over.
7 (*a*) Recording bill of sale, conveyance, mortgage, or assignment of mortgage; or
   (*b*) Furnishing certified copy of any bill of sale, conveyance, mortgage, assignment of mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel; or
   (*c*) Furnishing certified copy of record at former home port; or
   (*d*) Furnishing certificate setting forth names of owners, the interest held by each owner, material facts in each bill of sale, conveyance, mortgage, assignment of mortgage, lien, or encumbrance; or
   (*e*) Furnishing certificate that there are no liens or encumbrances (46 U. S. C. 927).
8 Receiving official bond not otherwise provided for (19 U. S. C. 58).
9 Certifying payment of tonnage tax and certifying admeasurement, both for foreign vessels only (19 U. S. C. 58).
10 Furnishing copy of official document, including marine document, certified outward foreign manifest, and others not elsewhere enumerated (19 U. S. C. 58).

(b) Fee 1 shall be collected at the first port of entry only. It shall not be collected from a vessel entering directly from a port in noncontiguous territory of the United States nor from one entering at a port on the northern, northeastern, or northwestern frontier otherwise than by sea.

(c) Fee 2 shall be collected at the final port of departure from the United States. It shall be collected from a yacht or public vessel which obtains a clearance, but shall not be collected from a vessel clearing directly for a port in noncontiguous territory of the United States nor from one clearing from a port on the northern, northeastern, or northwestern frontier otherwise than by sea. It shall be collected only upon the first clearance each year of a vessel making regular daily trips between a port of the United States and a port in Canada wholly upon interior waters not navigable to the ocean.

(d) Fee 3 shall be collected for granting a permit to a foreign vessel to proceed to another customs district, but not for a permit to proceed to a port in the same district. It shall be collected from a foreign vessel clearing directly for a port in noncontiguous territory of the United States outside its customs territory. This fee shall not be collected in the case of a foreign vessel proceeding on a voyage by sea from one district in the United States to another such district via a foreign port. Only one fee shall be collected in case of simultaneous vessel transactions.

(e) Fee 4 shall be collected for receiving the manifest of a foreign vessel arriving from another customs district, but not arriving from a port in the same district. It shall be collected from a foreign vessel entering directly from a port in noncontiguous territory of the United States outside its customs territory. This fee shall not be collected in the case of a foreign vessel which arrives in one district in the United States from another such district on a voyage by sea via a foreign port. Only one fee shall be collected in case of simultaneous vessel transactions.

(f) Fee 6 shall be collected when the application is approved.

(g) In computing the amounts to be collected under Fee 7:

(1) The word "folio" shall mean 100 words, counting each figure as a word (R. S. 854) No charge shall be made for fractions of a folio.

(2) References to acts of Congress and explanatory words, usually in parentheses or printed as notes, and the printed and written customhouse endorsement under the catalogue number shall not be counted.

(3) Every other printed or written word, if not erased, shall be counted.

(4) Each printed word not covered by subparagraph (2) of this paragraph whether erased or not, if found in the marine document cited, shall be counted.

(h) Fee 7 applies only to services covered by the Ship Mortgage Act, 1920 (46 U. S. C. 921 (b) 923, 926 (c) and 927), all of which are included in the descriptions opposite that fee number in the table set forth above.

(i) Fee 8 is collected principally from vessels in the Alaska trade.

(j) Fee 9 shall be collected from foreign vessels only.

(k) Fee 10 shall be collected for each copy of any official document, whether certified or not, furnished to any person other than a Government officer. (R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

PART 5—CUSTOMS RELATIONS WITH CONTIGUOUS FOREIGN TERRITORY

Sec.
5.1 Imports from contiguous countries; manifests; report of arrival; permits.
5.2 Vessels and vehicles; overtime services of customs officers; lading and unlading; permits.
5.3 Vessels under frontier enrollment and license; repairs and equipment; sea and saloon stores and supplies.
5.4 Inspection of baggage from contiguous foreign country.
5.5 Examination of baggage in foreign territory.
5.6 Merchandise arriving from a contiguous foreign country in sealed vessels or vehicles.
5.7 Supplies on international trains.
5.8 Merchandise in transit between ports in the United States through contiguous foreign territory; procedure at port of exit or lading on vessel.
5.9 Transhipment; storage; feeding and watering livestock in Canada.
5.10 Diversion or delay in foreign territory; procedure and treatment at port of reentry or discharge from vessel.
5.11 Merchandise in transit through the United States between ports of Canada or Mexico; procedure.
5.12 Locomotives; railroad equipment; when entry required.
5.13 Stolen automobiles, trailers, and airplanes returned to United States; entry not required.
5.14 Grain from Canada to be ground and returned; exemption from duty.
5.15 Buildings on boundary; merchandise deposited therein.

§ 5.1 *Imports from contiguous countries; manifests; report of arrival; permits.* (a) The master or person in charge of a vessel of less than 5 net tons carrying merchandise [1] or of a vehicle arriving in the United States from a contiguous country [2] shall report arrival to

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[123] "The High Contracting Parties agree that vessels and rescue apparatus, public or private, of either country, may aid or assist vessels of their own nationality, including the passengers and crews thereof, which may be disabled or in distress on the shores or within the territorial waters of the other country within a radius of seven hundred and twenty nautical miles of the intersection of the International Boundary Line and the coast of the Pacific Ocean, or within a radius of two hundred nautical miles of the intersection of the International Boundary Line and the coast of the Gulf of Mexico." (49 Stat. 3360)

[127] "Every collector, comptroller, and surveyor shall cause to be affixed, and constantly kept in some public and conspicuous place of his office, a fair table of the rates of fees * * * demandable by law, and shall give a receipt for the fees received by him, specifying the particulars whenever required so to do; and for every failure so to do, he shall be liable to a penalty of $100, recoverable to the use of the informer." (19 U. S. C. 59)

[1] For report of arrival, entry and clearance of vessels of 5 net tons or over, see Part 4 of this chapter.

[2] "The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or ve-

the collector and shall file a manifest with him. The provisions of sections 433, 434, 435, and 448, Tariff Act of 1930, shall not apply to such vessels. Clearance of such vessels shall not be required.

(b) The manifest shall be in duplicate and sworn to before the collector or other customs officer authorized to administer oaths. Customs Form 7533–A shall be used to manifest baggage arriving in baggage cars. Customs Form 5119 or 5119–A may be used in lieu of other forms of customs manifest when the value of the merchandise does not exceed $100. In all other cases the manifest shall be on customs Form 7533. Merchandise imported by a person otherwise than in a vessel or vehicle need not be covered by a manifest, but the importer shall report his arrival, present such merchandise for inspection, and make entry therefor, if required, in accordance with the applicable laws and regulations.

(c) The penalty of $100 for failure to report and the penalty of $100 for proceeding inland without a permit, imposed by section 460, Tariff Act of 1930, as amended,[3] apply in every case where a vehicle is involved whether or not the vehicle is carrying merchandise, passengers, or baggage. Such penalties apply with respect to vessels of less than 5 net tons only when such vessels are carrying merchandise or baggage.

(d) No merchandise shall be discharged or landed before a permit therefor is issued nor shall any passengers or baggage be landed without prior approval of the collector, who may require an application and permit, customs Form 3851 (modified) When an entry for merchandise is filed, the permit to release may be regarded as the permit to unlade or to proceed farther inland. An immediate delivery permit, customs Form 3461, shall be similarly regarded. (Sec. 459, 46 Stat. 717, sec. 10 (a) (b) 52 Stat. 1082, sec. 624, 46 Stat. 759; 19 U. S. C. 1459, 1460, 1624)

§ 5.2 *Vessels and vehicles; overtime services of customs officers; lading and unlading; permits.* (a) When services of customs officers are required at night or on Sunday or a holiday upon arrival from a contiguous foreign country of a vessel of less than 5 net tons carrying merchandise or of a vehicle in connection with the unlading of passengers, or the lading or unlading of merchandise or baggage, an application and permit, customs Form 3851, and a request for overtime services, customs Form 3853, shall be filed.

(b) Overtime services other than those specified in paragraph (a) of this section may be secured by filing a request therefor on customs Form 3853.

(c) To secure the payment for overtime services, a bond on customs Form 7567 or 7569 shall be filed, except that, when a carrier has on file a bond on customs Form 3587, no further bond shall be required solely by reason of unlading at night or on a Sunday or holiday of merchandise or baggage covered by bonded transportation entries.

(d) The provisions of § 4.30 of this chapter shall apply to vessels arriving from contiguous countries. A term permit may be issued in connection with a vessel of less than 5 net tons in the manner and under the conditions prescribed in § 4.30 (e) and (f) of this chapter. A term license or permit to unlade or lade may also be issued to a common carrier by vehicle for any of the periods permitted by § 4.30 (e) and (f) of this chapter when an application as prescribed therein and any required bond are on file. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 5.3 *Vessels under frontier enrollment and license; repairs and equipment; sea and saloon stores and supplies.* (a) The statement of the cost of repairs made or equipment taken on board a vessel in contiguous foreign territory, required to be filed by section 465, Tariff Act of 1930,[4] shall be sworn to by the master on customs Form 3415. If no equipment has been purchased or repairs made, the affidavit shall be made on customs Form 3417. Equipment purchased and repairs made in a foreign country are subject to duty, but such duty may be remitted under certain conditions. (See § 4.14 of this chapter.)

(b) The master shall also make oath before the collector that any supplies listed as "sea stores" are intended for the exclusive use of the vessel. If the quantities thereof are excessive, duties shall be paid on the excess.

(c) Supplies listed as "saloon stores," intended for sale on board the vessel, are dutiable and shall be entered as merchandise. (Secs. 465, 624, 46 Stat. 718, 759; 19 U. S. C. 1465, 1624)

§ 5.4 *Inspection of baggage from contiguous foreign country.* Customs officers shall not open baggage for the purpose of making the inspection required by section 461, Tariff Act of 1930,[5] but shall detain such baggage until its owner or his agent opens or refuses to open it. If the owner or his agent refuses to open the baggage, it shall be opened and examined in accordance with the provisions of section 462, Tariff Act of 1930,[6] unless a request is received from the owner or his agent to make other proper disposition thereof.[7] Customs officers shall not unlock a vehicle or a compartment thereof for the purpose of examining baggage unless the owner or operator refuses to unlock such vehicle or compartment. (Secs. 461, 462, 624, 46 Stat. 717, 718, 759; 19 U. S. C. 1461, 1462, 1624)

§ 5.5 *Examination of baggage in foreign territory.* (a) United States customs officers stationed in foreign terri-

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hicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicles shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection." (Tariff Act of 1930, sec. 459, as amended; 19 U. S. C. 1459)

[3] "The master of any vessel or the person in charge of any vehicle who fails to report arrival in the United States as required by the preceding section, or if so reporting proceeds further inland without a permit from the proper customs officer, shall be subject to a penalty of $100 for each offense. If any merchandise is imported or brought into the United States in any vessel or vehicle, or by any person otherwise than in a vessel or vehicle, from a contiguous country, which vessel, vehicle, or merchandise is not so reported to the proper customs officers; or if the master of such vessel or the person in charge of such vehicle fails to file a manifest for the merchandise carried therein, or discharges or lands such merchandise without a permit; such merchandise and the vessel or vehicle, if any, in which it was imported or brought into the United States shall be subject to forfeiture; and the master of such vessel or the person in charge of such vehicle, or the person importing or bringing in merchandise otherwise than in a vessel or vehicle, shall, in addition to any other penalty, be liable to a penalty equal to the value of the merchandise which was not reported, or not included in the manifest, or which was discharged or landed without a permit. If any vessel or vehicle not so reported carries any passenger; or if any passenger is discharged or landed from any such vessel or vehicle before it is so reported, or after such report but without a permit; the master of the vessel or the person in charge of the vehicle shall, in addition to any other penalty, be liable to a penalty of $500 for each passenger so carried, discharged, or landed." (Tariff Act of 1930, sec. 460, as amended; 19 U. S. C. 1460)

[4] "The master of any vessel of the United States documented to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers shall, upon arrival from a foreign contiguous territory, file with the manifest of such vessel a detailed list of all samples or other merchandise purchased in such foreign country for use or sale on such vessel, and also a statement of the cost of all repairs to and all equipment taken on board such vessel. * * * If any such supplies, merchandise, repairs, or equipment shall not be reported, the master, * * * or other person having charge of such vessel * * * shall be liable to a fine of not less than $100 and not more than $500, or to imprisonment for not more than two years, or both." (Tariff Act of 1930, sec. 465; 19 U. S. C. 1465)

[5] "All merchandise and baggage imported or brought in from any contiguous country, except as otherwise provided by law or by regulations of the Secretary of the Treasury, shall be unladen in the presence of and be inspected by a customs officer at the first port of entry at which the same shall arrive; and such officer may require the owner, or his agent, or other person having charge or possession of any trunk, traveling bag, sack, valise, or other container or of any closed vehicle, to open the same for inspection, or to furnish a key or other means for opening the same." (Tariff Act of 1930, sec. 461; 19 U. S. C. 1461)

[6] "If such owner, agent, or other person shall fail to comply with his demand, the officer shall retain such trunk, traveling bag, sack, valise, or other container or closed vehicle, and open the same, and, as soon thereafter as may be practicable, examine the contents, and if any article subject to duty or any article the importation of which is prohibited is found therein, the whole contents and the container or vehicle shall be subject to forfeiture." (Tariff Act of 1930, sec. 462; 19 U. S. C. 1462)

[7] For procedure relative to the examination of uninspected baggage, form of declaration, exemption, and forwarding baggage in bond, see §§ 10.16–10.30 of this chapter.

tory for that purpose may examine baggage being forwarded under baggage check, by express or in chartered cars of persons destined to the United States who have made proper declaration therefor, when requested to do so by such persons, but, except as to baggage being forwarded under baggage check, such examination shall not be made of baggage containing articles for which the $100 or $300 exemption is claimed under paragraph 1798, Tariff Act of 1930, as amended. After such examination the customs officer shall place the baggage in the custody of the carrier under United States customs cords and blue-button seals, with a special manifest on white cardboard 2½ by 4½ inches in size, in the following form, attached to each piece on the cord back of the seal:

UNITED STATES CUSTOMS

SPECIAL MANIFEST

Check No. _____

This baggage is in transit from _____ to _____ in the United States.

This baggage has been carefully examined and passed by me and corded, sealed, and laden under my personal supervision, and there are no goods of any kind subject to duty contained therein except that on which proper exemption has been allowed.

Date _____

Passenger's name _____

Number declared for _____

Exemption allowed _____

_____

U. S. Customs Officer

(b) In lieu of cording and sealing, such baggage may be laden in cars or compartments sealed with United States customs in-transit blue Tyden seals. The sealed cars or compartments shall be accompanied by a sheet manifest prepared in duplicate in the following form:

UNITED STATES CUSTOMS

SPECIAL MANIFEST OF BAGGAGE FORWARDED IN SEALED CAR OR COMPARTMENT

This baggage is in transit from _____ to _____ in the United States.

Car No. _____

Check No	Destination	Passenger's name	Number declared for	Exemption allowed

The above-described baggage has been examined carefully and passed by me; its lading and the sealing of the car or compartment have been done under my personal supervision; and no goods of any kind subject to duty are contained in such baggage except that on which proper exemption has been allowed.

Date_____

_____

U. S. Customs Officer

(c) One copy of this manifest shall be given to the railroad employee in charge of the baggage for delivery by him to the customs officer at the port of first arrival in the United States.

(d) The cord may not be cut nor the seal removed from corded and sealed baggage, nor may any customs seal be removed from the car or compartment by any person other than a customs officer. The cord on the baggage shall be cut and the seal or seals removed from the car or compartment by the customs officer who boards the train at the port of first arrival. If the officer finds that the seals are not intact or for any other reason believes that the baggage has been tampered with en route to the United States, he shall detain the baggage for examination, except as provided for in § 18.3 (c) of this chapter.

(e) If the baggage is to reenter foreign contiguous territory before it reaches the final port of entry into the United States, the cord shall be cut or the seal or seals removed by the customs officer at the first port of entry in the United States after the last transit through foreign territory.

(f) No baggage containing dutiable merchandise in excess of that on which an exemption may be allowed shall be passed in foreign territory. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 5.6 *Merchandise arriving from a contiguous foreign country in sealed vessels or vehicles.* Merchandise arriving from a contiguous foreign country, which is not to be unladen at the port of first arrival, may be transported to destination in sealed vessels or vehicles without inspection at the port of first arrival, subject to the conditions set forth in sections 463 and 464, Tariff Act of 1930,[8] and §§ 18.29–18.31 of this chapter. (Secs. 463, 464, 46 Stat. 718; 19 U. S. C. 1463, 1464)

§ 5.7 *Supplies on international trains.* (a) Articles subject to internal-revenue tax and other merchandise acquired in a foreign country constituting supplies of dining, observation, or buffet cars attached to international trains passing and repassing the boundary line, for which the train crew elects not to file an inventory, as provided for in paragraph (b) of this section, shall be subject to duty and tax unless locked or sealed in a separate compartment or locker upon arrival at the frontier port of the United States and the lock or seal remains unbroken until the final departure of the train from the United States at the frontier port.

(b) Supplies acquired abroad and not required to have internal-revenue stamps affixed thereto before release for consumption may be used in the United States if covered by an inventory furnished in triplicate to the proper customs officer at the time of arrival in the United States.[9] The correctness of the inventory shall be sworn to by the person in charge of the railroad car. The inventory shall consist of an itemized list showing in parallel columns the kind and quantity of each class of supplies on hand in the car upon its arrival in the United States and the quantity used in the United States.

(c) The customs officer shall certify all copies of the inventory, retain the original, and return the other copies to the person in charge of the car.

(d) Upon arrival of the railroad car at the port of exit on its return to the foreign country, the two copies of the inventory which were returned by the customs officer at the port of arrival to the person in charge of the car shall be submitted to the proper customs officer after being completed by filling in the column showing the quantity of each item used in the United States and resworn to by the person in charge of the car.

(e) Entries must be filed and duties paid at the port of exit on the quantities of inventoried supplies consumed in the United States.

(f) Supplies purchased in the United States shall be passed free of duty without inventory or entry. (R. S. 251, secs. 465, 624, 46 Stat. 718, 759; 19 U. S. C. 66, 1465, 1624)

§ 5.8 *Merchandise in transit between ports in the United States through contiguous foreign territory; procedure at port of exit or lading on vessel.* (a) In accordance with the provisions of section 554, Tariff Act of 1930,[10] merchandise may be transported from one port to another in the United States through Can-

[8] "To avoid unnecessary inspection of merchandise imported from a contiguous country at the first port of arrival, the master of the vessel or the person in charge of the vehicle in which such merchandise is imported may apply to the customs officer of the United States stationed in the place from which such merchandise is shipped, and such officer may seal such vessel or vehicle. Any vessel or vehicle so sealed may proceed with such merchandise to the port of destination under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 463; 19 U. S. C. 1463)

"If the master of such vessel or the person in charge of any such vehicle fails to proceed with reasonable promptness to the port of destination and to deliver such vessel or vehicle to the proper officers of the customs, or fails to proceed in accordance with such regulations of the Secretary of the Treasury, or unlades such merchandise or any part thereof at other than such port of destination, or disposes of any such merchandise by sale or otherwise, he shall be guilty of a felony and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than five years, or both; and any such vessel or vehicle, with its contents, shall be subject to forfeiture." (Tariff Act of 1930, sec. 464; 19 U. S. C. 1464)

[9] "* * * The conductor or person in charge of any railway car arriving from a contiguous country shall file with the manifest of such car a detailed list of all supplies or other merchandise purchased in such foreign country for use in the United States. If any such supplies, merchandise, repairs, or equipment shall not be reported, the master, conductor, or other person having charge of such vessel or vehicle shall be liable to a fine of not less than $100 and not more than $500, or to imprisonment for not more than two years, or both." (Tariff Act of 1930, sec. 465; 19 U. S. C. 1465)

[10] "With the consent of the proper authorities, imported merchandise, in bond or duty-paid, and products and manufactures of the United States may be transported from one port to another in the United States through contiguous countries, under such regulations as the Secretary of the Treasury shall prescribe, unless such transportation is in violation of section 4347 of the Revised Statutes, as amended, section 27 of the Merchant Marine Act, 1920, or section 583 of this Act." (Tariff Act of 1930, sec. 554; 19 U. S. C. 1554)

ada or Mexico without being subject to treatment as an importation when returned to the United States, upon compliance with the regulations in this section and in §§ 5.9 and 5.10.

(b) The merchandise shall be transported in sealed conveyances or compartments unless (1) it is in less-than-load or compartment lots, in which case the packages may be forwarded without being corded and sealed, or (2) it consists of live animals to be transported in accordance with paragraph (c) of this section, or (3) its treatment in the same manner as less-than-load or compartment lots is authorized by the Bureau. The merchandise shall be covered by manifests conforming to such requirements as to color, size, form, and content as the Commissioner of Customs may specify for particular types of transactions. If the Commissioner has not promulgated applicable specifications, the manifest forms shall be printed on yellow paper, approximately 5¾ by 6½ inches in size, and shall correspond to the following example in which geographical designations have been inserted solely for the purpose of illustration.

Name of carrier

U. S. CUSTOMS IN-TRANSIT MANIFEST

Car No. and Initials:

Port of Exit:
Buffalo, N. Y (Fort Erie, Ont.)

Description of articles: ---

Port of Reentry

Port Huron, Mich	☐	
Sarnia, Ontario	☐	
Niagara Falls, N. Y		☐
Niagara Falls, Ontario		☐
Detroit, Mich	☐	
Windsor, Ontario	☐	
St. Albans, Vt		☐
Lacolle, Quebec		☐
---	☐	
---		☐

Agent of carrier

U. S. Customs

Date

I certify that above car number and initials are correct and that customs seals are intact and locked.

Inspector

It will be noted that the name of the port of exit is followed by the name of the foreign port of entry and that the names of the ports of reentry are followed by the names of the foreign ports of exit. The names of the foreign ports may be omitted. In the case of a conveyance other than a railroad car, the conveyance shall be identified in a suitable manner, as by the name and rig of a vessel, in the place provided for car number and initials, and the inspector's certificate shall be modified appropriately.

(c) Live animals which can be identified by specific description in the manifest may be transported in the care of an attendant or customs inspector at the expense of the parties in interest in conveyances or compartments not secured with customs seals.

(d) The information contained in the in-transit manifest shall correspond with the information contained in the waybill accompanying the conveyance.

(e) Each manifest shall be presented by the carrier to the customs officer at the port of exit of the conveyance or at the port of lading of the vessel, as the case may be. When the merchandise is to be transshipped under customs supervision in foreign territory, an additional copy of the manifest shall be so presented by the carrier for each place of transshipment. In lieu of any improvised record of the transaction, an extra copy of the manifest may be required in any case provided it serves an essential administrative purpose. In the case of mixed ladings, that is ladings made up of several shipments, the description shall be "miscellaneous shipments." When such ladings are to be transshipped in foreign territory and the transshipment may involve the breaking up or consolidation of such mixed ladings, the manifest for the conveyance shall be on a long form, preferably 8 by 10½ inches, instead of on the short form prescribed in paragraph (b) of this section, and as to each shipment in the conveyance shall show, in addition to the information required on the short form, the name of the consignee, the final destination, the marks and numbers of the packages, and the number of packages.

(f) Before the departure from the United States of an in-transit railroad train, the carrier concerned shall furnish to the customs inspector at the port of exit a train sheet, otherwise known as a consist, bridge sheet, or trip sheet, listing each car of the train and specifically indicating the in-transit cars.

(g) It shall be the duty of the carrier to affix blue in-transit seals to all openings of conveyances and compartments containing in-transit merchandise, except that conveyances or compartments already secured by red in-bond seals may go forward without having blue in-transit seals affixed thereto and without in-transit manifests. The conveyance shall not proceed until after the customs inspector has finished his inspection.

(h) The original manifest shall accompany the merchandise and the additional copies required when transshipment is involved shall be mailed by the customs officer to the customs officers stationed at the places of transshipment. When by reason of the carrier's schedule or other condition it is probable that the additional copy of the manifest if sent by mail will not reach the customs officer at the place of transshipment prior to the arrival of the merchandise, it may be given to the conductor, master, air commander, or driver, as the case may be, in a sealed envelope for delivery to such customs officer. (Sec. 554, 46 Stat. 743; 19 U. S. C. 1554)

§ 5.9 *Transshipment; storage; feeding and watering livestock in Canada.* (a) Merchandise in transit may be transshipped in foreign territory from one conveyance to another under the supervision of a customs officer, who shall also supervise the sealing of the conveyances or compartments to which the merchandise is transshiped, note his action on both the additional copy of the manifest received by him in accordance with § 5.8 (h) and on the conductor's, master's, air commander's, or driver's copy, and return the latter to the conductor, master, air commander, or driver to accompany the merchandise.

(b) When the transshipment involves the breaking up of the in-transit contents of a conveyance or compartment, and the circumstances are such as to require separate manifests for articles previously covered by a single manifest, the customs officer supervising the transshipment shall take up the carrier's copy of the manifest and require the carrier to prepare a new manifest, in duplicate, for each conveyance to which the merchandise is transshipped. If there is to be a further transshipment, an additional copy of each new manifest shall be presented for mailing by the customs officer to the customs officer at the point of further transshipment, or be forwarded in a sealed envelope in care of the conductor, master, air commander, or driver as provided for in § 5.8 (h) After supervising the transshipment and sealing of the conveyances or compartments to which the merchandise is transshipped, the customs officer shall sign or initial the new manifests and return the originals of such new manifests to the carrier to accompany the merchandise. If the transshipping results in mixed ladings, except when the lading is into a vessel, the long form of manifest, referred to in § 5.8 (e), shall be used.

(c) Live animals in sealed conveyances or compartments may be fed and watered in Canada under the supervision of United States or Canadian customs officers.

(d) When merchandise under in-transit manifests is to be stored in foreign territory awaiting transshipment, the customs officer at the place of transshipment shall check the merchandise into a storehouse, where it shall remain under customs locks or seals until transshipment is effected under custom supervision. (Sec. 554, 46 Stat. 743; 19 U. S. C. 1554)

§ 5.10 *Diversion or delay in foreign territory; procedure and treatment at port of reentry or discharge from vessel.* (a) In cases where in-transit cars are diverted, cut out of a train for any reason, or unusually delayed, the railroad superintendent at the point of such diversion, cut-out, or delay shall immediately notify the proper customs officer at the port of reentry by telegraph.

(b) When customs entry is made in Canada or Mexico for merchandise which left the United States in an in-transit status, the carrier shall send the in-transit seals and manifests to the ports where the manifests were first filed with customs, with an endorsement by the carriers' agent on each manifest showing that the merchandise was so entered.

(c) On arrival of an in-transit shipment at the first port in the United States after transportation through foreign territory, the carrier shall present

to the customs officer for each loaded conveyance a manifest or manifests, signed or initialed by a customs officer at the port of exit, or the port of lading in the case of a vessel, or the place of transshipment when the merchandise has been transshipped in foreign territory and in the case of a railroad train the conductor shall also present a train sheet showing the initials, car numbers, and port of exit of each car in the train. In the case of mixed ladings under § 5.8 (e) the waybills shall be available at the port of return or discharge for use by customs officers for necessary checking purposes.

(d) Upon the arrival at a port of entry of a vessel carrying in-transit merchandise, the master's copies of the in-transit or in-bond manifests covering the merchandise given final customs release at that port shall be retained by customs at that port and the manifests, if any, covering merchandise to be discharged at subsequent ports of arrival shall be returned to the master of the vessel for surrender to customs at the next port, and so on as the vessel proceeds from port to port.

(e) In-bond seals shall be broken only by a customs officer or by a person acting under the direction of a customs officer. In-transit seals may be broken by any carrier's employee, or by the consignee at any time or place after the merchandise under such seals has been released by customs upon return to the United States.

(f) Merchandise which shall have left the United States under in-transit seals but which shall have been transshipped in foreign territory without United States customs supervision shall, upon return to the United States, be treated in the same manner as other merchandise arriving from Canada or Mexico, as the case may be. Similar treatment shall be accorded the merchandise if the inspector finds any of the seals applied to the conveyance or compartment at the port of exit are unlocked or missing. If any cases of substitution of merchandise are found, the merchandise shall be detained and the facts reported to the Bureau.

(g) No in-transit merchandise arriving at ports in the United States shall be released until proper manifests are received, except that it may be treated as originating in Canada or Mexico, as the case may be.

(h) No inward foreign manifests are required for merchandise returned to the United States as an in-transit movement under the regulations in this part. (Sec. 554, 46 Stat. 743; 19 U. S. C. 1554)

§ 5.11 *Merchandise in transit through the United States between ports of Canada or Mexico; procedure.* (a) Whenever merchandise, (including baggage) whether in carload or less-than-carload lots, arrives at a frontier port under Canadian or Mexican customs seals in transit through the United States to the same country from which it arrived, the same procedure shall be followed as that prescribed for merchandise in transit through the United States to foreign countries (§§ 18.14 and 18.20–18.24 of this chapter) except that only three copies of customs Form 7512 or 7520 shall be required, and except that, when the route is such that the train and cars will remain intact while proceeding through the United States, a consolidated train manifest containing the same information as is required on customs Form 7512 or 7520 may be used. One copy of customs Form 7512 or 7520 shall be delivered to the conductor, master, or person in charge to accompany the conveyance and be delivered to the collector at destination for his record.

(b) When any such merchandise (including baggage) arrives without Canadian or Mexican customs seals, the regular procedure governing transportation and exportation shall be followed, unless the Commissioner has authorized some other special procedure. (Sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087; 19 U. S. C. 1553)

§ 5.12 *Locomotives; railroad equipment; when entry required.* (a) Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing the boundary into the United States shall be admitted without entry or the payment of duty to proceed to and return from the end of the run; that is, in the case of locomotives, the last place to which the locomotive takes the inbound train by a continuous haul, and, in the case of other equipment, the place of complete unloading. Unless formally entered and cleared through customs in the United States, such locomotives or other equipment shall not be used on the inward trip otherwise than in connection with the continuous run, which includes switching of cars of a train that it has hauled into the United States. On the return trip, the locomotives may be used only in connection with through trains crossing the boundary, including the switching to make up such trains, but the other equipment may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt return to the country from which it entered the United States. Empty foreign railroad cars shall enter the United States without formal entry to be loaded only if the passengers or goods are to be transported directly to or through the country from which the cars entered the United States. Customs officers shall seize any locomotive or other railroad equipment used in violation of this regulation as being imported contrary to law.

(b) Domestic locomotives or other domestic railroad equipment,[11] upon which repairs have been made in a foreign country shall be subject, upon reentry into the United States, to a duty upon the value of the repairs at the rate at which the locomotive or other equipment would be dutiable if imported, but no such duty shall be assessed by reason of repairs required to restore any such article to the condition in which it last left the United States. A report of the first arrival in the United States of such equipment after it has been repaired in a foreign country shall be made promptly, in writing, to the United States Customs at the port of entry, such report to state the time and place of arrival. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 5.13 *Stolen automobiles, trailers, and airplanes returned to United States; entry not required.* Collectors of customs shall admit from Mexico, under the provisions of Executive Order 7965, dated August 29, 1938, 3 CFR 1943 Cum. Supp., without entry and without the payment of duty, alleged stolen or embezzled motor vehicles, trailers, airplanes, or component parts of any of them, if accompanied by a letter from the United States Embassy in Mexico City stating that such Embassy is satisfied from information furnished it that the property, which must be adequately described in the letter for identification purposes, is stolen property being returned to the United States under the provisions of the convention between the United States and Mexico concluded October 6, 1936. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624. E. O. 7965, Aug. 29, 1938, 3 F. R. 2106, 3 CFR, 1943 Cum. Supp.)

§ 5.14 *Grain from Canada to be ground and returned; exemption from duty.* (a) When grain is brought into the United States by Canadian farmers to be ground and returned under the provisions of section 193, Title 19, United States Code,[12] and the mill at which such grain is to be ground is not located at a port of entry, a deposit of the duties on such grain shall be taken, such deposit to be refunded upon receipt of the sworn statement of the owner of the mill that the said grain has been received at the mill and of evidence satisfactory to the collector that the product of the grinding thereof, less any toll, has been returned to Canada.

(b) A statement from the owners of the mill, showing that they are citizens of the United States, shall be filed with the collector. An account shall be kept by the miller in a proper register to be open to inspection by any customs officer, showing the name of the farmer bringing any such grain to the mill, the nature of the grain, the dates of its receipt by him and of its delivery, the quantity received at the mill, the quantity of ground products delivered to the farmer, and the quantity of grain taken

[11] For the purpose of this section, locomotives or other railroad equipment manufactured in, or regularly imported into, the United States, and not subsequently cleared through foreign customs into another country, nor used in foreign local traffic otherwise than as an incident of the return of the equipment to the United States, shall be considered "domestic." Other railroad equipment shall be considered "foreign."

[12] "Grain brought into the United States in wagons or other ordinary road vehicles, by farmers residing in the Dominion of Canada, to be ground by mills owned by citizens of the United States, shall not be deemed to be imported or liable to import duties. Such grains shall be brought into the United States under such regulations as the Treasury Department may prescribe to prevent fraud and evasion, and shall be returned as in like manner provided by such regulations. Entry shall be made of and duties paid upon all such grain as shall be taken or received by mill owners as tolls for such grinding, under like regulations provided by the Treasury Department." (19 U. S. C. 193)

as tolls for grinding. The miller shall produce a sworn statement of such quantities at the end of each month to the collector, and shall then enter the grain received as tolls and pay the duties due thereon.

(c) Duties shall be paid on any grain, or manufactures thereof, not removed from the mill for transportation to Canada within 1 month from the date of its receipt by the miller. Such grain may be mixed, provided the entire product of the grinding be returned to Canada with the exception of the tolls and other portions on which duty has been paid. (22 Stat. 402, 19 U. S. C. 193)

§ 5.15 *Buildings on boundary; merchandise deposited therein.* When any merchandise on which the duty has not been paid or which was imported contrary to law is found in any building upon or within 10 feet of the boundary line between the United States and any foreign country, such merchandise shall be seized and the building or that portion thereof which is within the United States shall be taken down or removed.[18] (18 U. S. C. 547; secs. 595, 624, 46 Stat. 752, 759, 19 U. S. C. 1595, 1625)

PART 6—AIR COMMERCE REGULATIONS

Sec.

6.1 Regulation and supervision.
6.2 Scope and definitions.
6.3 Landing requirements.
6.4 Entry and clearance.
6.5 Entry of aircraft of scheduled air lines.
6.6 Clearance of aircraft of scheduled air lines.
6.7 Documents.
6.8 Documents for entry.
6.9 Documents for clearance.
6.10 Omission of lists of aliens employed on board aircraft.
6.10a Residue cargo; customs.
6.10b General provisions; customs.
6.10c Public health requirements.
6.10d General provisions; entry and clearance.
6.10e Penalties.
6.11 Airports of entry; regulations.
6.12 List of airports of entry.
6.13 List of temporary airports of entry.

[18] "If any collector of customs or other officer or person authorized to make searches and seizures shall have cause to suspect the presence in any dwelling house, store, or other building or place of any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States contrary to law, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any United States commissioner, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise: *Provided*, That if any such house, store, or other building, or place in which such merchandise shall be found, is upon or within 10 feet of the boundary line between the United States and a foreign country, such portion thereof as is within the United States may forthwith be taken down or removed." (Tariff Act of 1930, sec. 595 (a); 19 U. S. C. 1595 (a))

"Whoever receives or deposits any merchandise in any building upon the boundary line between the United States and any foreign country, or carries any merchandise through the same, in violation of law, shall be fined not more than $5,000 or imprisoned not more than two years, or both." (18 U. S. C. 547)

AUTHORITY: §§ 6.1 to 6.13 issued under R. S. 161, 251, sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 7, 44 Stat. 572, sec. 644, 46 Stat. 761, secs. 367, 602, 58 Stat. 706, 712; 5 U. S. C. 22, 15 U. S. C. 185, 8 U. S. C. 102, 222, 49 U. S. C. 177, 19 U. S. C. 1644, 46 U. S. C. 270, 42 U. S. C. 201 note; sec. 1, Reorg. Plan No. V, 3 CFR, Cum. Supp., Ch. IV, sec. 102, Reorg. Plan No. 3, 3 CFR, 1946 Supp. Ch. IV.

§ 6.1 *Regulation and supervision.* Sections 6.1 to 6.11,[1] are prescribed by the Secretary of the Treasury, the Commissioner of Customs, the Surgeon General of the Public Health Service with the approval of the Federal Security Administrator, and the Attorney General, within their respective authorities, under the Air Commerce Act of 1926, as amended, sections 7 (b) (c) (d) 9 (b) and 11 (b) and (c) (44 Stat. 572; 49 U. S. C. 177 (b) (c) (d) 179 (b), 181 (b) (c)) the Tariff Act of 1930, section 644 (46 Stat. 761, 19 U. S. C. 1644), the Public Health Service Act, sections 215, 361–369 (58 Stat. 690, 703–706; 42 U. S. C. 216, 264–272) Reorganization Plan No. 3 of 1946, section 102 (3 CFR, 1946 Supp., Ch. IV), and Reorganization Plan No. V of the President, section 1 (3 CFR, Cum. Supp., Ch. IV)

§ 6.2 *Scope and definitions.* For the purposes of the regulations contained in this part:

(a) Every paragraph and clause relates to customs, public health, entry, clearance, and immigration, except where it applies only to certain of these matters, which is shown by headnote or context.

(b) The term "United States" when used in a geographical sense means the territory comprising the several states, territories, possessions, and the District of Columbia, including the territorial waters thereof and the overlying air space, but shall not include the Canal Zone.

(c) The term "area" shall mean any one of the following parts of the United States:

(1) The Mainland,

(2) Alaska, but to be regarded as part of the Mainland for immigration purposes,

(3) Hawaii,

(4) Puerto Rico,

(5) Virgin Islands, an area for the purpose of the immigration laws except as provided in further immigration regulations specifically mentioning those islands in 8 CFR Part 116, but shall be regarded as foreign territory for other purposes.

(6) Such area as shall hereafter be specified to include possessions of the United States not mentioned herein.

The regulations in this part shall not be applicable in the Philippine Islands, the Islands of Guam, Midway, American Samoa, Wake, Kingman Reef, and other insular possessions not specified herein, nor to the Virgin Islands, except as specified in subparagraph 5 of this paragraph, until notice supplementary hereto is given.

[1] These regulations entitled "Air Commerce Regulations" appear under three designations, i. e., as §§ 6.1 to 6.11 of this Chapter; 42 CFR 11.501 to 11.516 (Public Health); and 8 CFR 116.1 to 116.16 (Aliens and Nationality).

(d) The term "aircraft" means civil aircraft, that is, any aircraft not used exclusively in the governmental service of the United States or a foreign country, but includes any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(e) The term "aircraft commander" means the person serving on the aircraft having charge or command of its operation and navigation.

(f) The term "scheduled airline" means any individual, partnership, corporation, or association engaged in air transportation upon regular schedules to, over, or away from the United States, or from area to area, and holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity issued pursuant to the Civil Aeronautics Act of 1938.

(g) The term "airport of entry" means any airport designated by the Secretary of the Treasury as a port of entry for aircraft arriving in the United States from any place outside thereof and for the merchandise carried on such aircraft; also by the Attorney General as a port of entry for aliens arriving on such aircraft; and by the Federal Security Administrator as a place for quarantine inspection.

§ 6.3 *Landing requirements*—(a) *Place of landing.* Every aircraft coming into any area from any place outside thereof shall land in such area unless exempted from this requirement by the Administrator of Civil Aeronautics, Washington, D. C. The first landing shall be at an airport of entry unless permission to land elsewhere shall first be granted by the Commissioner of Customs, in the case of aircraft operated by scheduled air lines, and in all other cases by the collector or deputy collector of customs at the port of entry nearest the intended place of landing. When the Commissioner of Customs grants permission to land elsewhere than at an airport of entry, he shall immediately notify the heads of the Public Health Service, the Immigration and Naturalization Service, and of any other agency likely to be concerned with the landing, and, when a collector or deputy collector of customs grants such permission, he shall immediately notify the principal local officer of each such agency. In cases where such permission is given the owner, operator, or person in charge of the aircraft shall pay the additional expenses, if any, incurred in inspecting the aircraft, passengers, employees, merchandise, and baggage carried therein. When such permission is granted to a scheduled airline to land aircraft operating on a schedule, no inspection charge shall be made except for overtime service performed by customs officers and, if the aircraft arrives substantially in accordance with schedules on file with the immigration authorities, no inspection charge shall be made for overtime service by immigration officers.

(b) *Advance notice of arrival.* No aircraft coming into any area from any place outside thereof may land in such area unless notice of the intended flight has been furnished to the collector or deputy collector of customs at the air-

port of entry at or nearest the intended place of first landing in such area; nor unless the same notice has been furnished to the quarantine and the immigration officers in charge at or nearest such place. Such notice shall specify the type of aircraft, the registration marks thereon, the name of the aircraft commander, the place of last departure, the airport of entry, or other place at which landing has been authorized, number of alien passengers, number of citizen passengers, and the estimated time of arrival; and shall be sent so as to be received in sufficient time to enable the officers designated to inspect the aircraft to reach the airport of entry or such other place of first landing prior to the arrival of the aircraft. Such advance notice will not be required in the case of aircraft of a scheduled airline arriving in accordance with the regular schedule filed with the collector of customs for the district in which the place of first landing in the area is situated and also with the immigration officer in charge of such place.

(c) *Permission to discharge or depart.* No aircraft arriving in the United States from any place outside thereof, or in an area from another area carrying residue foreign cargo (see § 6.10a) shall, without receiving permission from the quarantine and the customs officers in charge, depart from the place of landing, or discharge any merchandise, passengers, or baggage; and no aircraft arriving in the United States from any place outside thereof or in an area from another area, except directly from the Mainland, shall discharge any passenger or employee without permission from the immigration officer in charge.

(d) *Monthly and annual requests for overtime services and licenses to unlade and lade.* A special license on customs Form 3851 running for any period up to 1 month and in multiples of months thereafter but not to exceed 1 year nor longer than the period of the supporting bond may be granted to a scheduled air line to unlade merchandise, passengers, or baggage, or to lade merchandise or baggage in the case of any or all of its planes at night or on a Sunday or holiday when customs supervision is required. The application for such a special license shall be on customs Form 3851 supplemented by a request on customs Form 3853 (modified) for overtime services of customs officers. Such request for overtime services must show the exact times when overtime services will be needed unless arrangements are made so that the proper customs officer will be notified during official hours in advance of the services requested as to the exact times that the services will be needed. The special license shall not be granted until the required bond on customs Form 3587, 7567, or 7569 shall have been filed.

(e) *Monthly and annual permits to unlade and lade.* The collector may also issue a permit running for any period up to 1 month, and in multiples of months thereafter but not to exceed 1 year, to unlade or lade during official hours any or all of the planes of a scheduled air line. Customs Form 3851 shall be used for such purpose.

(f) *Emergency or forced landing.* Should any aircraft coming into the United States from any place outside thereof, or into any area from any other area, make a forced landing in the United States, the aircraft commander or operator shall not allow any merchandise or baggage to be removed from the landing place without permission of the customs and quarantine officers, nor allow any passenger or person employed thereon to depart from the landing place without permission of the quarantine and immigration officers, unless such removal or departure is necessary for purposes of safety or the preservation of life or property. As soon as practicable, the aircraft commander, or a member of the crew in charge, or the owner of the aircraft, shall communicate with the customs officer at the intended place of first landing or at the nearest airport of entry or other customs port of entry in that area and also with the nearest quarantine officer and immigration officer and make a full report of the circumstances of the flight and of the emergency or forced landing. Mail carried as such may be removed from such aircraft upon making an emergency or forced landing, but if so removed shall be delivered at once to a responsible officer or employee of the Postal Service.

§ 6.4 *Entry and clearance.* (a) Aircraft coming into any area from any place outside the United States shall be entered in such area if landing is made therein and if carrying passengers for hire or commercial cargo (see § 6.8). Aircraft coming into any area from another area shall be entered in such area if landing is made therein and if carrying residue cargo or passengers other than those departing from the mainland (see § 6.9 (e)) Aircraft not required to enter under this paragraph are subject to other customs or applicable immigration and quarantine requirements (see § 6.3).

(b) Entry shall be made by the aircraft commander at the airport of entry at which the first landing is made in the area. If, pursuant to § 6.3 (a) the first landing occurs at a place not an airport of entry, entry shall be made at the nearest airport of entry or customs port of entry, unless some other place is designated for that purpose by the Commissioner of Customs.

(c) Aircraft departing from any area for foreign territory, or to take aboard or discharge persons or merchandise anywhere outside the United States, or departing from any area for another area carrying passengers that must be listed in clearance declaration (§ 6.9 (b), (e)) or merchandise shall be cleared (see § 6.9) in the area from which departing.

Clearance is not required of aircraft not carrying passengers for hire or merchandise, but such aircraft are subject to certain requirements under the export and import licensing regulations of the Department of State relating to international traffic in arms.

NOTE: Information regarding requirements relating to the licensing for export and import of articles defined as arms, ammunition and implements of war may be obtained at any customhouse. Also, see travel control regulations in 8 CFR, Part 175, which prohibit in some cases the departure of persons from the United States and are enforced by immigration officers.

(d) The clearance shall be obtained by the aircraft commander at the customs port of entry (whether or not an airport of entry) at or nearest the place of last take-off from the area, unless some other place is designated for that purpose by the collector of customs.

(e) This section shall not apply to the entry of aircraft of scheduled air lines complying with the terms of § 6.5, nor to the clearance of such aircraft complying with the terms of § 6.6, nor to the clearance of any aircraft holding a permit issued by the Secretary of Commerce authorizing departure without clearance.

§ 6.5 *Entry of aircraft of scheduled air lines.* (a) Aircraft operated by scheduled air lines coming into the United States from any place outside thereof shall make entry in the area of first landing.

(b) Aircraft operated by scheduled air lines coming from one area into another area shall make entry therein if:

(1) Carrying to or over that area passengers that must be listed in clearance declaration (§ 6.9 (b) (e)) or

(2) Carrying residue cargo (§ 6.10a) or

(3) Carrying merchandise in bond (Part 18 of this chapter)

(c) Entry required by this section in an area shall be made by the aircraft commander at the place of landing provided for under § 6.3.

§ 6.6 *Clearance of aircraft of scheduled air lines.* (a) Aircraft operated by scheduled air lines departing for any place outside the United States may clear from the area of departure, but clearance shall be mandatory only during any period covered by a proclamation of the President that a state of war exists between foreign nations, or the aircraft is:

(1) Beginning a flight in that area; or

(2) Carrying from that area merchandise or such passengers as must be listed in clearance declaration (§ 6.9) or

(3) There are one or more aliens that must be listed on the part of clearance declaration relating to aliens employed (§ 6.9).

(b) Aircraft operated by scheduled air lines departing from any area for another area shall clear in the area from which departing if:

(1) Carrying passengers that must be listed on clearance declaration (§ 6.9 (b), (e)), or

(2) Carrying merchandise.

(c) Clearance required by this section may be obtained by the aircraft commander at the customs port of entry (whether or not an airport of entry) at or nearest each place at which merchandise or passengers, or both, are taken aboard for discharge beyond the area. In such case the clearance shall be limited to the passengers and merchandise taken aboard at such place. Otherwise the clearance shall be obtained at the customs port of entry (whether or not an airport of entry) at or nearest the place of last take-off in

the area unless some other place for clearance is designated by the collector of customs.

§ 6.7 *Documents.* (a) The forms described in §§ 6.8 and 6.9 shall be the primary documents required for entry and clearance of aircraft and the listing of passengers and merchandise carried thereon and aliens employed on board thereof. The forms shall be 8½" wide and 14" long and shall be on white bond paper that will not discolor or become brittle within 20 years. If these forms are dittoed or if the entries on them are to be dittoed, the paper must be substance 40, 17" x 22" 1,000-sheet basis; if printed or typewritten, at least 25% rag, substance 26, 17" x 22" 1,000-sheet basis. These forms and the entries thereon must be dittoed, typewritten, or printed, in the English language, with ink or dye that will not fade or "feather" within 20 years. The forms to be used for the entry and clearance of the aircraft, passengers, crew members, and merchandise carried thereon, except the forms of air cargo manifest and air passenger manifest shall be forms approved by the Commissioner of Customs, the Commissioner of Immigration and Naturalization, and the Surgeon General. The form of air cargo manifest shall be approved by the Commissioner of Customs. The form of air passenger manifest shall be approved by the Commissioner of Immigration and Naturalization.

(b) The forms described in §§ 6.8 and 6.9, except the air passenger manifest, may be obtained from collectors of customs upon prepayment by the owner or operator of the aircraft. A small quantity of each of such form shall be set aside by collectors of customs for free distribution and official use. The forms of air passenger manifest may be obtained upon prepayment from the Superintendent of Documents, Government Printing Office, Washington, D. C. A small quantity of such forms shall be set aside by immigration officers in charge for free distribution and official use. The forms of general declaration and air passenger manifest may be printed or dittoed by private parties, provided the forms so printed or dittoed conform to the officially manufactured forms currently in use, with respect to size, wording, arrangement, style and size of type, and paper specifications.

§ 6.8 *Documents for entry.* (a) At the time any aircraft arriving from outside the United States lands in any area in which making of entry is required by § 6.4 or § 6.5, the aircraft commander shall deliver an aircraft commander's general declaration in accordance with this section. Aircraft arriving in an area from another area shall deliver documents as specified by § 6.9 (e) and § 6.10a.

(b) An aircraft commander's general declaration shall contain the following information:

(1) A crew manifest showing, as to each alien employed in any capacity on board the aircraft, name in full (family name, given name) full permanent address, age, sex, nationality, crew member's certificate number or passport number, country of issue, and date. The list is not required if the aircraft is not arriving from outside the United States or if it is arriving on a trip which originated in Canada, Newfoundland, or the French islands of St. Pierre and Miquelon, or if the information with respect to the crew is furnished in accordance with § 6.10.

(2) A passenger manifest or an air passenger manifest attached to the general declaration. In either case the manifest shall show, as to each passenger, name in full (family name, given name) full permanent address, age, sex, nationality, passport number and date, but if a passenger is a citizen of the United States and has no passport the manifest shall show the date, state, city or town in which the citizen was born if a citizen of the United States by birth, or if a citizen by naturalization the date, name of court and place of naturalization. Also, where required by immigration regulations, there shall be shown on such manifest the serial numbers of entry documents. This subparagraph shall not apply to aircraft arriving on a trip which originated in Canada, Newfoundland, or the French islands of St. Pierre and Miquelon.

(3) Cargo manifest either on the general declaration or on a separate form attached to the general declaration. The cargo manifest on the general declaration, properly executed, having airway bills/consignment notes attached will be acceptable if it bears a notation such as "Express as per airway bills attached" and shows the airway bill or consignment note number, if any. If the airway bills or consignment notes are not attached to the general declaration or to the separate forms of air cargo manifest, the full information required in the cargo manifest on the general declaration shall be furnished. Customs Form 5119 may be used in lieu of the cargo manifest if the merchandise or baggage consists of a single shipment and does not exceed one hundred dollars in value. (For rule applicable to arrival in an area from another area, see § 6.9 (e).)

(4) In the case of aircraft arriving in the United States on a trip which started in contiguous foreign territory, the total number of pieces of accompanied checked baggage on board shall be shown on the air cargo manifest, unless the number of pieces of baggage belonging to each passenger appears opposite the name of each passenger on any air passenger manifest required under these regulations. In the case of aircraft arriving in the United States on a trip which started in noncontiguous foreign territory, the number of pieces of accompanied checked baggage belonging to each passenger shall be shown opposite the name of the passenger on the air passenger manifest or, if an air passenger manifest is not required, on a separate baggage list. Such baggage lists shall contain, in addition to the information mentioned in the preceding sentence, information identifying the flight as specified in the heading of the form of air passenger manifest and that form, appropriately modified, may be used for this purpose. Unaccompanied baggage arriving in the United States under a check number from any foreign country by air shall be shown on the air cargo manifest under the following headings:

Check No.	Description of package	Where from	Destination

On the right of the foregoing information, two blank columns, one headed "Name of Examining Officer" and on the right thereof another column headed "Disposition" shall be provided on the air cargo manifest for use of customs officers. Unaccompanied unchecked baggage arriving as air express or air freight shall be manifested as other air express or freight.

(5) A report showing illness (other than airsickness) that has occurred aboard the aircraft during flight; details of last disinsectization or sanitary treatment, including methods, place, date, and time; and a report of the animals, birds, insects, bacterial cultures, and viruses on board.

(6) Such other information and statements as are required on the general declaration form.

(c) The aircraft commander's general declaration required by this section shall consist of five copies with three copies of each attached air passenger manifest and three copies of each attached air cargo manifest. These documents shall be disposed of as follows:

(1) One copy of the general declaration and one copy of each air passenger manifest, immediately upon the arrival at the customs airport or other first place of landing in an area, shall be delivered by the aircraft commander to the immigration officer in charge at such airport or place.

(2) One copy of the general declaration and one copy of each attached air passenger manifest shall be delivered by the aircraft commander to the quarantine officer.

(3) Two copies of the general declaration, one copy of each attached air passenger manifest, and two copies of each air cargo manifest shall be delivered by the aircraft commander immediately to the customs officer in charge at such airport or place. One copy of the general declaration and one copy of each cargo manifest shall be retained by the aircraft commander and forwarded promptly by him to the comptroller of customs in whose district such airport or place is located.

(4) One copy of the general declaration and one copy of each attached air cargo manifest delivered to the customs officer shall be forwarded by him to the comptroller of customs above mentioned with appropriate notations thereon showing the disposition of the merchandise covered thereby. One copy of the general declaration delivered to the customs officer shall be retained by him as a record of the entry of the aircraft.

(5) With respect to transit crew and passengers, that is, such crewmen and passengers as do not move out of a special prescribed space at the airport or other place of landing, any and all copies delivered to the immigration officer, whether original or not, of the general declaration and attached air passenger manifests referred to in this section or in § 6.9 (e) (2) shall be returned by the

immigration officer to the commander of the aircraft upon its departure from that airport or other place of landing, but this paragraph shall not apply in the mainland except with respect to an aircraft of a scheduled airline and such documents shall not be returned at the airport or place at which the last landing in such a case is made in the mainland.

(d) The provisions of section 466, Tariff Act of 1930, are applicable to any such aircraft of United States registry engaged in trade arriving in the United States, as defined in section 401 (k), Tariff Act of 1930, whether from a contiguous or noncontiguous foreign country, and a notation as to any equipment installed on any such aircraft or repairs made thereto in a foreign country shall be made in the aircraft journey log book, which shall set forth a general description of the equipment or repairs and a statement of the necessity therefor. The aircraft commander, on the first subsequent arrival of the aircraft in the United States, shall exhibit the journey log book to the customs officer at the port of arrival. Except as specified hereafter in this paragraph, such equipment and repairs shall be subject to entry and deposit of duty as prescribed by § 4.14 of this chapter. Entry and deposit of duty on such equipment or repairs shall not be required if (1) the aircraft belongs to a scheduled air line operating between the United States and foreign countries, (2) the aircraft commander executes and files with the entry of the aircraft an affidavit in the form set forth below, and (3) the collector is satisfied from an inspection of the journey log book and such further investigation as he may deem necessary that the facts with respect to the installation of the equipment and making of repairs were as set forth in such affidavit.

AFFIDAVIT RESPECTING EQUIPMENT PURCHASED FOR OR REPAIRS MADE TO UNITED STATES AIRCRAFT WHILE IN A FOREIGN COUNTRY

District No. _____
Port of _____
Date _____

I, _____, the person in command of aircraft No. _____, flight No. _____, now entering from _____, declare that the installation of equipment and making of repairs noted in the journey log book of such aircraft exhibited herewith were necessary by reason of stress of weather or other casualty occurring since last leaving the United States and were required to secure the safety and airworthiness of the aircraft in accordance with Civil Aeronautics Administration regulations to enable the aircraft to continue its scheduled flight; or that the equipment installed and materials used in making the repairs were of the growth, produce, or manufacture of the United States and the work incident to such installation or repairs was performed by the regular crew of the aircraft or by residents of the United States.

_____
(Aircraft commander)

Declared to under oath before me this _____ day of _____, 19__.

_____
(Title or designation)

(e) The provisions of section 446, Tariff Act of 1930 (19 U. S. C. 1446) relating to supplies and stores retained on board, shall be applicable to aircraft arriving in the United States from any foreign port or place.

§ 6.9 *Documents for clearance.* (a) At the time of the departure of any aircraft from any area from which clearance is required by § 6.4 or § 6.6, the aircraft commander shall deliver:

(1) Shipper's export declarations on Commerce Form 7525 to the customs officer in charge for all cargo on the aircraft (also for the aircraft itself if being exported from the United States for foreign account) and

(2) An aircraft commander's general declaration in accordance with this section. The above documents may be filed pro forma if the aircraft is departing from the United States and prior to departure a proper bond is given, and the completed documents are delivered pursuant thereto not later than the fourth day after departure, *Provided*, That during any period covered by a proclamation of the President that a state of war exists between foreign nations no aircraft shall be cleared for a foreign port until the shipper's export declarations have been filed with the customs officer in charge.

CROSS REFERENCE: For export of aircraft, see pamphlet International Traffic in Arms—Laws and Regulations Administered by the Secretary of State Governing the International Traffic in Arms, Ammunition, and Implements of War and Other Munitions of War, and supplements thereto.

(b) The general declaration shall be on the same form as is required by § 6.8. Any air passenger manifest and any air cargo manifest delivered with the general declaration shall also be on the same forms as are required by § 6.8, with the following exceptions:

(1) Manifesting of members of crew may be omitted if they are departing from the Mainland or Alaska, destined to Mexico, Canada, Newfoundland, St. Pierre, or Miquelon; or if information with respect to the crew is furnished as is required by § 6.10.

(2) Manifesting of passengers is not required if they are departing from the Mainland or Alaska, destined to Mexico, Canada, Newfoundland, St. Pierre, or Miquelon.

(c) When the aircraft is departing from the United States, the aircraft commander's general declaration required by this section shall be in triplicate, with one copy of each air passenger manifest and one copy of each air cargo manifest. One copy of the general declaration and one copy of each air passenger manifest shall be filed promptly by the aircraft commander with the immigration officer in charge. One copy of the general declaration and one copy of each air cargo manifest shall be delivered by the aircraft commander to the customs officer in charge to be retained by him as a record of outward clearance.

(d) One copy of the general declaration for departure from the United States shall constitute a clearance certificate when endorsed by the customs officer in charge to show that clearance is granted.

(e) When the aircraft is departing from one area to another area, the aircraft commander's general declaration and the air passenger manifest shall be in duplicate if the aircraft is carrying to or over that area passengers other than those departing from the mainland; with two extra copies of the general declaration and two copies of the air cargo manifest if the aircraft is carrying residue cargo (§ 6.10a) or is carrying merchandise in bond (Part 18 of this chapter). One copy of the general declaration must have the endorsement of the customs officer in the area from which departing that permit to proceed is granted, but this requirement shall not apply unless the aircraft is carrying residue cargo, or the commander, owner, or operator of the aircraft and the customs officer in charge have been notified by the immigration officer that fines and liabilities under the immigration laws appear to have been incurred in connection with the aircraft and payment thereof has not been made or secured by sufficient deposit or bond. These copies shall be disposed of by the aircraft commander as follows:

(1) One copy of the general declaration and one copy of the air passenger manifest shall be delivered to the immigration officer in the area from which the aircraft is departing and shall be retained by him.

(2) One copy of the general declaration and one copy of the air cargo manifest shall be delivered to the customs officer in the area from which the aircraft is departing and shall be retained by him.

(3) One copy of the general declaration and one copy of the air passenger manifest shall be delivered by the commander to the immigration officer at the place of entry in the other area for use there as a list of arriving passengers.

(4) One copy of the general declaration and one copy of the air cargo manifest shall be delivered by the aircraft commander to the customs officer in charge at such place of entry, to be retained by such officer as the coastal manifest.

(f) If the aircraft is to proceed from Hawaii directly to the mainland, the immigration examination of passengers and crew and final determination of their admissibility to the mainland shall be completed before they depart for the mainland. With respect to passengers who are found to be United States citizens through primary inspection, by boards of special inquiry, or through appeal proceedings from the decisions of such boards, or who are by any such procedures found to be aliens admissible to the mainland, the special procedure shall be as follows:

(1) The general declaration and the air passenger manifests, as required by this section for immigration purposes, shall be in triplicate and shall be delivered by the aircraft commander to the immigration officer in charge in Hawaii.

(2) Each copy of the air passenger manifest shall be endorsed and signed

by such officer in Hawaii to show which passengers are admissible as citizens of the United States and which passengers are admissible as aliens.

(3) One copy of the general declaration and of each air passenger manifest shall be returned by the immigration officer in Hawaii to the aircraft commander with the signed endorsement that the passengers who are departing on the aircraft for the mainland are correctly listed. The immigration officer in Hawaii shall verify that the passengers, as listed on the manifest, depart on the aircraft.

(4) One copy of the general declaration and one copy of each air passenger manifest shall be forwarded by the immigration officer in Hawaii by mail to the district director of immigration and naturalization of the district which embraces the airport to which the manifest states the aircraft is destined in the mainland.

(5) One copy of the general declaration and of each air passenger manifest shall be retained by such immigration officer in Hawaii.

(6) Upon arrival in the mainland, the copy of the general declaration and of each air passenger manifest that was returned to the commander by the immigration officer in Hawaii shall be endorsed and signed by the commander to show the place and date of arrival on the mainland. Such copies shall then be transmitted immediately by him to the district director of immigration and naturalization of the district which embraces the place at which the aircraft first lands in the mainland. Such copies and the copies sent by the immigration officer in Hawaii shall be compared to verify that they are in agreement. The place and date of arrival on the mainland shall be the record port and date of arrival for immigration purposes in the cases of aliens not admitted to the mainland for permanent residence. In the cases of all other aliens admitted at Hawaii, the place and date of arrival there shall be the record port and date of arrival for immigration purposes.

(7) No alien shall be brought from Hawaii to the mainland unless found by the immigration authorities in Hawaii to be admissible to the United States (the mainland) Where a passenger makes a substantial claim to United States citizenship which is impracticable to determine in Hawaii, and the passenger desires to proceed by air to the mainland, he may be permitted by the immigration officer in charge in Hawaii to do so, subject to inspection and decision as to his status upon arrival in the mainland. In such case, copies of the general declaration and passenger manifest shall be furnished as prescribed in paragraph (e) of this section. In the case of such passengers, the aircraft commander shall notify the immigration officer at or nearest the place of intended first landing on the mainland sufficiently in advance of arrival there for an immigrant inspector to meet the aircraft for the purpose of inspecting the passengers upon arrival there.

(8) Airmen serving on aircraft arriving from outside the United States and intending to proceed from Hawaii to the mainland will be inspected in Hawaii by the immigration authorities there, and any period of airport leave granted there to alien airmen will apply also to the mainland. Airmen serving on an aircraft arriving in the mainland directly from Hawaii will be presumed to have been found in Hawaii to be United States citizens or alien airmen entitled to usual airport leave, except in such cases as the district director of immigration and naturalization for the district embracing the place to which the aircraft is destined to the mainland is informed to the contrary by the immigration officer in charge in Hawaii. The information shall be furnished sufficiently in advance of the arrival of the aircraft in the mainland for an immigrant inspector to meet the aircraft. The place and date of arrival in Hawaii of an alien admitted there as an airman shall be the record port and date of arrival for immigration purposes.

(9) On Sundays and legal holidays and between 5 p. m. on any day and 8 a. m. on the following day, the immigration inspection of passengers beginning a trip in Hawaii by aircraft to the mainland shall be paid for at the extra rates of compensation, respectively, prescribed by the act of March 2, 1931, as amended (8 U.S.C. 109a, 109b) The extra compensation shall be borne by the owner, operator, or agent of the aircraft and be paid in accordance with the regulations now in force under that act as amended or hereafter promulgated thereunder. For the purposes of this paragraph, verifying the departure of passengers by aircraft from Hawaii to the mainland is immigration inspection.

§ 6.10 *Omission of lists of aliens employed on board aircraft.* The information required by §§ 6.8 and 6.9 as to aliens employed on board an aircraft may be omitted from the crew manifest in the general declaration in the case of aircraft operated by a scheduled air line if its schedules and a list (on a form approved by the Commissioner of Immigration and Naturalization) of such information as to all aliens employed on board the aircraft have been filed by the operator of the aircraft with the immigration officer in charge at the airport of arrival (and at the airport of departure if other than the airport of arrival) shown on such schedules. From that list such officer shall keep as to each alien a card record on a form prescribed by the Commissioner of Immigration and Naturalization. Whenever an alien so listed shall be left in a hospital in the United States or ceases to be in the employ of the operator, the latter shall file with such immigration officer at such airport a report covering the date, place, and manner of leaving the alien in a hospital or the discontinuance of his employment. The name, place, and date of employment of any other or additional alien on board, for inclusion in the list so filed, shall be reported promptly by the operator to such immigration officer at such airport.

§ 6.10a *Residue cargo; customs.* (a) Tariff Act of 1930, section 442 (19 U. S. C. 1442)

* * * Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to port or from district to district for the unlading thereof.

(b) Tariff Act of 1930, section 443 (19 U. S. C. 1443)

Merchandise arriving in any vessel for delivery in different districts or ports of entry shall be described in the manifest in the order of the districts or ports at or in which the same is to be unladen. Before any vessel arriving in the United States with any such merchandise shall depart from the port of first arrival, the master shall obtain from the collector a permit therefor with a certified copy of the vessel's manifest showing the quantities and particulars of the merchandise entered at such port of entry and of that remaining on board.

(c) Tariff Act of 1930, section 444 (19 U. S. C. 1444)

Within twenty-four hours after the arrival of such vessel at another port of entry, the master shall report the arrival of his vessel to the collector at such port and shall produce the permit issued by the collector at the port of first arrival, together with a certified copy of his manifest.

(d) *Cargo destined beyond port of first entry.* Aircraft arriving in the United States with cargo on board shown by the manifest to be destined to other ports in the same or in other areas of the United States or outside the United States may be permitted to proceed with such cargo from port to port in the United States or to a foreign country for the unlading thereof under the procedure prescribed in paragraph (e) of this section, upon the giving of a bond on customs Form 7567 or 7569. When such aircraft has on board no merchandise from any place outside the United States and if no bond on customs Form 7567 or 7569 is on file covering such aircraft, but immediate clearance is requested, a bond on customs Form 7301, "Bond of vessel or aircraft to produce complete manifest and/or export declarations," shall be required.

(e) *Documents.* When applying for clearance from the airport or place of first entry in the United States the aircraft commander shall present to the collector an air commander's general declaration and air cargo manifests in duplicate covering all the foreign cargo retained on board for discharge at other domestic or foreign ports, together with one copy of the complete general declaration and air cargo manifest filed on entry at such port. If clearance is in order one of the duplicate general declarations shall bear a stamped, mimeographed, or printed certificate signed by the appropriate customs officer to show that permission is granted to the aircraft to proceed to another port of landing. This certificate shall be substantially in the form shown below:

PERMIT TO PROCEED FROM A PORT TO ANOTHER PORT

Permission is hereby given to aircraft described on the face hereof, having on board the articles described on manifest attached hereto, to proceed to _____. The aircraft above, having arrived from and being destined to the points indicated on the face hereof, is proceeding to discharge residue cargo as listed on attached manifest. Bond was taken at initial airport of entry for cargo retained on board. Items of cargo manifested for delivery at this port appear to have been landed. The following clearance has been performed for residue crew, passengers, cargo, and mail on board at:

1st arrival port:	2d arrival port:	
_____	//////////////////	Crew members cleared only by Public Health.
_____	//////////////////	Passengers cleared only by Public Health.
_____	_____	Passengers not cleared by Immigration and Customs.
_____	_____	Pieces of cargo not cleared.
_____	_____	Pieces of mail not cleared.

Given under my hand at _____ this _____ day of _____, 19_____.

_____
(Customs officer, 1st port of arrival) (Title)

Given under my hand at _____ this _____ day of _____, 19_____.

_____
(Customs officer, 2d port of arrival) (Title)

DECLARATION ON ARRIVAL AT SECOND PORT FROM FIRST PORT

Airport of arrival, _____

I, _____, Commander of the aircraft described on the face hereof, declare and guarantee that there were not, when I departed from the airport of _____ nor have been since, nor now are, any more or other goods, wares or merchandise on board than are stated in the manifests attached hereto.

_____
(Aircraft commander)

DECLARATION ON ARRIVAL AT THIRD PORT FROM SECOND PORT

Airport of arrival, _____

I, _____, Commander of the aircraft described on the face hereof, declare and guarantee that there were not, when I departed from the airport of _____ nor have been since, nor now are, any more or other goods, wares or merchandise on board than are stated in the manifests attached hereto.

_____
(Aircraft commander)

These duplicate general declarations and air cargo manifests together with the copy of the complete general declaration and air cargo manifest shall be returned to the aircraft commander for deposit at the next port. The same procedure shall be followed at following ports for residue cargo to be retained on board for discharge at other ports or places, except that the complete general declaration and air cargo manifest certified at the first port of entry and returned to the aircraft commander for deposit at the next port shall continue to be used as the traveling manifest to accompany any remaining residue cargo to other domestic ports for discharge and shall be retained in the files of the collector of customs at the last domestic port where inward foreign cargo is discharged.

(f) The provisions of this section shall be applicable to aircraft arriving in the United States from either contiguous or noncontiguous foreign territory. Except as specified in this section, the customs regulation requirements applicable to residue vessel cargo shall apply to residue aircraft cargo.[4]

§ 6.10b *General provisions; customs.* Except as otherwise in the regulations in this part provided, aircraft arriving from contiguous foreign territory and the persons, merchandise, and baggage carried thereon shall be subject to the customs laws and regulations applicable to vehicles arriving from contiguous foreign territory and aircraft, and the passengers and merchandise and baggage carried thereon, arriving from any other place outside the United States, shall be subject to the customs laws and regulations applicable to vessels so arriving, insofar as such laws and regulations are applicable to aircraft.

[4] CROSS REFERENCE: For residue vessel cargo, see § 4.85 of this chapter.

§ 6.10c *Public health requirements—* (a) *Release by Public Health Service.* When an aircraft subject to quarantine inspection in accordance with 42 CFR Part 71, arrives at an airport of entry or other place of first landing, the aircraft commander shall be responsible for the detention of the aircraft, its crew and passengers until they are released by the quarantine officer at the airport of entry or other place of first landing. Any mail, baggage, cargo, or other contents on board such aircraft shall be held at such airport or place until released by the quarantine officer. (For procedure in case of emergency or forced landing, see § 6.3 (f).)

(b) *Restrictions on boarding aircraft and contacting personnel.* Except with the permission of the quarantine officer, no person other than the quarantine officer and quarantine employees shall be permitted to board any aircraft subject to quarantine inspection or to have contact with the crew or passengers of such aircraft until quarantine inspection of the aircraft, crew, and passengers has been completed. The same restrictions as those imposed on the crew and passengers shall be imposed on a person boarding such aircraft or having contact with a passenger or member of the crew when the quarantine officer considers such contact a possible means of spreading a quarantinable disease.

(c) *Special sanitary treatment.* Any aircraft arriving from any foreign port or place which the quarantine officer declares to be of such menace that it cannot be adequately or safely handled at the airport of first or intended landing shall be required to proceed with all passengers and persons employed on board and all mail, baggage, cargo, or other contents on board, as may be designated by such officer, to an airport indicated by such officer to have adequate facilities for such treatment as shall be prescribed by him.

(d) *Disinsectization of aircraft.*[5] An aircraft bound for any port in the United States from any port in a region designated as a yellow fever area by the Surgeon General of the Public Health Service for the purposes of this section or from any other region where yellow fever may have appeared shall be disinsectized in all compartments not later than thirty minutes prior to landing. The insecticide used and method of disinsectization shall be those prescribed by the Surgeon General of the Public Health Service. When on arrival of an aircraft from any yellow fever region the quarantine officer, after inspection, determines that the aircraft has not been adequately disinsectized, the aircraft shall be kept tightly closed and disinsectization completed before discharge of passengers, crew, mail, baggage, cargo, or other material. No person other than quarantine officials shall be allowed on board until disinsectization is completed. Additional requirements for disinsectization of aircraft flying to or from certain regions may be prescribed by the Surgeon General of the Public Health Service when necessary to prevent the importation or spread of insect vectors of disease.

(e) *Insecticide and method of disinsectization.* The following insecticides and disinsectization method are prescribed pursuant to paragraph (d) of this section:

(1) The insecticide shall be either Insecticidal Aerosol G–382, the formula of which is given below, or an insecticide found by the Surgeon General of the Public Health Service, upon application by an interested person, to be substantially as effective as Insecticidal Aerosol G–382;

FORMULA FOR INSECTICIDAL AEROSOL G–382

	Percent by weight
Pyrethrum extract, purified (20% pyrethrins)	5
DDT (aerosol grade)	3
Cyclohexanone	5
Lubricating oil (SAE 30)	2
Freon "12"	85

(2) The method of disinsectization shall be as follows:

(i) The insecticide shall be dispensed in the amount of not less than 5 grams for each 1,000 cu. ft. of enclosed space in the aircraft, and shall be released or sprayed throughout all accessible compartments.

(ii) Disinsectization may be accomplished either while the aircraft is in flight or while on the ground prior to take-off, but in no case shall disinsectization be accomplished later than 30 minutes prior to the first landing at a United States port.

(iii) The ventilation system shall be stopped and all openings to the exterior

[5] At airports where the hazard of introducing disease-carrying insects exists, it is the policy of the United States Public Health Service to conduct "entomological surveillance" of the airport area. This surveillance consists of periodic entomological surveys carried on by entomologists or trained representatives for the purpose of the early detection and prompt eradication of any insect which may unknowingly have been introduced by aircraft.

kept closed while the insecticide is being released or sprayed, and for a period of not less than 3 minutes thereafter. If disinsectization is accomplished on the ground prior to take-off, the ventilation system may be opened at the end of such period: *Provided,* That the system is equipped with filters or other means for preventing the entrance of insects into the aircraft, but doors, windows, or other such openings to the exterior shall be kept closed until after the take-off, except in the case of emergency, or to permit persons applying the insecticide to debark.

(f) *General provisions.* The regulations appearing elsewhere in 42 CFR Part 71, are applicable to aircraft and to passengers, merchandise, and baggage carried thereon, in the absence of express provision to the contrary.

§ 6.10d *General provisions; entry and clearance.* All navigation laws and regulations pertaining to the entry and clearance of vessels shall apply to civil aircraft to such extent and upon such conditions as are specified in the regulations in this part.

§ 6.10e *Penalties.* (a) Any person violating any customs regulations relating to aircraft or any provision of the customs laws or regulations made applicable to aircraft by § 6.10b shall be subject to a civil penalty of $500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture, as provided for in the customs laws. Such penalty and forfeiture may be remitted or mitigated by the Secretary of the Treasury.

(b) Any person violating any public health regulation relating to aircraft or any provision of the public health laws or regulations made applicable to aircraft by § 6.10c shall be subject to punishment by fine or imprisonment as provided for in section 368 (a) of the Public Health Service Act (42 U. S. C. 271 (a)) Any aircraft which violates any public health regulation relating to aircraft or any provision of the public health laws or regulations made applicable to aircraft by § 6.10c shall be subject to forfeiture as provided in section 368 (b) of the Public Health Service Act (42 U. S. C. 217 (b)) Such forfeiture may be remitted or mitigated by the Surgeon General with the approval of the Federal Security Administrator.

(c) Any person violating any of the provisions of the regulations in this part relating to the entry and clearance of aircraft under the laws and regulations administered by the Secretary of Commerce shall be subject to a civil penalty of $500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture in accordance with the provisions of the Air Commerce Act of 1926, as amended. Such penalty and forfeiture may be remitted or mitigated by the Secretary of Commerce.

(d) For the penalty for any violation of the regulations in this part relating to immigration, see further regulations in 8 CFR Part 116 applying immigration laws and regulations to civil air navigation.

(e) Liability to penalties with respect to any one of the sets of laws, that is, the customs laws, the public health laws, the entry and clearance laws, and the immigration laws, under which the regulations in this part are prescribed, shall be separate from such liability with respect to any other set of such laws.[7]

§ 6.11 *Airports of entry; regulations.* (a) Airports of entry will be designated after due investigation to establish the fact that a sufficient need exists in any particular district or area to justify such designation and to determine the airport best suited for such purpose.

(b) A specific airport will be designated in each case, rather than a general area or district which may include several airports.

(c) The designation as an airport of entry may be withdrawn if it is found that the volume of business clearing through the port does not justify maintenance of inspection equipment and personnel, if proper facilities are not provided and maintained by the airport, if the rules and regulations of the Federal Government are not complied with, or if it be found that some other location would be more advantageous.

(d) Airports of entry shall be municipal airports, unless particular conditions which prevail warrant a departure from such requirement, and shall be possessed of a currently effective designation as a "Designated Landing Area" issued by the Administrator of Civil Aeronautics. Additional requirements may be imposed as the needs of the district or area to be served by the airport may demand.

(e) Airports of entry shall provide without cost to the Federal Government suitable office and other space for the exclusive use of Federal officials connected with the port. A suitable surfaced loading area in each case shall be provided by the airport at a convenient location with respect to such office space. Such loading area shall be reserved for the use of aircraft entering or clearing through the airport.

(f) Airports of entry shall be open to all aircraft for entry and clearance purposes and no charge shall be made for the use of said airports for such purposes. However, in cases where airports of entry authorize any such aircraft to use such airports for the taking on or discharging of passengers or cargo, or as a base for other commercial operations or for private operations, this paragraph shall not be interpreted to mean that charges may not be made for such commercial or private use of such airports.

(g) All aircraft entering or clearing through airports of entry shall receive the required servicing by airport personnel promptly and in the order of arrival or preparation for departure without discrimination. The charges made for such servicing shall in no case exceed the schedule of charges prevailing at the airport in question. A copy of said schedule of charges shall be posted in a conspicuous place at the office space provided for the use of Federal officials connected with the port.

[7] With respect to other laws and regulations relating to aircraft, inquiry may be made of the collector of customs.

(h) Airports of entry shall adopt and enforce observance of such requirements for the operation of airports, including airport rules, as may be prescribed or recommended by the Civil Aeronautics Administration. (R. S. 161, 251, sec. 644, 46 Stat. 761, sec. 7, 44 Stat. 572, sec. 5, 27 Stat. 451, sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166; 5 U. S. C. 22, 19 U. S. C. 66, 1644, 49 U. S. C. 177, 42 U. S. C. 94, 8 U. S. C. 102, 222. Secs. 201 (a), 205 (b), President's Reorg. Plan No. I, sec. 1, President's Reorg. Plan No. V; 5 U. S. C. 133t note. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 6.12 *List of airports of entry.*[8] The following is a list of airports of entry designated by the Secretary of the Treasury without time limit:

Location:	*Name*
Albany, N. Y.	Municipal Field.
Akron, Ohio	Municipal Airport.
Baudette, Minn.	Baudette Municipal Airport.
Bellingham, Wash.	Bellingham Airport.
Brownsville, Tex.	Rio Grande Valley International Airport.
Buffalo, N. Y.	Municipal Airport.
Burlington, Vt.	Burlington Municipal Airport.

[8] "(b) *Designation of ports of entry; detail of officers; application of customs and public health laws.* The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other independent establishment under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs and public health laws to such extent and upon such conditions as he deems necessary.

"(c) *Application of laws relating to entry and clearance of vessels.* The Secretary of Commerce is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

"(d) *Designation of ports of entry for aliens; detail of officers; application of laws relating to immigration.* The Attorney General is authorized to (1) designate any of the ports of entry for civil aircraft as ports of entry for aliens arriving by aircraft, (2) detail to such ports of entry such officers and employees of the immigration service as he may deem necessary, and to confer or impose upon any employee of the United States stationed at such port of entry (with the consent of the head of the Government department or other independent establishment under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the immigration service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the immigration laws to such extent and upon such conditions as he deems necessary." (49 U. S. C., 177 (b), (c), (d))

Location—Con.	Name
Calexico, Calif.	Calexico Municipal Airport.
Caribou, Maine	Caribou Municipal Airport.
Cleveland, Ohio	Cleveland Municipal Airport.
Cut Bank, Mont.	Cut Bank Airport.
Detroit, Mich.	Detroit Municipal Airport.
Detroit, Mich.	Wayne County Airport.
Douglas, Ariz.	Douglas Airport.
Duluth, Minn.	Duluth Municipal Airport.
Duluth, Minn.	Sky Harbor Seaplane Base.
Eagle Pass, Tex.	Eagle Pass Airport.
El Paso, Tex.	Municipal Airport.
Fairbanks, Alaska	Weeks Municipal Airport.
Fort Yukon, Alaska	Fort Yukon Airfield.
Grand Forks, N. Dak.	Grand Forks Municipal Airport.
Great Falls, Mont.	Gore Field.
Havre, Mont.	Havre - Hill County Airport.
International Falls, Minn.	International Falls Municipal Airport.
Juneau, Alaska	C. A. A. Field.
Juneau, Alaska	Juneau Airport.
Ketchikan, Alaska	Ketchikan Airport.
Key West, Fla.	Meacham Field.
Laredo, Tex.	Laredo Municipal Airport.
Malone, N. Y.	Malone-Dufort Airport.
Massena, N. Y.	Massena Airport.
Miami, Fla.	Chalks Flying Service Seaplane Base.
Miami, Fla.	Pan-American Field (or 36th Street).
Nogales, Ariz.	Nogales International Airport.
Ogdensburg, N. Y.	Ogdensburg Harbor.
Ogdensburg, N. Y.	Ogdensburg Municipal Airport.
Pembina, N. Dak.	Fort Pembina Airport.
Portal, N. Dak.	Portal Airport.
Port Townsend, Wash.	Port Townsend Airport.
Put in Bay, Ohio	Put in Bay Airport.
Rochester, N. Y.	Rochester Municipal Airport.
Rouses Point, N. Y.	Rouses Point Seaplane Base.
San Diego, Calif.	San Diego Municipal Airport (Lindbergh Field).
San Juan, P. R.	Isla Grande Airport.
Sault Ste. Marie, Mich.	Sault Ste. Marie Airport.
Sandusky, Ohio	John G. Hindo Airport.
Seattle, Wash.	Boeing Municipal Air Field.
Seattle, Wash.	Lake Union.
Skagway, Alaska	Skagway Municipal Airport.
Spokane, Wash.	Felts Field.
Swanton, Vt.	Warren R. Austin Airport.
Watertown, N. Y.	Watertown Municipal Airport.
Wrangell, Alaska	Wrangell Seaplane Base.

(Sec. 7 (b) 44 Stat. 572; 49 U. S. C. 177 (b))

§ 6.13 *List of temporary airports of entry.* The following is a list of airports of entry designated or redesignated by the Secretary of the Treasury for temporary periods:

Location	Name	Period 1 year from—	T. D.	13 F. R.
Oroville, Wash.	Dorothy Scott Municipal Airport	June 1, 1948	51997	2499
Oroville, Wash.	Dorothy Scott Seaplane Base	June 1, 1948	51997	2499

(Sec. 7 (b) 44 Stat. 572; 49 U. S. C. 177 (b))

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION[1]

Sec.

7.1 Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.
7.8 Guam, Wake Island, Midway Islands, Kingman Reef, and American Samoa.
7.9 Virgin Islands.
7.10 Swan Islands.
7.11 Guantanamo Bay Naval Station.

§ 7.1 *Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.* (a) When spirits and wines are withdrawn from a bonded manufacturing warehouse for shipment in bond to Puerto Rico pursuant to section 311, Tariff Act of 1930, as amended,[2] the warehouse withdrawal shall contain on the face thereof a statement of the kind and quantity of all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines. The duty assessed on the imported merchandise and containers so used, and their classification and value, shall be shown on the withdrawal in accordance with § 8.34 of this chapter. If no imported merchandise or containers have been used, the warehouse withdrawal shall bear an endorsement to that effect. (See § 22.26 of this chapter.)

(b) The spirits and wines shall be forwarded in accordance with the general provisions of the regulations governing the transportation of merchandise in bond, Part 18 of this chapter.

(c) A regular entry shall be made for all foreign-grown coffee shipped to Puerto Rico from the United States, but consular invoices shall not be required for such shipments.[3] (Secs. 319, 424, 624, 46 Stat. 696, 722, 759, sec. 311, 46 Stat. 691, sec. 404, 49 Stat. 1160; 19 U. S. C. 1319, 1484 (a) 1624, 1311)

§ 7.8 *Guam, Wake Island, Midway Islands, Kingman Reef, and American Samoa.* (a) Merchandise arriving in the United States from Guam, Wake Island, Midway Islands, Kingman Reef, or American Samoa[4] shall be entered but shall be admitted free of duty if accompanied by a certificate of the chief customs officer at the port of shipment showing such merchandise to be the growth or product of those islands or actual importations into the islands. Merchandise arriving from those islands for which no such certificate is furnished shall be subject to duty as if imported from a foreign country. In the absence of such a certificate at the time of entry, a bond on customs Form 7551, 7553, or other appropriate form, may be given for its production. Shipments by mail or otherwise, valued at $10 or less, if the growth or product of those islands, are not required to be accompanied by such certificates; but in the case of shipments claimed to be actual importations into said islands, the proper certificate shall be required as a condition to admission free of duty, regardless of the value of the shipment.

(b) Except as prescribed in § 8.15 of this chapter, invoices certified by the chief customs officer in Guam, Wake Island, Midway Islands, Kingman Reef, or American Samoa shall be required in connection with the entry of all dutiable merchandise from those islands in shipments valued at more than $100. When merchandise is covered by a certificate of origin or of actual importation into those islands, no certified invoice is required.

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[1] "All laws affecting imports of articles, goods, wares, and merchandise from foreign countries shall apply to articles, goods, wares, and merchandise and persons coming from the Canal Zone, Isthmus of Panama, and seeking entry into any State or Territory of the United States or the District of Columbia." (33 Stat. 843; 19 U. S. C. 126)

The customs administration of the said Canal Zone is under the jurisdiction of the Governor of the Panama Canal. (T. Ds. 26163, 28815, 30254, 30448, 39402, C. D. 530)

For the treaty between the United States and the Republic of Panama see 33 Stat. 2234.

[2] " • • • Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, • • •" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[3] Section 319, Tariff Act of 1930, authorizes the Legislature of Puerto Rico to impose a duty on coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United States, and the Legislature of Puerto Rico has imposed such a duty.

[4] Guam, Wake Island, Midway Islands, Kingman Reef, and American Samoa are American territory, but not within the customs territory of the United States. Importations into those islands are not governed by the Tariff Act of 1930 or these customs regulations. The customs administration of these islands is under the jurisdiction of the Department of the Navy.

(c) Merchandise may be withdrawn from bonded warehouse under section 557, Tariff Act of 1930, as amended, for shipment to Guam, Wake Island, Midway Islands, Kingman Reef, and American Samoa without payment of duty, or with refund of duty if the duty has been paid thereon, in like manner as for exportation to foreign countries. No drawback of customs duties is allowable under section 313, Tariff Act of 1930, on articles manufactured or produced in the United States with the use of imported merchandise and shipped to Guam, Wake Island, Midway Islands, Kingman Reef, or American Samoa. No drawback of internal-revenue tax is allowable under section 313 of the tariff act on articles manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands, or Kingman Reef. (See § 22.26 of this chapter) (R. S. 251, secs. 313, 482, 624, 46 Stat. 693, 720, 759, sec. 557, 46 Stat. 744, secs. 2, 22 (a) 23 (a) 52 Stat. 1077, 1087, 1088; 19 U. S. C. 66, 1313, 1482, (f), 1557, 1624; sec. 3, act of July 22, 1941, 55 Stat. 602; 19 U. S. C. 1309)

§ 7.9 *Virgin Islands.* (a) When articles coming into the United States from the Virgin Islands in shipments valued at more than $10 are sought to be admitted free of duty under the provisions of section 1394, title 48, United States Code,[15] there shall be filed in connection with the entry a certificate of origin on Treasury Department Special Form No. 1, signed by the collector or deputy collector of customs at the port of shipment in the Virgin Islands. Such certificate shall not be required for shipments by mail or otherwise valued at $10 or less.

(b) When merchandise arrives unaccompanied by a certificate of origin, or when any document necessary to complete entry is lacking, a bond for the production thereof may be taken on customs Form 7551, 7553, or other appropriate form, except that a bond for the production of a bill of lading shall be taken on customs Form 7581.

(c) Except as prescribed in § 8.15 of this chapter, invoices certified by the collector or a deputy collector of customs in the Virgin Islands shall be required in connection with the entry of all dutiable merchandise from those islands in shipments valued at more than $100. When merchandise is covered by a certificate of origin, no certified invoice shall be required.

(d) Merchandise may be withdrawn from bonded warehouse under section 557, Tariff Act of 1930, as amended, for shipment to the Virgin Islands without payment of duty, or with benefit of drawback if the duties have been paid thereon, in like manner as for exportation to foreign countries. No drawback can be allowed under section 313, Tariff Act of 1930, on articles manufactured or produced in the United States with the use of imported merchandise and shipped to the Virgin Islands. (See § 22.2 of this chapter.) (R. S. 251, secs. 482, 624, 46 Stat. 720, 759; 19 U. S. C., 66, 1482 (f), 1624)

§ 7.10 *Swan Islands.* Products of the Swan Islands brought into the United States shall be admitted free of duty, provided evidence of their origin as such products is furnished in connection with entries filed therefor. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

§ 7.11 *Guantanamo Bay Naval Station.* Articles of foreign origin may enter the area (both land and water) of the Guantanamo Bay Naval Station free of duty, but such articles shall be subject to duty upon their subsequent entry into the United States. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

[15] "There shall be levied, collected, and paid upon all articles coming into the United States or its possessions from the Virgin Islands the rates of duty and internal-revenue taxes which are required to be levied, collected, and paid upon like articles imported from foreign countries: *Provided,* That all articles, the growth or product of, or manufactured in, such islands, from materials the growth or product of such islands or of the United States, or of both, or which do not contain foreign materials to the value of more than 20 per centum of their total value, upon which no drawback of customs duties has been allowed therein, coming into the United States from such islands shall be admitted free of duty." (48 U. S. C. 1394)

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

LIABILITIES FOR DUTIES

Sec.
8.1 Liability of importer for duties.
8.2 Reimportation; liability for duties on.

ENTRY

8.3 Entry required; importations not exceeding $1 in value.
8.4 Filing of entry; date of entry; date of importation.
8.5 Examination of merchandise prior to entry.
8.6 Evidence of right to make entry, legal representative of consignee; nonresident consignee; foreign corporation; underwriters and salvors.
8.7 Disposition of bill of lading or carrier's certificate.
8.8 Requirements on entry.
8.9 Invoice to be filed with entry.
8.10 Entry on triplicate invoices.
8.11 Invoice to be for single shipment; extracts from invoices.
8.12 Invoices for installment shipments arriving within a period of 7 days; entry.
8.13 Contents of invoices; incomplete invoices; general requirements supplemented.
8.14 Mode of certification of invoices; fee stamps to be affixed.
8.15 When certified invoices not required.
8.16 Entered value; importers may add to or deduct from the invoice value.
8.17 Additions because of advances by appraiser pending reappraisement.
8.18 Declaration on entry.
8.19 Powers of attorney.
8.20 Incomplete entry; bonds for the production of documents.
8.21 Estimation of duties; classification.
8.22 Designation of merchandise to be examined.
8.23 Release of merchandise.
8.24 Release of merchandise in customs custody after liquidation; merchandise refused by consignee.
8.25 Liens for freight, charges, or contribution in general average.
8.26 Recall of merchandise released from customs custody; requests of appraiser for additional packages or quantities.

ENTRY FOR CONSUMPTION

8.27 Form of entry.
8.28 Release under bond; deposit of estimated duties; permit.
8.29 Release of packages.

ENTRY FOR WAREHOUSE

8.30 Form and contents; articles entitled to entry.
8.31 Estimation of duties; bond.
8.32 Liability of importers and sureties.

ENTRY FOR REWAREHOUSE

8.33 Procedure.
8.34 Value and classification; protest.

COMBINED ENTRY FOR REWAREHOUSE AND WITHDRAWAL FOR CONSUMPTION

8.35 Form; procedure.

EXPORTATION UNDER WAREHOUSE WITHDRAWAL FOR TRANSPORTATION

8.36 Procedure.

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR CONSUMPTION

8.37 Withdrawal; form and contents.
8.38 Withdrawal; when completed.
8.39 Withdrawal by transferee.
8.40 Withdrawals before and after liquidation.

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR EXPORTATION

8.41 Form and contents; goods not laden.
8.42 Withdrawal before liquidation.
8.43 Weight, gauge, or measure.
8.45 Parcel-post packages.

ZINC AND LEAD-BEARING ORES; CRUDE COPPER-BEARING MATERIALS; CRUDE METALS

8.46 Entry and sampling of lead-bearing and zinc-bearing ores not for smelting in bond; transportation bond required.
8.47 Entry and sampling of crude copper-bearing materials not for smelting or refining in bond.
8.48 Sampling and assaying.

ENTRY FOR EXPORTATION, ENTRY BY APPRAISEMENT, INFORMAL ENTRIES, AND PACKED PACKAGES

8.49 Entry for exportation; merchandise unentered or rejected, exportation of.
8.50 Entry by appraisement.
8.51 Informal entries.
8.52 Packed packages; marking; entry; when entry not required.

SPECIAL-DELIVERY PACKAGES

8.53 Application.
8.54 Marking; packages not entitled to special entry.
8.55 Liquidation; release.
8.56 Bond.
8.57 Cording and sealing; returned packages; refund of duty.
8.58 Invoice.

LANDING AND DELIVERY OF ARTICLES FOR WHICH IMMEDIATE DELIVERY IS NECESSARY

8.59 Application; entry; procedure.

LIABILITY FOR DUTIES

§ 8.1 *Liability of importer for duties.* (a) Unless otherwise specially provided for by law, duties accrue upon imported merchandise on arrival of the importing vessel within a customs port with intent then and there to unlade, or at the time of arrival within the limits of the United States if the merchandise arrives otherwise than by vessel.

(b) Unless relieved by law or regulations, the liability for duties, both regular and additional, attaching on importation constitutes a personal debt due from

the importer to the United States which can be discharged only by payment in full of all duties legally accruing. It may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without such payment. It also constitutes a lien upon the merchandise imported which may be enforced while such merchandise is in the custody or subject to the control of the United States.

(c) In case of the importer's death or insolvency, the Government's claim against his estate for unpaid duties has priority over obligations to creditors other than the United States.[1]

(d) The states and their instrumentalities are entitled to no constitutional exemption from the payment of customs duties. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 8.2 *Reimportation; liability for duties on.* Dutiable merchandise imported and afterwards exported, although duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the United States; but this does not apply to:

(a) Personal and household effects taken abroad by a resident of the United States and brought back on his return to this country;

(b) Professional books, implements, instruments, and tools of trade, occupation, or employment taken abroad by any individual and brought back on his return to this country;

(c) Automobiles and other vehicles taken abroad for noncommercial use;

(d) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers exported from the United States empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise;

(e) Articles exported from the United States for repairs or alterations, which may be returned upon the payment of duty on the value of the repairs or alterations at the rate or rates which would otherwise apply to the articles in their repaired or altered conditions;

(f) Articles exported for exhibition under certain conditions;

(g) Domestic animals taken abroad for temporary pasturage purposes and returned within eight months; or

(h) Any other reimported articles the free entry of which is specifically provided for. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

ENTRY

§ 8.3 *Entry required; importations not exceeding $1 in value.* (a) Entry[2] as required by section 484 (a), Tariff Act of 1930,[3] shall be made of every importation, whether free or dutiable and regardless of its value (except as provided for in paragraph (b) of this section), unless the importation is specifically exempted by statute or regulation from the requirement that it be entered. (See §§ 8.52, 9.3 (b) 9.6 of this chapter)

(b) The collector may pass free of duty and without the preparation of an entry any importation having a value not exceeding $1 in accordance with the provisions of section 321, Tariff Act of 1930, as amended, unless such importation is subject to internal-revenue tax. Entry shall be required for every importation subject to internal-revenue tax and both duty and tax shall be collected. (See § 10.21 (i) of this chapter) (Secs. 484 (a), 498, 505, 624, 46 Stat. 722, 728, 732, 759; 19 U. S. C. 1484 (a), 1498, 1505, 1624)

§ 8.4 *Filing of entry; date of entry; date of transportation.* (a) No paper pertaining to the entry of an importation shall be filed in the customhouse prior to the arrival of the merchandise within the limits of the ports of entry, except as provided for in § 8.59. Except as provided for in § 8.59, entries and papers relating thereto shall be received for filing only during official business hours.

(b) The date of entry is the date on which an entry is officially accepted by a collector of customs. A formal consumption entry or a warehouse entry shall be officially accepted on the date that the importer has completed the performance of all acts required of him which are necessary to secure the issuance of a consumption entry permit or a permit for the transfer of the merchandise to a bonded warehouse. The date of official numbering, which shall be noted on each entry, shall in each case correspond with the date of acceptance, thus establishing the date of entry. As to dates that appraisement entries, informal entries on customs Form 5119, and informal mail entries are officially accepted, see §§ 8.50 (g) and 8.51 (e), and § 9.3 (c) of this chapter.

(c) In the case of merchandise imported by vessel, the date on which the vessel arrives within the limits of a port with intent to unlade shall be deemed the date of importation. When the vessel enters two or more United States ports, the date of arrival of the vessel at the port at which the merchandise is intended to be landed shall be considered the date of importation. In the case of merchandise arriving otherwise than by vessel, the date on which the vehicle carrying the merchandise arrives within the limits of the United States shall be considered the date of importation. When merchandise is forwarded under an immediate transportation entry, the date of arrival of the merchandise at the first port shall be considered the date of importation. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624).

§ 8.5 *Examination of merchandise prior to entry.* (a) Unless an examination is required for the exclusive benefit of the United States, no imported merchandise shall be opened, examined, or inspected until proper entry therefor has been made, except when a real necessity is shown and the consignee makes application therefor in writing, in which the carrier concurs.

(b) Upon written application by the consignee or his agent, concurred in by the carrier, perishable merchandise may be inspected before entry upon arrival at the port of entry, or while in transit under bond, but only for the purpose of determining its condition and under customs supervision. The additional expense, if any, of customs supervision, including actual expenses for travel and subsistence, but not the compensation of the customs officer, shall be paid by the party requesting the inspection.[4]

(c) Properly authorized employees of the Customs Service, the Food and Drug Administration, the Bureau of Animal Industry, the Public Health Service, or other agency of the United States may take samples of unladen merchandise for which entry has not been filed. In no case shall any official action be taken on any such samples until entry has been filed.

(d) Prior to the filing of a proper entry, no information concerning the designation of packages for examination shall be given to or be accessible to any

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[1] "Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed." (31 U. S. C. 191)

"Every executor, administrator, or assignee, or other person, who pays, * * * any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate * * * for the debts so due to the United States, or for so much thereof as may remain due and unpaid." (31 U. S. C. 192)

[2] The term "entry" has three meanings as follows:

(1) The document which the consignee or his agent presents at the customhouse, containing his declaration and setting forth the intended customs disposition of the merchandise, together with such facts in regard thereto as the law or regulations may require.

(2) The presentation of the above-described document and accompanying papers at the customhouse and its acceptance by the proper customs officer.

(3) In its broader sense, it includes all transactions necessary to secure the release of the merchandise from customs control.

[3] "Except as provided in sections 490, 498, 552, and 553 and in subdivision (j) of section 336 of this Act, and in subdivisions (h) and (i) of this section, the consignee of imported merchandise shall make entry therefor either in person or by an agent authorized by him in writing under such regulations as the Secretary of the Treasury may prescribe. Such entry shall be made at the customhouse within forty-eight hours, exclusive of Sundays and holidays, after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless the collector authorizes in writing a longer time." (Tariff Act of 1930, sec. 484 (a); 19 U. S. C. 1484 (a))

[4] The privilege of inspection is not limited to one inspection and there is no objection to incidental display to prospective buyers during the inspection. (See B. C. L. 2066)

importer, broker, or other person who is not a customs officer necessarily concerned with such designation. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 8.6 *Evidence of right to make entry; legal representative of consignee; nonresident consignee; foreign corporation; underwriters and salvors.* (a) The bill of lading for merchandise imported by a common carrier shall constitute the best evidence of the right to make entry.[5] A shipping receipt or other document presented in lieu of a bill of lading shall not be accepted as authority for making entry unless bearing a certificate of the carrier in accordance with subsection (h) or (i) of section 484, Tariff Act of 1930,[6] or unless entry is made by the actual consignee in person or in his name by a duly authorized agent.

(b) When merchandise is not imported by a common carrier, possession of the merchandise at the time of arrival in the United States shall be deemed sufficient evidence of the right to make entry.

(c) Entry shall not be made on an extract from a bill of lading, unless such extract is certified to be genuine by the carrier bringing the merchandise to the port at which entry is made. Collectors of customs shall not certify extracts from bills of lading.

(d) Separate entries may be made for consolidated shipments upon compliance with the following requirements:

(1) The consignee of a consolidated shipment covering merchandise for various ultimate consignees who desire to make separate entries shall deposit with the collector the original bill of lading, the certified duplicate bill of lading, the carrier's certificate, or the shipping receipt if no bill of lading has been issued, covering the entire shipment, and such document shall be permanently retained by the collector.

(2) If a bill of lading is filed, it shall contain the following endorsement signed by the consignee named therein:

As the within-described merchandise belongs to various ultimate consignees who desire to make separate entries therefor, the undersigned consignee thereof hereby expressly waives the right granted by section 484 (j), Tariff Act of 1930, to have this bill of lading returned.

(3) At the time of depositing such bill of lading, or other document, the consignee named therein shall produce a certificate prepared and signed by him for each portion of the shipment for which separate entry is desired. The certificate shall be in the following form:

Collection district No._____
Port of_____
_____ 19__

AUTHORITY TO MAKE ENTRY

Of merchandise imported at_____ on _____ 19__, per_____, from_____ shipped by_____, consigned to_____, endorsed to_____, covered by* _____ dated_____ 19__, at_____, on file with the collector of customs at_____.

*Insert "bill of lading," "certified duplicate bill of lading," "carrier's certificate," or "shipping receipt."

Marks	Numbers	Description

We }
I } _____, the consignee in the above-mentioned document covering merchandise for various ultimate consignees, hereby authorize _____ or order to make customs entry for the above-described merchandise.

_____
Consignee

(4) Such a certificate shall be compared with the supporting document and after being initialed by the entry clerk shall be returned to the consignee for transmittal to the person who will make entry.

(5) The authority to make entry carried by such certificate may be transferred by endorsement.

(e) When a carrier's certificate is used in making entry pursuant to the provisions of section 484 (h), Tariff Act of 1930, it shall be prepared on customs Form 7529, except that, in lieu of the filing of that form, an endorsement, in substantially the form set forth below, to serve as a combined carrier's certificate and release order with one signature, may, in appropriate cases, be rubber-stamped or typewritten on a copy of the bill of lading, a copy of the air waybill, or other document containing the required descriptive information (see § 8.23 (a))

Date_____

The undersigned carrier, to whom or upon whose order the articles described herein or in the attached document must be released, hereby certifies that the consignee named in this document is the owner or consignee of such articles within the purview of section 484 (h), Tariff Act of 1930. In accordance with the provisions of section 484 (j), Tariff Act of 1930, authority is hereby given to release the articles covered by the aforementioned statement to such consignee.

_____
(Name of carrier)

_____
(Agent)

(f) When entry is made on a certified duplicate bill of lading, the certificate thereon shall be substantially in the following form:

DUPLICATE BILL OF LADING CERTIFICATE

_____ 19__

The undersigned carrier, bringing the within-described merchandise to this port, hereby certifies that this signed copy of the bill of lading is genuine and may be used for the purpose of making customs entry as provided for in section 484 (i) of the tariff act.

_____
(Name of carrier)

_____
(Agent)

(g) When a bond is given for the production of a bill of lading, it shall be on customs Form 7581 and shall run in favor of the collector personally and as collector of customs. When the collector is in doubt as to the propriety of accepting entry on a bond for the production of a bill of lading, he shall request authority to do so from the Bureau.

(h) Inasmuch as the provisions of section 484 (c) of the tariff act do not apply in the case of entries made under subsection (h) or (i) no bond for the production of a carrier's certificate or certified duplicate bill of lading shall be taken; but when a bond is given for the production of a bill of lading, such bond may

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[5] "For the purposes of this title—

"(1) All merchandise imported into the United States shall be held to be the property of the person to whom the same is consigned; and the holder of a bill of lading duly indorsed by the consignee therein named, or, if consigned to order, by the consignor, shall be deemed the consignee thereof. * * *" (Tariff Act of 1930, sec. 483; 19 U. S. C. 1483)

"The consignee shall produce the bill of lading at the time of making entry, except that—

"(1) If the collector is satisfied that no bill of lading has been issued, the shipping receipt or other evidence satisfactory to the collector may be accepted in lieu thereof;

"(2) The collector is authorized to permit entry and to release merchandise from customs custody without the production of the bill of lading if the person making such entry gives a bond satisfactory to the collector, in a sum equal to not less than one and one-half times the invoice value of the merchandise, to produce such bill of lading, to relieve the collector of all liability, to indemnify the collector against loss, to defend every action brought upon a claim for loss or damage, by reason of such release from customs custody or a failure to produce such bill of lading and to entitle any person injured by reason of such release from customs custody to sue on such bond in his own name, without making the collector a party thereto. Any person so injured by such release may sue on such bond to recover any damages so sustained by him; and

"(3) The provisions of this subdivision shall not apply in the case of an entry under subdivision (h) or (i) of this section (relating to entry on carrier's certificate and on duplicate bill of lading, respectively)." (Tariff Act of 1930, sec. 484 (c); 19 U. S. C. 1484 (c))

[6] "(h) Entry on Carrier's Certificate.—Any person certified by the carrier bringing the merchandise to the port at which entry is to be made to be the owner or consignee of the merchandise, or an agent of such owner or consignee, may make entry thereof, either in person or by an authorized agent, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 483.

"(i) Entry on Duplicate Bill of Lading.—Any person may, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made, make entry for the merchandise in respect of which such bill of lading is issued, in the manner and subject to the requirements prescribed in this section (or in regulations promulgated hereunder) in the case of a consignee within the meaning of paragraph (1) of section 483, except that such person shall make such entry in his own name." (Tariff Act of 1930, sec. 484 (h) and (i); 19 U. S. C. 1484 (h) (i))

"For the purposes of this title—

* * * * * *

"(2) A person making entry of merchandise under the provisions of subdivision (h) or (i) of section 484 (relating to entry on carrier's certificate and on duplicate bill of lading, respectively) shall be deemed the sole consignee thereof." (Tariff Act of 1930, sec. 483; 19 U. S. C. 1483)

be considered as satisfied upon the production of a proper carrier's certificate or certified duplicate bill of lading, but shall not be canceled.

(i) The executor or administrator of the estate of a deceased consignee, the receiver or other legal representative of an insolvent consignee, or the representative appointed in any action or proceeding at law to act for a consignee shall not be permitted to make entry unless he shall produce a duly endorsed bill of lading, a carrier's certificate, or a duplicate bill of lading, executed in accordance with subsection (h) or (i) of section 484 of the tariff act, showing him to be the consignee for customs purposes.

(j) A nonresident consignee has the right to make entry but the bond, customs Form 7551, 7553, or other appropriate form, when required, shall have a resident corporate surety thereon.

(k) A foreign corporation shall not enter merchandise for consumption unless it has, in the state where the port of entry is located, a resident agent authorized to accept service of process against such corporation and files a bond with a resident corporate surety to secure the payment of any increased and additional duties which may be found due.

(l) Underwriters of abandoned merchandise or salvors of merchandise saved from a wreck who are unable to produce a bill of lading, certified duplicate bill of lading, or carrier's certificate shall produce evidence satisfactory to the collector of their right to act.[7] (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083; 19 U. S. C. 1484)

§ 8.7 *Disposition of bill of lading or carrier's certificate.* (a) When the return of the bill of lading to the person making the entry, as required by the provisions of section 484 (j) Tariff Act of 1930,[8] is requested, the collector shall take a receipt therefor, which shall set forth such of the data contained in the bill of lading as will completely identify it and enable the comptroller to verify the production of proper evidence of the right to make entry. The receipt shall also show any freight charges and weights that appear on the bill of lading. If the original bill of lading is necessary to obtain a carrier's certificate or duplicate bill of lading from the carrier, such exchange shall be made before the entry is filed.

(b) When a carrier's certificate or duplicate bill of lading is used in making entry, it shall be retained by the collector as evidence that the person making entry is authorized to do so. (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083; 19 U. S. C. 1484)

§ 8.8 *Requirements on entry.* (a) Entries shall be legibly prepared on a typewriter or with ink, indelible pencil, or other permanent medium. All entry papers and documents required to accompany the entry when presented for acceptance shall be on the appropriate forms prescribed by the regulations and shall clearly set forth, with respect to the merchandise covered thereby, all information for which spaces are provided on such forms.[9] With respect to each invoice covered by the entry, the following shall be shown separately: the quantity of each class of merchandise; the claimed rate or rates of duty for each class of merchandise; and, except in the case of entry by appraisement, the aggregate of the entered value for each classification. The description of the merchandise shall be in terms of the tariff act, in accordance with statistical Schedule A of the Department of Commerce, or in more specific terms which indicate clearly the tariff classification claimed by the importer.[10]

(b) For each invoice covered by the entry and in a conspicuous place among the entry data related to such invoice, there shall be shown the gross amount of such invoice, the deduction of the aggregate amount of any nondutiable charges included in such amount, the further deduction of the aggregate of any deductions from invoice values to make entered values, and the addition of the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to invoice values to make entered values, so that the final amount in the summary computation represents the aggregate of the entered values of all the merchandise on each invoice covered by the entry.

(c) Each entry when presented shall be accompanied by customs Form 6417, the face of which shall be prepared by the importer as a carbon copy of the entry and shall show the information required under paragraphs (a) and (b) of this section.

(d) Consolidated shipments to one consignee for various ultimate consignees and the several enclosures of a packed package may be covered by separate entries upon compliance with the provisions of §§ 8.6 (d) and 8.52, respectively.

(e) If the collector is satisfied that there will be no prejudice to the revenue or to the efficient conduct of customs business, separate entries may be accepted for portions of all the merchandise arriving on one vessel or vehicle and consigned to one consignee,[11] as prescribed in § 8.6 (d) and also when:

(1) The consignee desires to enter such portions under different forms of entry, for transportation to different ports of entry, or for warehousing in separate warehouses;

(2) Appraisements are being withheld upon merchandise of the class or kind constituting a portion for which a separate entry is tendered;

(3) Appeal for reappraisement has been filed and advances are being made under section 503 (b) Tariff Act of 1930, on the class or kind of merchandise for which a separate entry is tendered (so-called "duress entries")

(4) The several portions for which separate entries are tendered are covered by separate bills of lading;

(5) The consignment consists of different classes of merchandise to be examined by different appraising officers;

(6) The consignment consists of merchandise subject to entry under bonds given to assure accounting for final disposition; or

(7) A special application is submitted to the Bureau of Customs with the recommendation of the collector concerned and is approved by the Bureau.

(f) When separate entries are made under the preceding paragraphs, the entries shall be presented simultaneously when practicable. A separate consignee's declaration shall be filed for each entry and, except when a portion of the merchandise is entered under section 303, Tariff Act of 1930, as amended, each entry shall cover whole packages or not less than 1 ton of merchandise in bulk.

(g) When separate entries are made under paragraph (e) of this section for merchandise covered by a single bill of lading, compliance with § 8.6 (d) shall be required, except that the endorsement on the bill of lading shall read as follows:

As portions of the within-described merchandise will be covered by separate entries, the undersigned consignee expressly waives the right granted by section 484 (j), Tariff Act of 1930, to have this bill of lading returned.

(Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083; 19 U. S. C. 1484)

§ 8.9 *Invoice to be filed with entry.* Except as otherwise provided for in § 8.15, no entry shall be accepted until a cer-

[7] "For the purposes of this title—
"* * * The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees * * *" (Tariff Act of 1930, sec. 483; 19 U. S. C. 1483)

[8] "* * * The collector shall return to the person making entry the bill of lading (if any is produced) with a notation thereon to the effect that entry for such merchandise has been made. * * *" (Tariff Act of 1930, sec. 484 (j); 19 U. S. C. 1484 (j))

[9] "Such entry shall be signed by the consignee, or his agent, and shall set forth such facts in regard to the importation as the Secretary of the Treasury may require for the purpose of assessing duties and to secure a proper examination, inspection, appraisement, and liquidation, and shall be accompanied by such invoices, bills of lading, certificates, and documents as are required by law and regulations promulgated thereunder." (Tariff Act of 1930, sec. 484 (d); 19 U. S. C. 1484 (d))

[10] "The Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the United States Tariff Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States, and as a part of the entry there shall be attached thereto or included therein an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and the value of the total quantity of each kind of article." (Tariff Act of 1930, sec. 484 (e); 19 U. S. C. 1484 (e))

[11] "* * * All other merchandise arriving on one vessel or vehicle and consigned to one consignee shall be included in one entry, unless the Secretary of the Treasury shall authorize the inclusion of portions of such merchandise in separate entries under such rules and regulations as he may prescribe." (Tariff Act of 1930, sec. 484 (f), as amended; 19 U. S. C. 1484 (f))

tified invoice has been produced or a bond has been given on customs Form 7551 or 7553, or other appropriate form, for the production of such invoice within 6 months in accordance with section 484 (b), Tariff Act of 1930.[12] (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083, sec. 498, 46 Stat. 728; 19 U. S. C. 1484, 1498)

§ 8.10 *Entry on triplicate invoices.* (a) When a certified invoice is required, an importer shall be required to make entry on the triplicate copy of the certified invoice if he has not received his copy of such invoice. In such case no entry upon an uncertified invoice shall be accepted unless it is shown that no triplicate copy of the certified invoice is on file.

(b) The quadruplicate copy of the certified invoice, bearing a consular notation that the original was stamped, presented by the principal on the entry bond within six months from the date of entry of the merchandise covered thereby may be accepted to cancel the bond obligation for the production of the certified invoice. The triplicate copy of the certified invoice, bearing a consular notation that the original was stamped, may also be used for such purpose upon the request of the principal, provided satisfactory evidence of his inability to produce the original or the quadruplicate copy is presented to the collector. (See § 8.14 (b).)

§ 8.11 *Invoice to be for single shipment; extracts from invoices.* (a) A customs invoice shall not represent more than one distinct shipment of merchandise by one consignor to one consignee by one vessel or conveyance. If by reason of accident or short shipment a portion of the quantity covered by one invoice fails to arrive, or if for any other reason only a portion of the quantity covered by one invoice is entered under one entry, an extract from the certified or commercial invoice used in connection with the first entry, covering the quantity to be entered under another entry, may be used in connection with the subsequent entry of any portion of the merchandise not cleared under the first entry.

(b) When portions of a single shipment requiring a certified or commercial invoice are entered at different ports, the importer may request the collector for the port where the invoice is on file or, if a certified extract or extracts of such invoice have been issued, the collector for the port where an extract was last issued, to prepare and certify an extract of the invoice or an extract of the extract of the invoice, as the case may be. The certified extract shall be transmitted by the collector for the port of certification to the collector for the port at which the certified extract is to be used. The certified extract shall show all the invoice data for all merchandise covered by the invoice or extract but not included in the entry made at the port of certification. An extract from a certified or commercial invoice presented within the bonded period may be accepted to cancel the bond given for the production of a certified or commercial invoice. In cases where a portion of a shipment is entered at the first port on a pro forma invoice, entries at each subsequent port shall be made by means of a new pro forma invoice for only the merchandise entered. An extract from an invoice shall be identified thereon in substantially the following form:

Extract from {certified / commercial} Invoice No. _____ dated _____, filed at _____ (Port) with _____ entry No. _____ dated _____, covering {purchased / consigned} goods for use at the port of _____.

Certified correct _____, 19__.

_____
Consignee

_____
Collector of Customs

The extract shall be prepared in duplicate and the duplicate shall be attached to the original invoice.

(c) Bona fide installment shipments may be covered by one invoice in accordance with § 8.12 and any bona fide installment valued at not more than $100 may be entered on an informal entry in accordance with § 8.51. The consolidation of separate shipments in one invoice or the splitting up of an importation into small lots, each valued at not more than $100, to avoid certified invoice requirements shall not be permitted.

§ 8.12 *Invoices for installment shipments arriving within a period of 7 days; entry.* (a) Installments of a shipment covered by a single order or contract and shipped from one consignor to one consignee may be included in one invoice if the installments arrive at the port of entry by any means of transportation within a period of not to exceed 7 consecutive days.

(b) If the required invoice is not filed with the first entry of the installment series, a pro forma invoice shall be filed with each entry made before the required invoice is produced and a bond shall be given, or charge against a term bond made, for the production of the required invoice. Liquidated damages will accrue in the case of each entry if more than 6 months expires without the production of an invoice for such entry.

(c) The invoice shall be prepared in the manner provided for in section 481 (a) Tariff Act of 1930, and § 8.13, and, when practicable, shall show the quantities, values, and other invoice data with respect to each installment and the date of shipment of each installment and shall give the car number or other identification of the importing conveyance in which it was shipped.

(d) In regard to the application of the informal entry procedure to installment shipments, see § 8.51. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 8.13 *Contents of invoices; incomplete invoices; general requirements supplemented.* (a) Every invoice of merchandise to be imported into the United States shall set forth the information required by section 481 (a) Tariff Act of 1930.[13]

(b) Every invoice of imported merchandise shipped to a person in the United States by a person other than the manufacturer and otherwise than pursuant to a purchase or agreement to purchase shall set forth the information

[12] "No merchandise shall be admitted to entry under the provisions of this section without the production of a certified invoice therefor" except that entry may be permitted if—

"(1) The collector is satisfied that the failure to produce such invoice is due to causes beyond the control of the person making entry;

"(2) Such person makes a verified declaration in writing that he is unable to produce such invoice and (A) files therewith a seller's or shipper's invoice, or (B) if he is not in possession of a seller's or shipper's invoice files therewith a statement of the value, or the price paid, in the form of an invoice; and,

"(3) Such person gives a bond for the production of such certified invoice within 6 months.

"The Secretary of the Treasury may by regulations provide for such exceptions from the requirements of this subdivision as he deems advisable." (Tariff Act of 1930, sec. 484 (b); 19 U. S. C. 1484 (b))

[13] "All invoices of merchandise to be imported into the United States shall set forth—

"(1) The port of entry to which the merchandise is destined;

"(2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;

"(3) A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;

"(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;

"(5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;

"(6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;

"(7) The kind of currency, whether gold, silver, or paper;

"(8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices when the amounts for such charges are unknown to the seller or shipper;

"(9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise; and

"(10) Any other facts deemed necessary to a proper appraisement, examination, and classification of the merchandise that the Secretary of the Treasury may require." (Tariff Act of 1930, sec. 481 (a); 19 U. S. C. 1481 (a))

required by section 481 (b) of the tariff act.[14]

(c) A so-called pro forma invoice shall not be considered to be an invoice within the meaning of section 481 of the tariff act.

(d) In the case of merchandise valued at over $100, the collector shall reject certified invoices or commercial invoices for commodities not requiring certified invoices which are not executed in accordance with the regulations in this part, but entry may be made on a pro forma invoice containing sufficient data for classification and appraisement purposes and a bond taken for the production of a correct certified or commercial invoice, as the case may be.

(e) When any of the component materials of an imported article affects its classification or appraisement, the invoice shall set forth an analysis of the article or the formula under which it was manufactured or produced, stating the component materials contained in the article and the percentage of each, if such percentage is known.

(f) Whenever it shall be determined by the appraising officer that information as to the cost of production is necessary in the appraisement of any class or kind of merchandise, the importer shall be notified by the appraiser and thereafter invoices covering shipments of such merchandise shall contain a verified statement by the manufacturer or producer as to the cost of production,[15] as defined in section 402 (f) Tariff Act of 1930.

(g) All invoices shall set forth in detail, with respect to each class or kind of merchandise covered thereby, every discount from list or other base price which has been or may be allowed in fixing each purchase price or value set forth therein.

(h) If the invoice or entry does not disclose the weight, gauge, or measure of merchandise required to be weighed, gauged, or measured in order to ascertain the duties thereon, the consignee shall pay the expense of weighing, gauging, or measuring prior to the release of the merchandise from customs custody.

(i) Under section 481 (a) (10) of the tariff act, additional information shall be furnished on certified or commercial invoices of certain classes of merchandise in accordance with the requirements set forth in the following Treasury decisions:

Merchandise	*Treasury Decision*
Dyes, colors, stains, color acids, color bases, color lakes, lenco-compounds, indoxyl, and indoxyl compounds.	39566, Apr. 6, 1923; 39744, July 17, 1923; 41525, May 1, 1926.
News-reel films	44703, Mar. 17, 1931; 44938, June 4, 1931.
Church bells	42177, May 13, 1927.
Tobacco	44854, May 7, 1931; 45871, Aug. 31, 1932; 50520, Nov. 27, 1941.
Copper-bearing ores and concentrates and other articles taxable under sec. 601 (c) (7), Revenue Act of 1932.	45878, Sept. 8, 1932; 50046, Dec. 15, 1939; 50153, May 20, 1940; 51726, July 29, 1947.
Sugar in liquid form, and articles composed in part of beet or cane sugar.	49400, Feb. 10, 1938.
Braids, plaits, laces, and willow sheets or squares subject to the provisions of item 1504 (a), Swiss Trade Agreement (T. D. 48093), and braids and bandings subject to the provisions of the first item 1529 (a) of the said trade agreement.	49501, Apr. 6, 1938; 52020, Aug. 27, 1948.
Oils, or products of such oils, upon which an import tax is imposed by sec. 601 (c) (8), Revenue Act of 1932, as amended.	49640, July 2, 1938.
Articles composed in chief value of manufactured sugar	49684, Aug. 10, 1938.
Cotton fabrics classifiable under pars. 903, 904, 905, or 918, or under par. 924, Tariff Act of 1930.	49803, Feb. 20, 1939.
Articles made from matting (other than pile mats and pile floor coverings) wholly or in chief value of coca fiber or rattan.	49858, May 9, 1939.
Toys	49859, May 10, 1939; 50107, Mar. 7, 1940.
Articles containing 10 percent or more by weight of manufactured sugar, as defined in Internal Revenue Code, sec. 3507.	49887, May 12, 1939; 50106, Mar. 4, 1940.
Plain linens	49886, June 8, 1939.
Articles wholly or in chief value of metal and provided for under items 339 and 397 of the trade agreement with the United Kingdom (T. D. 49753).	49901, June 24, 1939.
Madeira embroideries	49983, Oct. 16, 1939.
Iron oxide	49983, Oct. 16, 1939; 50107, Mar. 7, 1940.
Northern white pine (pinus strobus), Norway pine (pinus resinosa), and western white spruce lumber for which exemption is claimed from the import tax prescribed by the first sentence of Internal Revenue Code, sec. 3424 (a).	49643 (8), June 29, 1938; 51604, Jan. 17, 1947; 51770, Oct. 9, 1947; 51906, Apr. 27, 1948.
Lumber (including sawed timber) planed or dressed on one or more sides.	50493, Oct. 17, 1941; 51604, Jan. 17, 1947; 51906, Apr. 27, 1948.
Cotton waste	50044, Dec. 15, 1939.
Raw cotton	50045, Dec. 15, 1939; 50303, July 30, 1943.
Flax, hemp, and ramie fabrics and articles classifiable under pars. 1009, 1010, 1011, 1013, 1014, and 1016, and tablecloths, table scarves, and table doilies classifiable under par. 1023, Tariff Act of 1930.	50033, Jan. 29, 1940.
Beads	50033, Feb. 6, 1940.
Articles dutiable under Tariff Act of 1930 and containing 4 per centum or more by weight of copper (including copper in alloy), except articles provided for in pars. 316, 380, 381 or 387, Tariff Act of 1930.	50046, Dec. 15, 1939; 50158, May 20, 1940; 51726, July 29, 1947.
Needlework tapestries composed of cotton canvas embroidered with wool yarn.	50369, Apr. 10, 1941.
Wool products, except wool products made more than 20 years prior to importation, and carpets, rugs, mats, and upholsteries.	50383, May 15, 1941; 51019, Mar. 10, 1944.
Fish or fish livers imported in air-tight containers	50724, Sept. 17, 1942.
Boots, shoes, or other footwear (including athletic or sporting boots and shoes), made wholly or in part of leather.	51020, Mar. 24, 1944.
Screenings or scalpings of grains or seeds	51036, July 19, 1944.
Grain or grain and screenings	51284, July 25, 1945.
Machine parts	51616, Jan. 27, 1947.
Jewelry	51676, May 12, 1947.
Earthenware and crockeryware composed of a nonvitrified absorbent body, including cream-colored ware and terra cotta, clock cases with or without movements, pill tiles, plaques, ornaments, charms, vases, statues, statuettes, mugs, cups, steins, lamps, and all other articles composed wholly or in chief value of such ware.	50342, Oct. 6, 1943; 51691, June 2, 1947.
Earthenware, common yellow, brown, red or gray, plain or embossed, and manufactures wholly or in chief value of such ware.	50342, Oct. 6, 1943; 51691, June 2, 1947.

[14] "If the merchandise is shipped to a person in the United States by a person other than the manufacturer, otherwise than by purchase, such person shall state on the invoice the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper." (Tariff Act of 1930, sec. 481 (b); 19 U. S. C. 1481 (b))

[15] "Under such regulations as the Secretary of the Treasury may prescribe, the collector or the appraiser may require a verified statement from the manufacturer or producer showing the cost of production of the imported merchandise, when necessary to the appraisement of such merchandise." (Tariff Act of 1930, sec. 481 (g); 19 U. S. C. 1484 (g))

Merchandise	*Treasury Decision*
Tableware, kitchenware, or table or kitchen utensils which are earthenware or crockery ware composed of a nonvitrified absorbent body not wholly of clay, including white granite and semi-porcelain earthenware, and cream-colored ware, terra cotta, and stone-ware, and tableware, kitchenware, or table or kitchen utensils, not containing 25 per centum or more of calcined bone and not hotel or restaurant ware or utensils, which are china, porcelain, or other vitrified wares, composed of a vitrified non-absorbent body which when broken shows a vitrified or vitreous, or semivitrified or semivitreous fracture, or bisque or parian wares; all the foregoing which are painted, colored, tinted, stained, enameled, gilded, printed, ornamented, or decorated in any manner.	52011, Aug. 23, 1948.

On customs invoices of merchandise imported from a country having a currency for which two or more rates of exchange have been certified by the Federal Reserve Bank of New York pursuant to section 522 of the Tariff Act of 1930, except merchandise unconditionally free of duty or subject only to a specific rate of duty not depending on value, there shall be shown the exchange rate or rates used in converting the United States dollars received for such merchandise into the foreign currency and the percentage of each rate if two or more rates are used. If a rate or combination of rates different from the rate or combination of rates used in payment for the merchandise was used in payment of costs, charges, or expenses, the rate or combination of rates used in payment of such costs, charges, and expenses shall be stated separately. Where the dollars have not been converted at the time the invoice is prepared that fact shall be stated on the invoice, in which case the invoice shall also state the rate or combination of rates at which the dollars will be converted or shall state that it is not known what rate or rates will be used, as the case may be.

(j) When more than one invoice is included in the same entry, all invoices shall bear the entry number and shall be numbered consecutively, beginning with number 1.

(k) If the invoice or invoices filed with an entry are made out on more than two sheets of paper, each sheet shall be legibly numbered by the importer on the bottom of its face. The numbering shall begin with number 1 for the first sheet of the first invoice and continue in a single series of numbers through all the sheets of all the invoices attached to one summary sheet.

(l) If the consul to whom a consular invoice is presented for certification shall be of the opinion that the data given in the invoice will not enable the appraiser to arrive at the true market value of the merchandise, he will state on a separate sheet, a copy to be attached to each copy of the invoice, such facts as he believes the appraiser may desire to consider in addition to or in connection with the data already given in the invoice. If the facts which the consul believes should be considered by the appraiser are confidential or cannot for any reason be stated fully on the sheet attached to the invoice, they will be communicated by letter to the appraiser at the port of entry named in the invoice at the time of or as soon as possible after the certification of the invoice. When the consul suspects fraud, a copy of his letter to the appraiser will be sent to the Customs Information Exchange in New York City. (Par. 602: sec. 1, 46 Stat. 590, secs. 481, 624, 46 Stat. 719, 759, sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083; 19 U. S. C. 1001, 1481, 1624, 19 U. S. C. 1484)

§ 8.14 *Mode of certification of invoices; fee stamps to be affixed.* (a) In the case of invoices requiring consular certification in accordance with section 482 (a) Tariff Act of 1930,[16] the seller or shipper shall sign all copies,[17] of the invoice, but only the original need be signed by the consular officer. However, the consular officer's name, as well as the rubber seal of the consulate, shall be stamped on all copies of the invoice.

(b) The original of the invoice shall be stamped and the stamp canceled by the consular officer to show the payment of the fee. No unstamped original invoice shall be accepted as valid, but an unstamped invoice may be used as a commercial or pro forma invoice and entry may be made thereon upon the giving of a bond for the production of a stamped invoice. If, however, the triplicate or the quadruplicate certified invoice shall bear a consular notation that the original was stamped, such invoice may be accepted in lieu of the stamped invoice. (Secs. 482, 624, 46 Stat. 720, 759; 19 U. S. C. 1482, 1624)

§ 8.15 *When certified invoices not required.* (a) No certified or commercial invoice, or bond for the production of either, shall be required in connection with entry of the following, but the consignee or owner shall in all cases furnish any bills or statements of cost which may be in his possession:

(1) Articles not exceeding $100 in aggregate dutiable value imported otherwise than in pursuance of a purchase or agreement to purchase, and articles imported in pursuance of a purchase or agreement to purchase when the aggregate purchase price of the articles, including all costs, charges, and expenses incident to placing the goods in condition, packed, ready for shipment to the United States, as determined by the collector of customs, does not exceed $100.

(2) Articles damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper. If a consular invoice is available, it shall be produced for the information of the appraiser.

(3) Articles recovered from a wrecked or stranded vessel.

(4) Household effects used abroad, personal effects not imported in pursuance of a purchase or agreement to purchase and not intended for sale, articles entered under bond under the provisions of section 308 (5), Tariff Act of 1930, as amended, and automobiles imported from contiguous countries and entered under section 308 (1) of the tariff act, as amended.

(5) Articles sent by persons in foreign countries as gifts to persons in the United States.

(6) Articles carried by a person arriving in the United States or contained in his baggage, and articles declared by such person upon his arrival as not accompanying him but imported or to be imported in connection with his arrival, when such articles are not intended for sale and were not bought on commission for others.

(7) Articles entitled to free entry under United States Code, Title 19, sections 194 and 195, or paragraph 1615 or 1815, Tariff Act of 1930, as amended, provided a properly executed consular Form 129 or 204, as the case may be, is filed with the collector within the period provided for in this part. (See §§ 10.1 (a), 10.2 (a) 10.66, 10.67, and 25.16 of this chapter.)

(8) Tools of trade of a person arriving in the United States.

(9) Personal effects of citizens of the United States who have died in a foreign country.

(10) Merchandise when, in the opinion of the Commissioner of Customs, the value thereof cannot be declared.

(11) Articles shipped abroad, not delivered to the consignee, and returned to the United States.

(12) Articles (other than gold) consigned to a branch of the United States Government.

(13) Archaeological articles for exhibition and not for sale imported by an institution established for the encouragement of the arts, science, or education.

(14) Automobiles, aircraft, and other vehicles, boats, teams, and saddle horses taken abroad by the owner or his agent for noncommercial use and returned by or for the account of such owner under the provisions of § 10.42 of this chapter.

[16] "Every invoice covering merchandise exceeding $100 in value shall, at or before the time of the shipment of the merchandise, or as soon thereafter as the conditions will permit, be produced for certification to the consular officer of the United States—

"(1) For the consular district in which the merchandise was manufactured, or purchased, or from which it was to be delivered pursuant to contract;

"(2) For the consular district in which the merchandise is assembled and repacked for shipment to the United States, if it has been purchased in different consular districts." (Tariff Act of 1930, sec. 482 (a); 19 U. S. C. 1482 (a))

[17] "Every certified invoice shall be made out in triplicate, or, for merchandise intended for immediate transportation under the provisions of section 552 of this Act, in quadruplicate, if desired by the shipper, and shall be signed by the seller or shipper, or the agent of either; but a person who has no interest in the merchandise except as broker or forwarder shall not be competent to sign any such invoice. Where any such invoice is signed by an agent, he shall state thereon the name of his principal." (Tariff Act of 1930, sec. 482 (c); 19 U. S. C. 1482 (c))

(15) Articles exported from continuous customs custody within six months from the date of entry.

(16) Postage or revenue stamps, canceled or uncanceled, and government stamped envelopes or post cards bearing no other printing than the official imprint thereon.

(17) Articles provided for in section 465 or 466, Tariff Act of 1930.

(18) Articles from the Philippine Islands or the Virgin Islands covered by a proper certificate of origin, and articles brought in from Guam, Wake Island, Midway Islands, Kingman Reef, or American Samoa, covered by a proper certificate of origin or of actual importation into those islands.

(19) Articles, whether privileged or nonprivileged, resulting from manipulation in a foreign-trade zone.

(20) Fertilizer and fertilizer materials, news-reel films, fish, including parts of fish (except fish and fish livers in airtight containers) such as skins, bones, sounds, cuttings, wastes, fins, tails, and livers, fish eggs, cuttlefish bone, shellfish, clam shells, sea shells, mother-of-pearl shells, and newspapers, when unconditionally free of duty or subject only to a specific rate of duty not depending on value.

(21) Merchandise imported as supplies, stores, or equipment of the importing vessel and subsequently made subject to entry pursuant to the provisions of section 446, Tariff Act of 1930.

(22) Vegetables and fruits in their natural state, imported from countries contiguous to the continental United States, when unconditionally free of duty or subject only to a specific rate of duty not depending on value.

(23) Ballast, but not including cargo used as ballast, landed and delivered from a vessel for consumption.

(24) Currency and silver and copper coins, when brought into the United States as a medium of exchange.

(25) Corpses.

(26) Screenings contained in importations of bulk grains.

(27) Rubber, crude.

(28) Materials accorded free entry under paragraph 1631, Tariff Act of 1930.

(29) Flower bulbs, when unconditionally free of duty or subject only to a specific rate of duty not depending on value.

(30) Public documents, accorded free entry under paragraph 1629, Tariff Act of 1930.

(b) Commercial invoices prepared in the manner customary for a commercial transaction involving articles of the particular character concerned and containing any special data required by § 8.13 (i) may be accepted for the articles listed below imported from countries contiguous to the continental United States, when unconditionally free of duty or subject only to a specific rate of duty not depending on value, but if the person making entry declares in writing that he is unable to produce such an invoice and gives a bond to produce it within 6 months from the date of entry, entry may be permitted on production of a less complete commercial invoice or statement in the form of an invoice (pro forma invoice) of the value or the price paid:

(1) Forest products, except red cedar shingles and chicle.

(2) Standard newsprint paper.

(3) Pulpwood and wood pulp.

(4) Live domestic animals.

(5) Agricultural products, crude or unmanufactured, except vegetables and fruits in their natural state, coca leaves, coffee, raw cotton, dairy products other than milk and cream, guayule, henequen, hides, opium, seeds imported subject to the provisions of the Federal Seed Act (see T. D. 50071) or for seeding (planting) purposes, sisal, skins of all kinds, tea, tobacco, and wool of all kinds, including wool on the skin. Importers shall be required by collectors of customs to furnish satisfactory evidence that seeds are not imported for planting purposes, when such claim is made the basis for exemption from the necessity of producing a certified invoice. When such evidence is not furnished at the time of entry and a bond is given for the production of a certified invoice, the required evidence may be accepted in satisfaction of the bond obligation if produced within the period prescribed in section 484 (b) Tariff Act of 1930.[18] (Sec. 484, 46 Stat. 722, 759, sec. 12, 52 Stat. 1083, sec. 498, 46 Stat. 728; 19 U. S. C. 1484, 1498, 1624)

NOTE: T. D.'s 50071, 40996, 44317, 45418, and 50120 not filed with the Division of the Federal Register.

§ 8.16 *Entered value; importers may add to or deduct from the invoice value.* (a) The person making entry shall show in clear detail on the invoice or on a statement attached thereto each addition to or deduction from the invoice value of merchandise under section 487, Tariff Act of 1930,[19] together with the item to which it refers, indicating the entered unit value. He shall likewise show the computation in detail of the aggregate amount of all the additions or deductions made by the importer to make the aggregate entered value.

(b) After an entry has been filed at the customhouse, no change shall be made in the importer's statement of entered values, except in the following manner:

(1) The consignee or his agent shall submit to the collector, in triplicate, a revised copy of the entry or of the page thereof covering the items to be amended, and shall also submit a revised copy of the corresponding summary of entered values on customs Form 6417, prepared in accordance with § 8.8 (a) (b) and (c) and conspicuously marked "Amendment." The applicant shall also show, on a separate sheet of paper filed with the amended entry and suitable for attachment to the invoice or the revised customs Form 6417, the exact items on each invoice to which the amendment pertains, the new unit values, and the computation in detail of the aggregate amount of the additions or deductions upon amendment.

(2) When any supplemental duties resulting from the amendment are deposited or when no supplemental duties accrue at the time of filing the amendment, the amendment shall be accepted subject to the conditions of section 487 of the tariff act. Such supplemental duties shall be deposited on all merchandise withdrawn for consumption before an amendment of the related warehouse entry may be accepted. (Sec. 487, 46 Stat. 725; 19 U. S. C. 1487)

§ 8.17 *Additions because of advances by appraiser pending reappraisement.* An importer making an addition on entry because of advances by the appraiser in similar cases then pending on appeal for reappraisement or re-reappraisement under section 503 (b) Tariff Act of 1930,[20]

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[18] As used in this subparagraph:

The term "crude" means in the natural state, not processed, manufactured, or advanced beyond the state reasonably necessary for the transportation of the article from the place of origin to the United States.

The term "forest products" means crude vegetable substances grown in or obtained from forests, and includes logs, timber, and lumber not further manufactured than sawed into planks, boards, or deals, and planed and tongued and grooved.

The term "standard newsprint paper" means the kind of paper chiefly used for printing newspapers at or just prior to June 17, 1930. (See T. D.'s 40996, 44317, 45418 (4), and 50120 (4))

The term "pulpwood" means logs and timber cut to lengths for the purpose of manufacturing into wood pulp.

The term "wood pulp" means the fibers of wood produced either mechanically or chemically for use in the manufacture of paper, pulpboard, or other pulp products.

The term "agricultural products" means those things which are produced from the soil of farms, plantations, and estates, or which are brought into condition for the use of society by the labor of those engaged in agricultural pursuits.

[19] "The consignee or his agent may, under such regulations as the Secretary of the Treasury may prescribe, at the time entry is made, or at any time before the invoice or the merchandise has come under the observation of the appraiser for the purpose of appraisement, make in the entry such additions to or deductions from the cost or value given in the invoice as, in his opinion, may raise or lower the same to the value of such merchandise." (Tariff Act of 1930, sec. 487, 19 U. S. C. 1487)

[20] "If the importer certifies at the time of entry that he has entered the merchandise at a value higher than the value as defined in this Act because of advances by the appraiser in similar cases then pending on appeal for reappraisement or re-reappraisement, and if the importer's contention in such pending cases shall subsequently be sustained, wholly or in part, by a final decision on reappraisement or re-reappraisement, and if it shall appear that such action of the importer on entry was taken in good faith, the collector shall liquidate the entry in accordance with the final appraisement." (Tariff Act of 1930, sec. 503 (b), 19 U. S. C. 1503 (b))

"It was and is the true intent and meaning of subsection (b) of section 1503 of this title, that imported merchandise entered in accordance with the provisions of said subsection (b) shall be appraised and reappraised in the same manner as though the merchandise was not so entered; that the appraisement and reappraisement of such merchandise shall have the same force and effect as in the case of merchandise not so entered; and that entries covered by certification of the importer as provided in said subsection (b) shall be liquidated in accordance with the final appraised value of the merchandise covered by such certificates." (19 U. S. C. 1503a)

shall make his certificate, in triplicate, at the time of entry on customs Form 7587. (Secs. 503, 624, 46 Stat. 731, 759; 19 U. S. C. 1503 (b), 1624)

§ 8.18 *Declaration on entry.* (a) The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended, shall execute the declaration applicable to the circumstances of the particular case in accordance with section 485 (a) of that act.[21]

(b) In the case of successive importations of books, magazines, newspapers, and periodicals within the purview of section 485 (b) of the tariff act,[22] one declaration filed at the time of the arrival of the first importation will be sufficient.

(c) When entry is made by an agent,[23] he shall execute on the entry form, as agent, the declaration of the consignee applicable to the person for whom he acts as agent. An agent shall not execute the declaration of a nominal consignee unless he is acting as agent for a nominal consignee. If the agent has knowledge of the facts and is authorized under a proper power of attorney to execute the declaration of the principal (consignee), no further declaration of the consignee shall be required; otherwise a declaration of the consignee on customs Form 3347–A shall be produced with the entry or a charge for the production of such declaration made against the appropriate entry bond.[24] No separate bond of the agent shall be required.

(d) A consignee in whose name an entry is made who desires to be relieved from liability for the payment of increased and additional duties under section 485 (d) Tariff Act of 1930,[25] shall file an owner's declaration on customs Form 3347. The filing of the owner's declaration by the nominal consignee is optional and no bond shall be required for the production thereof when entry is made by a nominal consignee. The owner's declaration shall be accepted only if it is filed by the nominal consignee or his duly authorized agent. A nonresident owner's declaration shall not be accepted as a compliance with section 485 (d) unless there is filed therewith a bond of such owner on customs Form 7551 or 7553, with a resident corporate surety thereon, and containing an added condition for the payment of any increased or additional duties which may become due on the merchandise covered by the entry. (Sec. 485, 46 Stat. 724, sec. 13, 52 Stat. 1083; sec. 624, 46 Stat. 759; 19 U. S. C. 1485, 1624)

§ 8.19 *Powers of attorney.* (a) A power of attorney may be executed for the transaction of a specified part or for all the customs business of the principal except that a separate power of attorney on customs Form 5295 or 5295–A shall be required for filing protests.[26] Customs Form 5291 may be used by individuals and customs Form 5293 by corporations for giving powers of attorney to transact customs business. If a customs power of attorney is not on a prescribed customs form, it shall be as explicit in its terms as is the prescribed customs form. If for the execution of sealed instruments, it shall be under seal. A customs power of attorney to a minor shall not be accepted. A customs power of attorney executed under authority of another power of attorney shall be accepted if the grantor of the original power of attorney is a nonresident and such original power contains express authority from the principal for the appointment of a subagent or subagents, but customs powers of attorney of residents shall be without power of substitution except for the purpose of executing shippers' export declarations. A subagent so appointed cannot delegate his authority.

(b) An individual, other than a married woman, may execute a power of attorney to sign as surety on customs bonds. If the power is limited to bonds of one or several importers, such importers shall be named. Such power shall have attached a justification of the donor in a specified amount.

(c) A trustee may execute a power of attorney for the transaction of customs business incident to the trusteeship.

(d) One member of a partnership may execute a power of attorney in the name of the partnership for the transaction of all its customs business, except the execution of sealed instruments. Such power shall recite the names of all members of the partnership and shall be limited to a period of not more than 2 years from the date of receipt of the power by the collector. When a new firm is formed by a change of membership, no power of attorney filed by the antecedent firm shall thereafter be recognized for any customs purpose. A customs power of attorney given by a partnership for the execution of sealed instruments shall be signed and sealed by each partner.

(e) Before accepting a power of attorney executed on behalf of a corporation, the collector shall require the following documents to be filed and all such documents, except the certificate of incorporation, shall be certified as correct by the clerk or secretary of the corporation under its corporate seal:

(1) A certificate from the proper public officer showing the legal existence of the corporation, but evidence of incorporation may be waived if such fact is a matter of common knowledge;

(2) A copy of that portion of the charter or articles of incorporation which shows the scope of the business of the corporation and the governing body thereof;

(3) If the authority of the donor is derived from the charter or articles of incorporation, there shall be filed also a copy of that portion thereof which contains such authority or, if the authority of the donor is derived from the governing body, there shall be filed a copy of the bylaws or other document which authorizes the governing body to designate others to appoint agents or attorneys, together with a copy of the resolution, minutes, or other document by which the governing body conferred the authority on the donor.

(f) No declaration executed by the attorney in fact of a corporation shall be accepted unless his power of attorney specifically authorizes him to make such a declaration.

(g) A power of attorney filed by one who is not a resident of the United States shall not be accepted unless the agent designated thereby is a resident of the

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[21] "Every consignee making an entry under the provisions of section 484 of this Act shall make and file therewith, in a form to be prescribed by the Secretary of the Treasury, a declaration under oath, stating—

"(1) Whether the merchandise is imported in pursuance of a purchase or an agreement to purchase or whether it is imported otherwise than in pursuance of a purchase or agreement to purchase;

"(2) That the prices set forth in the invoice are true, in the case of merchandise purchased or agreed to be purchased; or in the case of merchandise secured otherwise than by purchase or agreement to purchase, that the statements in such invoice as to value or price are true to the best of his knowledge and belief;

"(3) That all other statements in the invoice or other documents filed with the entry, or in the entry itself, are true and correct; and

"(4) That he will produce at once to the collector any invoice, paper, letter, document, or information received showing that any such prices or statements are not true or correct." (Tariff Act of 1930, sec. 485 (a); 19 U. S. C. 1485 (a))

"The Secretary of the Treasury shall prescribe separate forms for the declaration in the case of merchandise which is imported in pursuance of a purchase or agreement to purchase and merchandise which is imported otherwise than in pursuance of a purchase or agreement to purchase." (Tariff Act of 1930, sec. 485 (e); 19 U. S. C. 1485 (e))

[22] "The Secretary of the Treasury is authorized to prescribe regulations for one declaration in the case of books, magazines, newspapers, and periodicals published and imported in successive parts, numbers, or volumes, and entitled to free entry." (Tariff Act of 1930, sec. 485 (b); 19 U. S. C. 1485 (b))

[23] The agent referred to in sec. 485 (c), Tariff Act of 1930, is a person acting under written authority from the consignee who makes entry in the name of the consignee. A nominal consignee who makes entry in his own name is not an agent within the purview of such sec. 485 (c).

In view of the specific provision in sec. 485 (f) of the tariff act, as amended, that when the merchandise is consigned to an individual, a partnership, or a corporation the consignee's declaration may be made by any person who has knowledge of the facts and who is specifically authorized by such individual, a member of the partnership, or an officer of such corporation to make such declaration, the person who executes the declaration on behalf of the individual, partnership, or corporation is not considered to be an agent within the purview of sec. 485 (c) and is not required by sec. 485 (c) to produce, or give bond to produce, any further declaration.

[24] "In the event that an entry is made by an agent under the provisions of section 484 of this Act and such agent is not in possession of such declaration of the consignee, such agent shall give a bond to produce such declaration." (Tariff Act of 1930, sec. 485 (c); 19 U. S. C. 1485 (d))

[25] "A consignee shall not be liable for any additional or increased duties if (1) he declares at the time of entry that he is not the actual owner of the merchandise, (2) he furnishes the name and address of such owner, and (3) within ninety days from the date of entry he produces a declaration of such owner conditioned that he will pay all additional and increased duties, under such regulations as the Secretary of the Treasury may prescribe. Such owner shall possess all the rights of a consignee." (Tariff Act of 1930, sec. 485 (d); 19 U. S. C. 1485 (d))

[26] See § 17.2 of this chapter.

United States and is authorized to accept service of process against such nonresident.

(h) When a power of attorney which is not limited to acts transacted at a specified port has ben filed and it is desired to use it at another port, the collector at the port where it is filed, upon request of the collector at the other port or upon request from the person, firm, or corporation which executed the power, shall forward a certified copy thereof to the collector at the second port. If the power was given by a corporation, the collector at the port where it is filed shall advise the other collector that there is on file in his office the evidence of authority above required. Any expense in connection with the preparation of such documents shall be borne by the parties in interest. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 8.20 *Incomplete entry; bonds for the production of documents.* Unless otherwise prescribed in these regulations, a bond may be given on the appropriate form for the production of any required document which is not available at the time of entry. (Secs. 490, 624, 46 Stat. 726, 749; 19 U. S. C. 1490, 1624)

§ 8.21 *Estimation of duties; classification.* (a) When the entry is filed, the classification and values stated therein shall be compared with the description and values in the invoice and the proper amount of duties estimated by the customs officer designated to accept entries.

(b) The rates of duty at which the entry is passed and the appropriate paragraphs shall be noted by the importer with black ink in the left-hand margin of the invoice. (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083, sec. 624, 46 Stat. 759; 19 U. S. C. 1484, 1624)

§ 8.22 *Designation of merchandise to be examined.* Pursuant to section 499, Tariff Act of 1930, as amended,[21] the collector shall designate in the appropriate spaces on customs Form 6417, by marks and numbers, if any, and with respect to each invoice, the packages to be examined and the place where the examination is to be made if elsewhere than at the public stores. He shall also indicate the examination packages on the permit and, if he deems it necessary, on the entry. The order for examination on customs Form 6417 shall be signed by the collector, the assistant collector, a deputy collector, or a customs officer officially acting as such. If the merchandise is bulky, inflammable, explosive, or dangerous, the collector shall direct examination on the wharf or at any other suitable place, subject to the approval of the appraiser. The designation of examination packages by marks and numbers is not required in such cases unless the collector shall deem it necessary to protect the revenue. When merchandise is to be gauged, measured, or weighed, the collector shall so indicate on the invoice, the permit, and, if he deems it necessary, on the entry. (Sec. 499, 46 Stat. 728, secs. 15, 16 (a) 52 Stat. 1084, sec. 624, 46 Stat. 759; 19 U. S. C. 1499, 1624)

§ 8.23 *Release of merchandise.* (a) The release order issued by the carrier under the provisions of section 484 (j), Tariff Act of 1930,[22] shall be included in, and executed on, customs Form 7529 if a carrier's certificate is used in making entry, except as provided for in § 8.6 (e) When a certified duplicate bill of lading is used for entry purposes under the provisions of section 484 (i), Tariff Act of 1930, the carrier's release order may be endorsed thereon and shall be in substantially the following form:

In accordance with the provisions of section 484 (j), Tariff Act of 1930, authority is hereby given to release the articles covered by this certified duplicate bill of lading to:

This order may be qualified as follows:

(1) "For transfer to the bonded warehouse designated in the warehouse entry," if the merchandise is entered for warehousing.

(2) "For transfer to the bonded carrier designated in the transportation entry," if the merchandise is entered for transportation in bond.

(3) "For transfer to the carrier designated in the export entry," if the merchandise is entered for exportation.

(b) A release order from the proprietor of a bonded warehouse covering merchandise therein shall be substantially in the same form.

(c) The merchandise may be released to the person named in the bill of lading in the absence of a specific release order from the carrier, provided the carrier concerned shall have filed a blanket order authorizing release to the consignee in such cases. (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1033, sec. 624, 46 Stat. 759; 19 U. S. C. 1484, 1624)

§ 8.24 *Release of merchandise in customs custody after liquidation; merchandise refused by consignee.* (a) No merchandise remaining in customs custody after liquidation of the entry shall be released until the full amount of liquidated duties has been paid. When duties are unpaid, the collector shall not permit one importation to pass out of his custody with a view of holding a lien upon a subsequent importation.

(b) Merchandise consigned to anyone without his authority and refused by him shall be treated as unclaimed. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 8.25 *Liens for freight, charges, or contribution in general average.* (a) A notice filed with the collector pursuant to section 564, Tariff Act of 1930,[23] of lien for freight, charges, or contribution in general average[24] shall be on customs

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[21] "Imported merchandise, required by law or regulations made in pursuance thereof to be inspected, examined, or appraised, shall not be delivered from customs custody, except under such bond or other security as may be prescribed by the Secretary of the Treasury to assure compliance with all applicable laws, regulations, and instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce, until it has been inspected, examined, or appraised and is reported by the appraiser to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States. The collector shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise and shall order such packages or quantities to be sent to the public stores or other places for such purpose. Not less than one package of every invoice and not less than one package of every ten packages of merchandise, shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise, permit a less number of packages to be examined. All such special regulations or instructions shall be published in the weekly Treasury Decisions within fifteen days after issuance and before the liquidation of any entries affected thereby. The collector or the appraiser may require such additional packages or quantities as either of them may deem necessary. If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the collector, who shall make allowance therefor in the liquidation of duties • • •" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[22] "Merchandise shall be released from customs custody only to or upon the order of the carrier by whom the merchandise is brought to the port at which entry is made, except that merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. • • •" (Tariff Act of 1930, sec. 484 (j); 19 U. S. C. 1434 (j))

[23] "Whenever a collector of customs shall be notified in writing of the existence of a lien for freight, charges, or contribution in general average upon any imported merchandise sent to the appraiser's store for examination, entered for warehousing or taken possession of by him, he shall refuse to permit delivery thereof from public store or bonded warehouse until proof shall be produced that the said lien has ben satisfied or discharged. The rights of the United States shall not be prejudiced or affected by the filing of such lien, nor shall the United States or its officers be liable for losses or damages consequent upon such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expences are paid therefrom." (Tariff Act of 1930, sec. 564; 19 U. S. C. 1564)

[24] The term "freight" means the carrier's charge for the transportation of the goods from the place of shipment in the foreign country to final destination in the United States. The term "charges" means the charges due to or assumed by the claimant of the lien which are incident to the shipment and forwarding of the goods to destination in the United States, but does not include the purchase price, whether advanced or to be collected, nor other claims not connected with the transportation of the goods. "General average" means the liability to con-

Form 3485, signed by the authorized agent of the carrier and verified by his affidavit.

(b) When the cargo of a vessel is subject to contribution in general average, a preliminary notice thereof may be filed with the collector and individual notices of lien filed thereafter. Upon receipt of a preliminary notice, the collector shall withhold release of any merchandise imported in the vessel for 2 days (exclusive of Sunday and holidays) after such merchandise is taken into customs custody, unless proof is submitted that the claim for contribution in general average has been paid or secured.

(c) A notice of lien upon goods entered for immediate transportation shall be filed by the carrier with the collector of customs at destination.

(d) No notice of lien against goods shall be accepted by the collector after their forefeiture under any provision of law; nor after they are sold pursuant to section 491 or 559, Tariff Act of 1930, as amended; nor after customs release; nor, in the case of goods abandoned to the Government under section 506 (1) or 563 (b) Tariff Act of 1930, as amended, after the receipt and acceptance of the notice of abandonment. Any notice of lien received thereafter shall be returned with a statement thereon as to the reason for rejection. The acceptance of any notice of lien shall not in any manner affect the order of disposition and accounting for the proceeds of sales of forfeited and abandoned property provided for in §§ 15.6, 20.6, and 23.20 of this chapter.

(e) The collector shall not adjudicate any dispute respecting the validity of any lien, but when the amount of such lien depends upon the quantity or weight of merchandise actually landed, the collector shall hold the lien satisfied upon the payment of an amount computed upon the basis of the report made by the United States appraiser, weigher, or gauger.

(f) When any doubt exists as to the validity of a lien filed with the collector, he may exact a bond of indemnity to save him harmless from any personal liability which may result from withholding the release of the goods.

(g) Proof that the lien has been satisfied or discharged shall consist of a written release or receipt signed by the claimant and filed with the collector, showing payment of the claim in full. (Secs. 564, 624, 46 Stat. 747, 759; 19 U. S. C. 1564, 1624)

§ 8.26 *Recall of merchandise released from customs custody; requests of appraiser for additional packages or quantities.* (a) If at any time after entry the collector determines, either from the appraiser's report or otherwise, that any merchandise contained in an importation is for any reason not entitled to admission into the commerce of the United States, he shall promptly demand the return to customs custody of any such merchandise which has been released. The demand for the return of the merchandise shall be by letter, or on customs Form 3483 or other appropriate form.

(b) If the appraiser desires additional packages or quantities of merchandise for the purpose of examination, inspection, or appraisement, he shall notify the importer on customs Form 3483 to deliver them to the appraiser's stores or other place designated by him. If the request of the appraiser is not promptly complied with, he shall request the collector to make an appropriate demand under the return to customs custody provisions of the entry bond.

(c) The collector may demand the return to customs custody of any merchandise for any cause. A demand for the return to customs custody of merchandise which has been released therefrom shall be made when the appraiser's report or other information before the collector indicates that supplemental, increased, or additional duties or taxes will accrue, unless an amount sufficient to cover such duties or taxes is promptly deposited or a stipulation or sufficient bond has been filed under § 8.29 (c) or (d) In any case not covered by paragraph (a) of this section such demand shall be made not later than 20 days after the appraiser's report of appraisement is made to the collector. The demand shall be by letter, or on customs Form 4301 or other appropriate form.

(d) The demand or notification shall be prepared in duplicate and the retained copy, with the date of mailing or delivery noted thereon, shall be made part of the entry record. (R. S. 161, sec. 499, 46 Stat. 728, secs. 15 and 16 (a) 52 Stat. 1084, sec. 505, 46 Stat. 732, sec. 623, 46 Stat. 759, sec. 30, 52 Stat. 1089; 5 U. S. C. 22, 19 U. S. C. 1499, 1505, 1623, 1624)

ENTRY FOR CONSUMPTION

§ 8.27 *Form of entry.* Entry for consumption shall be made in triplicate on customs Form 7051. Such entries shall be numbered in two series, one for dutiable consumption entries and the other for free consumption entries. (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083; 19 U. S. C. 1484)

§ 8.28 *Release under bond, deposit of estimated duties; permit.* (a) When the importer desires the release from customs custody of any part of the merchandise before (1) the full amount of duties, including dumping or other special duties and charges, due thereon or the right to free entry has been ascertained by liquidation of the entry, (2) the right of such merchandise to admission into the United States has been determined by the proper officer, or (3) any document relating thereto required by law or regulations has been furnished, he shall, except as hereinafter indicated, file a bond on customs Form 7551, 7553, or other appropriate form, at the time of entry or prior to such release.[31] Such a bond shall not be required when all the merchandise in an importation has remained in customs custody at the public stores or on the wharf or other place in charge of a customs officer until it has been inspected, examined, and appraised, and has been found to comply with all laws and regulations governing its admisison into the commerce of the United States, and until there have been produced all documents for the production of which a bond is required by law or regulations if not filed at time of entry.

(b) The estimated duties, if any, having been deposited as required by section 505, Tariff Act of 1930,[32] and the bond filed, a permit on customs Form 7501-A shall be issued and delivered to the importer or his agent, to be by him sent to the inspector in charge of the merchandise, who shall release to or upon the order of the carrier that part of the merchandise not designated for examination.

(c) Estimated duties need not be deposited when a shipment is entered, or withdrawn from warehouse, for consumption by a United States Government department or agency, or an authorized representative thereof. In such case a stipulation in the following form shall be furnished in lieu of any bond provided for in Part 25 of this chapter:

I, ----------, ----------, a duly authorized representative of the ----------
(Title) (Name of United States Government department or agency)
stipulate and agree on behalf of such department or agency that all applicable provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and of all other laws and regulations, relating to ---------- entry No. ----, of ---------,
(Type of entry) (Date)
will be observed and complied with in all respects.

(Signature)

After liquidation of the entry, the collector shall bill the proper department or agency on standard Form 1080 for any duties due. (Secs. 484, 623, 46 Stat. 772, 759, sec. 12, 30, 52 Stat. 1083, 1089, secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1484, 1505, 1623, 1624)

§ 8.29 *Release of packages.* (a) Merchandise which has not been designated for examination may be released from customs custody in accordance with the provisions of § 8.28.

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tribution of the owners of a cargo which arises when a sacrifice of a part of such cargo has been made for the preservation of the residue or when money is expended to preserve the whole. It only arises from actions impelled by necessity.

[31] "Imported merchandise, required by law or regulations made in pursuance thereof to be inspected, examined, or appraised, shall not be delivered from customs custody, except under such bond or other security as may be prescribed by the Secretary of the Treasury to assure compliance with all applicable laws, regulations, and instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce, until it has been inspected, examined, or appraised and is reported by the appraiser to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States. * * *" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[32] "The consignee shall deposit with the collector, at the time of making entry, unless the merchandise is entered for warehouse or transportation, or under bond, the amount of duty estimated to be payable thereon. * * *" (Tariff Act of 1930, sec. 505; 19 U. S. C. 1505)

(b) When the appraiser's report or other information before the collector indicates that the estimated duties and taxes deposited are sufficient, and the goods are correctly invoiced and otherwise comply with the law, the collector may issue a permit to release the packages designated for examination. The collector may designate an appraising officer to exercise this function. Customs Form 7500–B shall be used as the permit to release in instances where no other special form has been prescribed.

(c) When the appraiser's report or other information before the collector indicates that any supplemental, increased, or additional duties or taxes upon all the merchandise covered by the entry will not in the aggregate exceed $50, the collector may issue a permit to release the packages designated for examination, provided there has been filed with him a stipulation undertaking and agreeing to pay such duties or taxes in any amount not to exceed $50 on any one entry. An appraising officer designated by the collector may issue a permit to release the examination packages when it readily can be ascertained by him that the foregoing requirements are satisfied. Such stipulation, by its terms, may apply to all entries of a stated class or classes to be made during a period not to exceed one year. If the stipulation relates to a particular entry, it shall be endorsed on such entry or, if executed on a separate paper, it shall clearly identify by number and date the entry to which it relates and shall be firmly attached to such entry. No such stipulation shall be accepted unless executed by an individual, partnership, or corporation not otherwise liable for the payment of the duties and found by the collector to be financially and otherwise responsible.

(d) When the appraiser's report or other information before the collector indicates that supplemental, increased, or additional duties or taxes will be found due, the collector shall require, except as prescribed by paragraph (c) of this section, a deposit of an amount sufficient to cover such duties or taxes before release of the examined packages. When the collector is unable to ascertain with reasonable certainty from the appraiser's report or other information before him the probable supplemental, increased, or additional duties or taxes, before releasing the examination packages he shall take a bond with a penalty sufficient to cover all supplemental, increased, or additional duties or taxes which he estimates may become due on all the merchandise covered by the entry.

(e) The bond shall be in the following form:

BOND COVERING RELEASE OF EXAMINATION PACKAGES

Know all men by these presents, that_____

_____

of _____, as principal, and _____, of _____, and _____, of _____, as sureties, are held and firmly bound unto the UNITED STATES OF AMERICA in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly, by these presents.

Witness our hands and seals this _____ day of _____ 19_____.

Whereas certain articles described in _____ entry No. _____, dated _____ 19_____, have been imported at the port of_____, from _____, in the _____, arrived _____ 19_____.

Whereas, all or part of the merchandise covered by the foregoing entry has been sent to the public stores or other place designated by the collector for examination, inspection, or appraisement; and

Whereas, the collector is unable to ascertain with reasonable certainty the probable supplemental, increased, or additional duties or taxes which may become due on such merchandise; and

Whereas, the said principal desires release of the examined packages prior to the ascertainment by proper authority of the value of the merchandise covered by the entry and of the full amount of duties and taxes due thereon:

Now, therefore, the condition of this obligation is such, that—

If the said obligors shall pay to the collector of customs, when demanded by him, all supplemental, increased, or additional duties or taxes found legally due on all the merchandise covered by the said entry, then this obligation shall be void, otherwise it shall remain in full force and effect.

Signed, sealed, and delivered in the presence of—

_____
(Name) (Address)

_____ _____ [SEAL]
(Name) (Address) (Principal)

_____
(Name) (Address)

_____ _____ [SEAL]
(Name) (Address) (Surety)

_____
(Name) (Address)

_____ _____ [SEAL]
(Name) (Address) (Surety)

(f) The collector may release any merchandise pending reappraisement if its appraised value does not exceed its entered value by more than 100 percent, provided the consignee deposits an amount sufficient to pay any supplemental, increased, or additional duties or taxes, and provided the appraiser has reported the merchandise to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States. (R. S. 161, sec. 499, 46 Stat. 728, secs. 15, 16 (a) 52 Stat. 1034, sec. 505, 46 Stat. 732, sec. 623, 46 Stat. 759, sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1499, 1505, 1623, 1624)

ENTRY FOR WAREHOUSE

§ 8.30 *Form and contents; articles entitled to entry.*[23] (a) Entry for warehousing shall be made in triplicate on customs Form 7502.

(b) The importer shall designate upon the entry the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

(c) Dangerous and highly inflammable merchandise, though not classified as explosive, shall not be entered for warehouse without the written consent of the insurance company insuring the warehouse in which the merchandise is to be stored.

(d) The procedure to be followed in connection with the preparation and filing of the entry, making notations on invoices, the preparation of customs Form 6417, the designation of examination packages, and the appraisement of the merchandise shall be the same as that prescribed for a consumption entry.

(e) A warehouse entry may be substituted for a consumption entry covering merchandise which has remained in continuous customs custody. In such a case, the superseded consumption entry shall be liquidated for refund of any estimated duties deposited without awaiting liquidation of the warehouse entry. All copies of the warehouse entry shall bear the following notation:

This entry is in substitution of consumption entry No. _____, dated _____, 19_____.

(f) Conditionally free merchandise, the right of which to free entry has not been established because of the absence of required documents or other cause, may be entered for warehouse and be withdrawn under the appropriate provision of law within the 3-year warehousing period. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 8.31 *Estimation of duties; bond.* (a) After the duty has been estimated upon the warehouse entry, the collector shall require a bond on customs Form 7555, or other appropriate form, unless there is on file a general term bond of the consignee.

(b) The bond having been executed, the goods, except such as may be designated for examination, shall be sent to the bonded warehouse. (Secs. 557, 623, 46 Stat. 744, 759, secs. 2, 22, 23, 30, 52 Stat. 1077, 1087, 1088, 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1623, 1624)

§ 8.32 *Liability of importers and sureties.* (a) The importer of goods entered for warehousing is liable for the payment of increased duties not only as principal on the warehouse entry bond but also by reason of his personal liability as consignee. Under the first condition of the warehouse entry bond, the sureties on the bond shall be held liable for the payment of duties and customs charges not paid by the principal on the bond, whether such duties and charges are finally ascertained before the merchandise is withdrawn from customs custody or thereafter.

(b) Original importers and their sureties shall not be relieved from any personal or bond liability to the Government by a transfer of the right to withdraw goods from a bonded warehouse unless a bond is filed by the transferee on customs Form 7555 or other appropriate form, in which case the transferor and his sureties shall be relieved from the payment of duties, charges, and exactions on the merchandise the subject of the transfer, but shall remain bound by all other unsatisfied conditions of the bond.

(c) There shall be no abatement or allowance of duties on account of dam-

[23] "Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than firecrackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee. * * *" (Tariff Act of 1930, sec. 557 (a), as amended; 19 U. S. C. 1557 (a))

age, loss, or deterioration of the merchandise while in warehouse, except as provided for by statute. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759, 19 U. S. C. 1557, 1624)

ENTRY FOR REWAREHOUSE

§ 8.33 *Procedure.* (a) After arrival of the merchandise and receipt of the mail copy of the warehouse withdrawal for transportation, customs Form 7512, at the port of destination, the merchandise may be entered for rewarehouse by the consignee named in the withdrawal. The entry shall be on customs Form 7502 and shall be filed in triplicate. Separate shipments consigned to the same consignee and received under separate withdrawals for transportation shall not be combined in one rewarehouse entry unless the warehouse withdrawals are from the same original warehouse entry. If the merchandise is not entered before the expiration of 48 hours after its arrival, it shall be sent to the general-order warehouse but shall not be sold or otherwise disposed of as unclaimed until the expiration of the original warehouse entry bond period.

(b) No declaration is required on entry and, unless a question is raised as to the correctness of the appraisement or classification, no examination of the merchandise need be made.

(c) When a bond on customs Form 7555 or other appropriate form shall have been given, a permit may be issued on customs Form 7502–A for sending the merchandise to the bonded warehouse designated on the entry. No entry bond shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the original port of entry or if it is entered by a transferee who has filed the bond provided for in § 8.39. When merchandise is withdrawn for transportation by a transferee, the collector at the port of withdrawal shall endorse the withdrawal to show whether the transferee has filed the bond provided for in § 8.39. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 8.34 *Value and classification; protest.* (a) The value and duty assessed at the port of original importation and stated in the copy of the withdrawal for transportation forwarded to the port of destination shall in every case be the value and duty charged on the rewarehouse entry or, if the merchandise be withdrawn immediately on arrival, on the rewarehouse withdrawal.

(b) No protest against the assessment of duty can be received at the port of destination, except against a reliquidation made at such port, or against the refusal of the collector at that port to reliquidate under a change in the law. (Sec. 557, 46 Stat. 744, secs, 2, 22, 23, 52 Stat. 1077, 1087, 1088, secs. 514, 624, 46 Stat. 734, 759; 19 U. S. C. 1514, 1557, 1624)

COMBINED ENTRY FOR REWAREHOUSE AND WITHDRAWAL FOR CONSUMPTION

§ 8.35 *Form, procedure.* (a) If the consignee of merchandise withdrawn from warehouse for transportation desires to pay duty and obtain possession of the goods immediately on arrival at destination, a combined entry for rewarehouse and withdrawal for consumption shall be made on customs Form 7519 in quadruplicate, one copy to be used as the permit.

(b) In such a case no rewarehouse bond shall be required but, upon payment of duties in the amount certified on the withdrawal for transportation to be payable, the collector shall issue a permit for release on customs Form 7519.

(c) No declaration shall be required on the rewarehousing of such merchandise, and no further examination need be made than may be necessary for the identification of the goods. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, secs. 484, 624, 46 Stat. 722, 759; 19 U. S. C. 1484, 1557, 1624)

EXPORTATION UNDER WAREHOUSE WITHDRAWAL FOR TRANSPORTATION

§ 8.36 *Procedure.* A consignee of merchandise withdrawn from warehouse for transportation who desires to export the shipment on arrival at destination shall so advise the collector at destination in writing. The collector shall thereupon make a proper notation on the entry and manifest and permit the exportation of the merchandise under customs supervision. The subsequent procedure shall be the same as that prescribed for warehouse or rewarehouse withdrawals for transportation and exportation. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR CONSUMPTION

§ 8.37 *Withdrawal; form and contents.* Withdrawals for consumption of merchandise in bonded warehouse shall be filed in triplicate on customs Form 7505.[24] No new declaration of the consignee or agent is required, but if a nominal consignee has produced a valid owner's declaration in accordance with section 485 (d) Tariff Act of 1930, the withdrawal shall be made only by the owner of the merchandise. The withdrawal shall show the number of the bond, the marks and numbers of the packages withdrawn, the carrier and date of importation, the description, quantity, rates of duty, separate value of each package, and total dutiable value of the merchandise, and shall be signed by the person making the withdrawal, except that in the case of merchandise in packages which are uniform in kind, quantity, value, and duty the number of each package to be withdrawn need not be shown on the withdrawal if the lowest and the highest numbers in the number series of such packages are shown. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 8.38 *Withdrawal; when completed.* When the duties and other charges have been paid, a permit on customs Form 7505–A shall be issued and delivered to the person making the warehouse withdrawal. When the permit is presented to the storekeeper, he shall release the merchandise to or upon the order of the proprietor of the warehouse in accordance with § 19.6 of this chapter, unless the person making the withdrawal requests, by endorsement on the permit, that release be withheld subject to the provisions of § 20.3 (c) of this chapter until he shall have presented to the storekeeper an order to release on customs Form 7505–B. If partial release is desired, the order may cover only part of the merchandise specified in the permit, but not less than an entire package, or, if in bulk, 1 ton in weight. Proprietors may be permitted to make copies of permits and orders to release. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 8.39 *Withdrawal by transferee.* (a) A transferee of merchandise in bonded warehouse[25] may make a withdrawal thereof upon the order of the person who made the warehouse entry or rewarehouse entry endorsed upon the withdrawal.

(b) If the importer does not wish to designate a particular transferee, he may leave the space for the name of the transferee blank. Subsequent transfers may be made by delivery of the withdrawal without notation on the records of the

[24] "* * * Such merchandise may be withdrawn, at any time within three years from the date of importation, for consumption upon payment of the duties and charges accruing thereon at the rate of duty imposed by law upon such merchandise at the date of withdrawal; * * *" (Tariff Act of 1930, sec. 557, as amended; 19 U. S. C. 1557)

[25] "The right to withdraw any merchandise entered in accordance with subsection (a) of this section for the purposes specified in such subsection may be transferred upon compliance with regulations prescribed by the Secretary of the Treasury. So long as any such transfer remains unrevoked the transferee shall have, with respect to the merchandise the subject of the transfer, all rights to file protests, and to the privileges provided for in this section and in sections 562 and 563 of this act which would otherwise be possessed by the transferor. The transferee shall also have the right to receive all lawful refunds of moneys paid by him to the United States with respect to the merchandise and no revocation of any transfer shall deprive him of this right. Any such transfer may be made irrevocable by the filing of a bond of the transferee in such amount and with such conditions as the Secretary of the Treasury shall prescribe, including an obligation to pay all unpaid regular, increased, and additional duties, charges, and exactions on the merchandise the subject of the transfer. Upon the filing of such bond the transferor shall be relieved from liability for the payment of duties, charges, and exactions on the merchandise the subject of the transfer, but shall remain bound by all other unsatisfied conditions of his bond." (Tariff Act of 1930, sec. 557 (b), as amended; 19 U. S. C. 1557 (b).)

customhouse. The person paying the duties and charges shall insert his name in the blank space on the withdrawal and the delivery permit shall be delivered to him.

(c) In cases where the transferee does not desire to pay the duties and charges at the time the right to withdraw the merchandise is transferred to him, he may lodge the endorsed withdrawal in the customhouse as evidence of the transfer, whereupon a notation of the transfer shall be made on the customs records. The transferee may thereafter obtain the release of all or part of the merchandise, unless the transfer of the right to withdraw shall have been revoked, by filing proper withdrawals and otherwise complying with the provisions of §§ 8.37 and 8.38. No endorsement of the person who has previously transferred the right to withdraw the merchandise shall be required on such withdrawals.

(d) If a bond is filed by the transferee on customs Form 7555 or other appropriate form the right of the transferee to withdraw the merchandise may not thereafter be revoked by the transferor.

(e) A transferee may further transfer the right to withdraw the merchandise, subject to the provisions of this section relating to original transfers. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 8.40 *Withdrawals before and after liquidation.* (a) Merchandise may be withdrawn for consumption before liquidation of the warehouse entry upon payment of the estimated duties, and after liquidation upon payment of the liquidated duties.

(b) If there is a difference of $1 or more between the total estimated duties deposited and the total liquidated duties accruing on merchandise withdrawn for consumption before the liquidation or reliquidation of the warehouse entry, a notice shall be issued promptly on customs Form 5107 or customs Form 5269, as the case may be, and such difference shall be collected or refunded.

(c) In the computation of duty on a warehouse withdrawal, ad valorem rates shall be applied to the value in even dollars, fractional parts of a dollar less than 50 cents being disregarded and 50 cents or more being considered as $1. If the rate of duty upon the goods withdrawn is specific and $1 or less per unit, fractional quantities of less than one-half shall be disregarded, and one-half or more shall be treated as a whole unit, If the specific rate is more than $1 per unit, duty shall be assessed upon the exact quantity and the fractional part thereof, if any, expressed in the form of a decimal extended to two places. Any necessary adjustment shall be made on the final withdrawal by increasing or decreasing the amount to be collected to bring the aggregate payments into balance with the amount due as indicated by the liquidation of the warehouse or warehouse entry. (Secs. 557, 562, 46 Stat. 744, 745, secs. 2, 22, 23, 25, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1562, 1624)

WITHDRAWAL AT ORIGINAL OR SECONDARY PORT FOR EXPORTATION

§ 8.41 *Form and contents; goods not laden.* (a) Merchandise may be withdrawn from warehouse at original and secondary ports for exportation in accordance with § 18.19 of this chapter.[23]

(b) If exported by other than the original importer, the same authority shall be required as in case of withdrawal for consumption. The exportation shall be made under the original marks of importation. Port marks may be added by authority of the collector and under the supervision of a customs officer. The original and the port marks shall appear in all customs papers pertaining to the exportation.

(c) Goods withdrawn for exportation but not laden shall be sent to general order unless other disposition is directed by the collector.

(d) Withdrawals for transportation and exportation may be converted to withdrawals for consumption upon request to the collector of customs at the port of origin. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 8.42 *Withdrawal before liquidation.* (a) In the case of merchandise subject to an ad valorem rate of duty, or to a duty based upon or regulated in any manner by the value thereof, no withdrawal for exportation shall be allowed before liquidation of the warehouse entry, or a special liquidation of the items covering the merchandise to be exported, unless:

(1) The appraiser's report of appraisement shows no advance in value or, when such report has not been made, the appraiser indicates on the face of the withdrawal for exportation that there is no probability of advance, or

(2) There is deposited an amount sufficient to cover the additional duties resulting from an undervaluation or possible undervaluation of the merchandise, together with all other duties, taxes, claims for liquidated damages, charges, and exactions which may accrue.

(3) If the collector is unable to ascertain with reasonable certainty from the appraiser's report or other information before him the probable additional duties and taxes on the merchandise together with all other duties, taxes, claims for liquidated damages, charges, and exactions which may accrue, he shall, before permitting exportation of the merchandise, exact an additional warehouse entry bond in an amount sufficient to cover such additional duties, together with all other duties, taxes, claims for liquidated damages, charges, and exactions which he estimates may become due, unless it is believed that the amount named in the bond filed with the related warehouse entry is sufficient.

(b) In the case of merchandise withdrawn for transportation and exportation, there need be no further examination or appraisal at the port of exit. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 8.43 *Weight, gauge, or measure.* (a) Merchandise in bulk and packaged articles which are customarily bought and sold by weight, gauge, or measure may be withdrawn for exportation or transportation only at the actual quantities ascertained at the time of original entry for warehouse, except as otherwise provided for by law.

(b) In any case the collector may require a special report of weight, gauge, or measure of the merchandise being exported if he deems it necessary. (Secs. 557, 562, 46 Stat. 744, 745, secs. 2, 22, 23, 25, 52 Stat. 1077, 1087, 1088, secs. 624, 46 Stat. 759; 19 U. S. C. 1557, 1562, 1624)

§ 8.45 *Parcel-post packages.* Merchandise in bonded warehouse may be withdrawn for exportation by mail in accordance with the provisions of § 9.11 of this chapter. (Sec. 557, 46 Stat. 744, secs. 2, 22, 23, 52 Stat. 1077, 1078, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

ZINC AND LEAD-BEARING ORES; CRUDE COPPER-BEARING MATERIALS; CRUDE METALS

§ 8.46 *Entry and sampling of lead-bearing and zinc-bearing ores not for smelting in bond, transportation bond required.* (a) When lead-bearing ores, flue dust, or mattes or zinc-bearing ores imported under the provisions of paragraph 391 or 393, Tariff Act of 1930,[24] are

[23] "Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than firecrackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee. Such merchandise may be withdrawn, at any time within three years from the date of importation. • • • for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or the Island of Guam, without the payment of duties thereon • • • *Provided*, That the total period of time for which such merchandise may remain in bonded warehouse shall not exceed three years from the date of importation • • •" (Tariff Act of 1930, sec. 557 (a), as amended; 19 U. S. C. 1557 (a))

[24] "• • • *Provided further*, That on all importations of lead-bearing ores, flue dust, and mattes, of all kinds, the duties shall be estimated at the port of entry and a bond given in double the amount of such estimated duties for the transportation of the ores, flue dust, or mattes by common carriers bonded for the transportation of appraised or unappraised merchandise to properly equipped sampling or smelting establishments, whether designated as bonded warehouses or otherwise. On the arrival of the ores, flue dust, or mattes at such establishments they shall be sampled according to commercial methods under the supervision of Government officers who shall be stationed at such establishments, and who shall submit the samples thus obtained to a Government assayer, designated by the Secretary of the Treasury, who shall make a proper assay of the sample and report the result to the proper customs officers, and the import entries shall be liquidated thereon. And the Secretary of the Treasury is authorized to make all necessary regulations to enforce the provisions of this paragraph." (Tariff Act of 1930, par. 391; 19 U. S. C. 1001)

Par. 393 of the Tariff Act of 1930 (19 U. S. C. 1003) contains exactly the same provision with respect to zinc-bearing ores.

entered for consumption or warehouse at the port of first arrival, the merchandise may be weighed at the place of landing or upon arrival at the plant where it is to be sampled. Such merchandise shall be sampled at properly equipped sampling establishments in accordance with commercial methods, under the supervision of customs officers, and shall be transported to the place of sampling by bonded trucks or lighters if no such sampling facilities are available at the port of first arrival.

(b) When the merchandise is not to be used at the port of first arrival, it may be transported by bonded common carrier without weighing to the sampling or smelting establishment under an I. T. entry, customs Form 7512, in connection with which a bond shall be filed on customs Form 7557, 7559, or other appropriate form. The estimated duties shall be shown on the entry in order to fix the penalty of the transportation bond. When a term bond, customs Form 7559, is given, the penalty shall be an amount which the collector deems sufficient to protect the revenue, but not less than $10,000. The entry shall be forwarded to the collector of customs at the nearest port in the district where the sampling or smelting establishment is located. The procedure followed shall otherwise be the same as that provided for under the general regulations governing transportation in bond, § 18.2 of this chapter and following.

(c) The sampling and weighing of the merchandise at points other than the port of entry shall be at the expense of the parties in interest.

(d) The quantities and values of the different metals contained in the ore or base bullion shall be stated in the entry according to the commercial assay shown on the certified invoice, or according to an estimate based on previous similar importations; the importer making such addition to or deduction from such values as he may deem necessary to make market value. (Pars. 391, 393; sec. 1, 46 Stat. 628, sec. 487, 46 Stat. 725; 19 U. S. C. 1001, 1487)

§ 8.47 *Entry and sampling of crude copper-bearing materials not for smelting or refining in bond.* With respect to the entry under I. R. C. section 3425 of crude copper-bearing materials to be smelted, refined, or smelted and refined, but not in bond, and of copper-bearing ores and concentrates not for smelting or refining in bond, the procedure outlined in § 8.46 shall be followed. This procedure shall be followed also when the material is not imported primarily for the recovery of metal. If metallurgical losses are to be claimed, there shall be filed in connection with the entry the statement provided for in § 19.28 (d) of this chapter and such allowances shall be determined in the manner provided for in § 19.28. (53 Stat. 415; I. R. C. sec. 3425; 26 U. S. C. 3525)

§ 8.48 *Sampling and assaying.* (a) In the calculation of the dutiable quantity of imported ore or similar material, the sample used for the moisture test shall be representative of the importation at the time the importation is weighed for customs purposes. The percentage of moistude shall be determined in accordance with commercial methods by the customs chemist or, if the merchandise is in a bonded smelting or refining warehouse, by the customs chemist or storekeeper.

(b) Representative commercial assay samples taken under customs supervision shall be selected by the customs officer for assay by the customs laboratory. When a shipment is made up of a number of lots a composite sample of the shipment shall be drawn for assay, provided composite sampling is feasible and assays of the individual lots are not required for tariff classification or other customs purpose. The composite sample shall consist of proportional parts by weight of the prepared sample drawn from the various lots represented and shall be thoroughly mixed.

(c) Whenever practicable, samples of ores and similar materials not covered by paragraph 391 or 393, or section 312, Tariff Act of 1930, shall be obtained in accordance with the provisions of paragraphs (a) and (b) of this section. Where such procedure cannot be followed, the importer shall be required to furnish a verified commercial moisture sample and prepared assay sample certified to be representative of the importation at the time the importation was weighed for customs purposes. The samples shall be in appropriate containers, properly labeled, and shall be accompanied by a statement including entry number, lots represented, kind of ore, date and place where sampling occurred, and the name and address of the sampling concern. The samples shall be forwarded promptly to the customs laboratory for analysis.

(d) Where no commercial samples have been taken, the customs officer shall take and send to the customs laboratory representative samples from different parts of the importation.

(e) A suitable place or container shall be provided for the safekeeping of all customs samples under government lock or seal.

(f) The collector may secure from the importer a certified copy of the commercial settlement test which shall be compared with the customs laboratory report. If the two reports are not in substantial agreement, the chief chemist of the customs laboratory shall be informed and shall review the assay or reassay. The import entries shall be liquidated on the basis of the customs assay.

(g) When the ores or crude metals assayed are of a class or kind which is ordinarily smelted or converted, the collector, in the liquidation of the entry, shall make a deduction of one and one-half units for lead and one and one-third units for copper from the lead content and copper content, respectively, as reported by the laboratory, if such deductions are ordinarily provided for in the contracts and settlement papers under which such ores and crude metals are bought and sold. (Pars. 391, 393; sec. 1, 46 Stat. 628, sec. 487, 46 Stat. 725; 19 U. S. C. 1001, 1487)

ENTRY FOR EXPORTATION, ENTRY BY APPRAISEMENT, INFORMAL ENTRIES, AND PACKED PACKAGES

§ 8.49 *Entry for exportation; merchandise unentered or rejected, exportation of.* (a) Merchandise in customs custody for which no entry has been completed may be exported under the procedure outlined in §§ 18.25–18.27 of this chapter.

(b) Merchandise in continuous customs custody, which is not subject to an ad valorem rate of duty nor to a duty based upon or regulated in any manner by the value thereof, and which is covered by an unliquidated consumption entry, may be exported in like manner with refund of estimated duties paid.

(c) Merchandise in continuous customs custody, which is subject to an ad valorem rate of duty or to a duty based upon or regulated in any manner by the value thereof, and which is covered by an unliquidated consumption entry, may be exported in like manner with refund of the estimated duties deposited, provided the appraiser's report or other information before the collector satisfies him that there has been and will be no advance in value. If the appraiser's report or other information before the collector indicates that additional duties for undervaluation may accrue, such exportation shall be allowed only if there is deposited with the collector an amount sufficient to cover the additional duties resulting from an undervaluation or possible undervaluation of the merchandise, together with all other duties, taxes, claims for liquidated damages, charges, and exactions which have accrued or may accrue.

(d) If the collector is unable to ascertain with reasonable certainty from the appraiser's report or other information before him, the probable additional duties and taxes on the merchandise together with all other duties, taxes, claims for liquidated damages, charges, and exactions which he estimates may become due, he shall, before permitting exportation of the merchandise, exact a single consumption entry bond on customs Form 7551, executed in an amount deemed by the collector sufficient to protect the revenue, containing an added condition that the obligors shall pay to the collector, when demanded by him, all additional duties, together with all other duties, taxes, claims for liquidated damages, charges, and exactions found legally due on the merchandise exported.

(e) Merchandise regularly entered in good faith and subsequently found to be prohibited entry under any law of the United States, if exported under customs supervision, shall be treated as a nonimportation and not subject to duty. (See §§ 12.4 and 15.5 of this chapter.) [23]

[23] "(a) No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

* * * * * *

"(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such

(f) When merchandise to be exported from continuous customs custody is subject to duty and is covered by a liquidated entry, the drawback procedure prescribed in Part 22 of this chapter shall be followed. (Sec. 558, 46 Stat. 744, sec. 24, 52 Stat. 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1558, 1624)

§ 8.50 *Entry by appraisement.* (a) Application for an entry by appraisement shall be made in triplicate on customs Form 7500.

(b) An application for an entry by appraisement may be approved by the collector without securing the approval of the Commissioner's office for articles described in section 498 (a) (2) (3) (4), (5) (7) or (8) Tariff Act of 1930.[39] As the value of articles of the following descriptions cannot be declared, an application for an entry by appraisement for any such articles pursuant to section 498 (a) (10) [39] Tariff Act of 1930, may be approved by the collector without the approval of the Commissioner's office:

(1) Articles which are second-hand;

(2) Articles which have become deteriorated or damaged before importation otherwise than as specified in section 498 (a) (2)

(3) Articles which are not the subject of a commercial transaction; and

(4) So-called overages or dock accumulations which cannot be identified with any particular shipment.

Entry by appraisement for articles not provided for above shall be allowed only with the approval of the Commissioner's office. Each request for such approval shall be filed in triplicate with the collector and shall state in detail the reasons for the request for entry by appraisement.

(c) An application for an entry by appraisement shall not be approved after the merchandise has been appraised or released from customs custody, nor for damaged merchandise when the damage occurs after importation.

(d) No certified invoice or bond for its production is required, but the consignee or owner shall in all cases furnish any bills or statements of cost relating to the articles which may be in his possession and declare under oath that he has no other information as to the value of the articles and is unable to obtain such information or to determine the value of the articles for the purpose of making formal entry thereof.

(e) After submission, if acceptable, the application, together with any bills or statements relating to the cost or value of the merchandise, shall be forwarded to the appraiser, who shall report the result of his appraisement and his advisory classification of the merchandise thereon and return it with its attachments to the collector. Duties shall be assessed in accordance with the values reported by the appraiser but the importer may substitute an entry for warehouse at any time within 1 year from the date of importation, provided the merchandise has remained in continuous customs custody.

(f) Any additional expense for cartage, storage, or labor occasioned by reason of an entry by appraisement shall be borne by the importer.

(g) An entry by appraisement shall be officially accepted on the date that the importer has completed the performance of all acts required of him which are necessary to secure a permit to release, including the deposit of estimated duties on the basis of the appraiser's report if any are due. (Sec. 498, 46 Stat. 728; 19 U. S. C. 1498)

§ 8.51 *Informal entries.*[40] (a) Merchandise not exceeding $100 in value, unless falling within the provisions of § 8.50, may be entered on customs Form 5119, which shall be prepared by customs officers. Each informal entry shall contain an adequate description of the merchandise and the number of the paragraph under which the merchandise is classified. Such entry may be prepared at the customhouse, highway stations, railroad stations, on the piers, or at other places where there are customs officers competent to examine and appraise the articles and assess the duties.[41]

This form may also be used for the entry of household or personal effects or tools of trade entitled to free entry under paragraph 1632, 1747 (first clause) or 1798, Tariff Act of 1930, but any such articles imported in the baggage of their owner shall ordinarily be included in his baggage declaration. An informal entry may be prepared for any installment, not exceeding $100 in value, of a shipment arriving at different times and in such case need not be considered in connection with invoice requirements for the balance of the series or otherwise as an installment shipment within the purview of § 8.12.

(b) The collector may, when he deems it necessary for the protection of the revenue, require a formal entry, customs Form 7501, for any such merchandise. Individual shipments for the same consignee, when such shipments are valued at $100 or less, may be consolidated on customs Form 7501.

(c) No certified invoice is required but, in the case of merchandise imported pursuant to a purchase or agreement to purchase or intended for sale, the consignee shall produce the commercial invoice covering the transaction or, in the absence thereof, an itemized statement of value.

(d) The collector may, in his discretion, require any merchandise entered in accordance with this section to be regularly examined and appraised.

(e) An informal entry on customs Form 5119 shall be officially accepted on the date that the estimated duties or the free entry documents are received by the appropriate customs officer at the port where the entry is to be accounted for and scheduled.

§ 8.52 *Packed packages; marking; entry; when entry not required.* (a) Packed packages, which may be separately entered under the provisions of section 484 (f), Tariff Act of 1930 [42] shall be marked to indicate that they are packed packages.

(b) Entire packed packages, or one or more of the enclosures thereof, may be entered on any form of formal or informal entry applicable thereto. No entry is required for parcels contained in packed packages where the individual parcel contains merchandise unconditionally free of duty and not exceeding $100 in value. (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083; 19 U. S. C. 1484)

SPECIAL-DELIVERY PACKAGES

§ 8.53 *Application.* Application for the entry of special-delivery packages

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regulations as the Secretary of the Treasury may prescribe: * * *" (Tariff Act of 1930, sec. 558 (a), as amended; 19 U. S. C. 1558 (a))

[39] "(a) *Authorized for certain merchandise.* The Secretary of the Treasury is authorized to prescribe the rules and regulations for the declaration and entry of—

* * * * *

"(2) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

"(3) Merchandise recovered from a wrecked or stranded vessel;

"(4) Household effects used abroad and personnel effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

"(5) Articles sent by persons in foreign countries as gifts to persons in the United States;

* * * * *

"(7) Tools of trade of a person arriving in the United States;

"(8) Personal effects of citizens of the United States who have died in a foreign country;

* * * * *

"(10) Merchandise in the opinion of the Secretary of the Treasury the value thereof cannot be declared; * * *

* * * * *

"(b) *Application of general provisions.* The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 484 or 485 of this Act, (relating, respectively, to entry and to declaration of merchandise generally)." (Tariff Act of 1930, sec. 498; 19 U. S. C. 1498)

[40] "(a) *Authorized for certain merchandise.* The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

"(1) Merchandise not exceeding $100 in value, * * *

* * * * *

"(b) *Applications of general provisions.* The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 484 or 485 of this Act (relating, respectively, to entry and to declaration of merchandise generally)." (Tariff Act of 1930, sec. 498 (a) and (b); 19 U.S.C. 1498 (a) and (b))

[41] The use of customs Form 5119 in connection with the clearance of merchandise not exceeding $100 in value by customhouse brokers or regular importers is permissible provided the merchandise is physically before the customs officer who prepares such entry, examines the merchandise, and receives the payment of the duties from the importer or his representative who is present, and the merchandise is of such character that it may be immediately released to the importer or his representative. B. C. I. 2022.

[42] "* * * One or more packages arriving on one vessel or vehicle addressed for delivery to one person and imported in another package containing packages addressed for delivery to other persons may be separately entered, under such rules and regulations as the Secretary of the Treasury may prescribe. * * *" (Tariff Act of 1930, sec. 484 (f), as amended; 19 U. S. C. 1484 (f))

under the provisions of the act of June 8, 1896 (19 U. S. C. 472–475)[43] may be made by the agent of the carrier bringing the merchandise to the United States, which carrier shall be bonded under section 551, Tariff Act of 1930. The application shall be in substantially the following form, sworn to before a deputy collector or other officer designated to administer oaths, and shall be treated in the same manner as an entry by appraisement:

APPLICATION TO ENTER AND ENTRY UNDER THE PROVISIONS OF THE ACT OF JUNE 8, 1896, OF ARTICLES NOT INTENDED FOR SALE

To the Collector of Customs, Port of _____

I, _____, of the firm of _____, hereby make application to make special entry of _____ packages containing articles not intended for sale, not exceeding five hundred dollars ($500) in value, and not weighing more than one hundred (100) pounds per package, imported per steamship _____, a vessel of the United States from _____ on _____ for _____, ultimate consignee, residing at _____.

I certify that there is but one such consignment from any one consignor to said ultimate consignee imported in the vessel above specified on the date above mentioned.

_____

Sworn to before me this _____ day of _____, 19____.

_____

_____

(Title or designation)

(29 Stat. 263; 19 U. S. C. 472–475)

§ 8.54 *Marking; packages not entitled to special entry.* (a) Every package imported under the provisions of the act of June 8, 1896, shall be plainly marked "Special-delivery package." Packages so marked may be landed on the dock immediately after the entry of the vessel and the inspector in charge shall forthwith forward such packages to the appraiser's stores.

(b) Whenever such a package shall be found to contain articles of more than $500 in value, or to weigh over 100 pounds, the collector shall cause the package to be treated as if unclaimed. (29 Stat. 263, sec. 498, 46 Stat. 728; 19 U. S. C. 472–475, 1498 (a))

§ 8.55 *Liquidation, release.* (a) Upon receipt by the collector of the appraiser's return, the entry shall be immediately liquidated and upon payment of the liquidated duties the package shall be released.

(b) The liquidation shall be final and conclusive against the owner, importer, consignee, or agent, except in the case of clerical error. (29 Stat. 263, sec. 498 (a) 46 Stat. 728; 19 U. S. C. 472–475, 1498 (a))

§ 8.56 *Bond.* The following form of bond shall be given by carriers making entry for special-delivery packages:

BOND UPON ENTRY UNDER ACT OF JUNE 8, 1896

Know all men by these presents. That _____, of _____, as principal, and _____, of _____, and _____, and _____, of _____, as sureties, are held and firmly bound unto the United States of America in the sum of $10,000, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals at the port of _____ this _____ day of _____, nineteen hundred and _____.

Whereas the undersigned, principal on this bond, proposes to enter at the customhouse and to transport merchandise imported under the provisions of the act entitled "An Act To expedite the delivery of imported parcels and packages not exceeding five hundred dollars in value," approved June 8, 1896 (19 U. S. C. 473);

Now, therefore, the condition of this obligation is such that if the herein-mentioned obligors shall duly observe and faithfully comply with all the requirements and provisions of the above-specified act, and with the regulations prescribed thereunder, then this obligation shall be void; otherwise it shall remain in full force and effect.

_____ [SEAL]
_____ [SEAL]
_____ [SEAL]

Signed, sealed, and delivered in the presence of—

_____
_____

(29 Stat. 263, sec. 498 (a), 46 Stat. 728; 19 U. S. C. 472–475, 1498 (a))

§ 8.57 *Corking and sealing; returned packages; refund of duty.* (a) Should the common carrier desire to reserve the right to return any special-delivery package to the customs authorities for refund of the duties paid, such package shall be corked and sealed under customs supervision.

(b) If any package so corked and sealed shall be returned intact within 90 days from the date of importation to the collector of customs at the port of entry, the duties shall be refunded and the common carrier relieved of any liability therefor. (29 Stat. 263, sec. 498 (a), 46 Stat. 728; 19 U. S. C. 472–475, 1498 (a))

§ 8.58 *Invoice.* Nothing contained in §§ 8.53–8.57 shall be held to relieve importers from the necessity of submitting certified invoices for any importation exceeding $100 in value when otherwise required. (29 Stat. 263, sec. 498, 46 Stat. 728; 19 U. S. C. 472–475, 1498 (a))

LANDING AND DELIVERY OF ARTICLES FOR WHICH IMMEDIATE DELIVERY IS NECESSARY

§ 8.59 *Application; entry; procedure.* (a)[44] "Articles, the immediate delivery of which is necessary," for which special permits for delivery are authorized by section 448 (b), Tariff Act of 1930," shall be construed to include, in addition to perishable articles, any other articles in connection with which it is definitely established that delay in securing release would occasion unusual loss or inconvenience to the importer or to the carrier bringing the merchandise to the port. The loss of a benefit of lower quota rates which may be occasioned by any delay in entering such articles is not such unusual loss or inconvenience as is contemplated by this section.

(b) Special permits for the delivery of articles of a class referred to in para-

[43] "Articles, not merchandise intended for sale, not exceeding $500 in value, imported in packages not exceeding one hundred pounds in weight, in vessels of the United States, may be specially delivered to and appraised at the public stores, and the entry thereof liquidated by the collector under such regulations as the Secretary of the Treasury may prescribe, and after such appraisement and liquidation may be delivered, upon payment of the liquidated duties under the bond provided for in section 473 of this title, to express companies or other duly incorporated inland carriers bonded for the transportation of appraised or unappraised merchandise between the several ports in the United States. Not more than one such consignment to one ultimate consignee from the same consignor shall be imported in any one vessel. The original appraisement of and liquidation of duties on such importations shall be final against the owner, importer, agent, or consignee, except in the case of manifest clerical errors, as provided for in section 24 of Act of June 10, 1890, Ch. 407, 26 Stat. 140 [the subject matter of said section 24 is now contained in Tariff Act of 1930, section 520 (a), as amended]. Nothing contained in this section and sections 473–475 shall apply to explosives, or any article the importation of which is prohibited by law." (19 U. S. C. 472)

"Such express companies or other inland carriers shall be responsible to the United States under bond for the safe delivery of such articles to the ultimate consignee. If any package shall not be delivered to the ultimate consignee by the express company or other inland carrier, and shall be returned to the collector of the port where such articles are entered within ninety days from the date of importation intact, the collector shall take charge of such package and dispose of it as unclaimed merchandise, and the duties paid shall be refunded by the Secretary of the Treasury out of any moneys in the Treasury not otherwise appropriated; and the express company or other inland carriers shall be relieved of any liability thereof under its bond; and before any express company or other inland carrier shall be permitted to receive and transport any such articles they shall become bound to the United States in such bonds, in such form and amount, and with such conditions not inconsistent with law as the Secretary of the Treasury may require." (19 U. S. C. 473)

"Articles transported under the provisions of sections 472–475 of this title shall be corded and sealed in such manner as shall from time to time be prescribed by the Secretary of the Treasury; and the collector of the port of first arrival shall retain in his office a permanent record of such merchandise so forwarded." (19 U. S. C. 474)

"Such packages may be consigned to and entered by the agents of the express company or other inland carrier or steamship company, who shall at the time of entry state the ultimate consignee, and in all cases where a certified or other invoice is required by law such invoice may be attached to or inclosed in the package, under such regulations as the Secretary of the Treasury may prescribe; and the delivery of such articles to the express company or other inland carrier shall be not delayed because of the nonarrival of the triplicate invoice, but the ultimate consignee shall be liable for any increased duty found due on reliquidation, if any, after receipt of said merchandise from the express company or other inland carrier or steamship company making entry under this section and sections 472–474 of this title." (19 U. S. C. 475)

[44] "The Secretary of the Treasury is authorized to provide by regulations for the issuing of special permits for delivery, prior to formal entry therefor, of perishable articles and other articles, the immediate delivery of which is necessary." (Tariff Act of 1930, sec. 448 (b); 19 U. S. C. 1448 (b).)

graph (a) of this section prior to formal entry shall be granted only in cases where the collector of customs shall be satisfied that such delivery can be permitted with safety to the revenue.

(c) Applications for special permits for the delivery of imported articles prior to formal entry therefor shall be made in triplicate on customs Form 3461, and shall be supported by evidence satisfactory to the collector of the right of the applicant to make entry for the articles with respect to which the application is filed. If the collector is satisfied that the conditions warrant such action, a special permit may be granted to cover the delivery prior to formal entry of a class or classes of articles particularly described in the application for such permit and imported during a period not to exceed 1 year. In such case the fact of release of the merchandise, together with such supplemental information as may be necessary to identify the shipment and determine its quantity and value, shall be noted on the manifest and initialed by the customs officer who releases the merchandise.

(d) Except as provided for in paragraph (e) of this section, no permit for the delivery of imported articles prior to formal entry shall be issued until there has been filed in connection with the application therefor a single entry bond on customs Form 7551, with approved corporate surety, in a sum equal to the value of the articles plus the estimated duties thereon, if any; or a term bond on customs Form 7553, with approved corporate surety, in a sum which the collector deems sufficient, but not less than $10,000. The term bond may be filed in connection with a single application to cover several importations during a period of not more than 1 year, or in connection with several applications to be filed during a period of not more than 1 year. A general term bond on customs Form 7595 is also applicable to the landing and delivery of articles for which immediate delivery is necessary.

(e) If there is available sufficient information as to the quantities and values of the merchandise properly to estimate the duties, there may be filed with the application for a special permit a proper entry in regular form, accompanied by the estimated duties and supported by the proper entry bond on customs Form 7551, 7553, or other appropriate form. The estimated duties shall be deposited with the cashier, but the entry shall not be effective as such until after the merchandise covered thereby has actually arrived within the port limits and the entry has been officially accepted.

(f) No special permit shall be required for the delivery of importations for which informal entry is permitted as provided for in § 8.51.

(g) In the case of articles of a class referred to in paragraph (a) of this section, arriving from Canada or Mexico when the customhouse is closed and destined to places other than the port of arrival, except those entered in accordance with § 8.51, the application and the evidence of the right to make entry may be submitted to the chief customs officer on duty and a special permit may be issued for their release, provided the person making application has on file in the customhouse a special term bond as described in paragraph (d) of this section.

(h) If formal entry is not made and estimated duties deposited within 48 hours (exclusive of Sunday and holidays) after the release of the articles under special permit, the collector shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond or an amount equal to the value of the articles as to which there is default, plus the duties and any taxes thereon, in the case of a term bond, and, unless prompt action is taken looking to a settlement of the claim, shall discontinue allowing immediate delivery of articles imported by or for the account of the person in default.

(i) Except in the case of articles entered in accordance with § 8.51, the collector shall give timely notice of the arrival of the vessel or vehicle to the appraiser, who shall promptly detail an officer to examine the merchandise, except that when the vessel or vehicle arrives at night or on a Sunday or holiday, and the articles consist of fruits, vegetables, or other merchandise which it is practicable to appraise by means of samples, the discharging inspector shall take samples in such manner and in such quantities as the appraiser may direct and retain them for examination on the next business day. The discharging inspector shall not release the merchandise to the carrier until it has been examined or adequate samples have been taken when appraisement is to be made by sample.

(j) In all other respects the procedure shall be the same as in the case of other imported merchandise. (Sec. 448 (a), 46 Stat. 714; 19 U. S. C. 1488 (a))

PART 9—IMPORTATIONS BY MAIL

Sec.

9.1 Customs declarations and invoices.
9.2 Treatment of mail importations at offices of first receipt and at offices of examination.
9.3 Mail entries.
9.4 Formal entry of mail importations.
9.5 Sealed mail parcels to bear label or endorsement.
9.6 Importations not exceeding $1 in value.
9.7 Parcels for the United States Government; merchandise in diplomatic pouches; parcels marked for copyright; books, engravings, etc., for the United States.
9.8 Cigars, cigarettes, cheroots, and tobacco products, oleomargarine, and playing cards.
9.9 Merchandise conditionally free.
9.10 Dissatisfied addressees; undelivered dutiable parcels.
9.11 Exportation by mail; plant material; air transportation.
9.12 Prohibited and restricted mail importations; seizure under the customs laws.

CROSS REFERENCE: Joint regulations of the Secretary of the Treasury and the Postmaster General regarding treatment of mail matter received from foreign countries involving the customs revenue appear in Part 22 of Title 39, *infra*.

§ 9.1 *Customs declarations and invoices.* (a) A customs declaration on the form provided by the foreign mailing office, giving an accurate description and the value of the contents, shall be securely attached to at least one package of each parcel-post shipment. Each commercial shipment by parcel post shall also be accompanied by a commercial invoice. In case the shipment consists of more than one package, the invoice shall be placed in the package to which the postal form of customs declaration is attached, and such package shall be marked "Invoice enclosed." There shall be enclosed with the contents of every mail parcel containing merchandise dispatched otherwise than by parcel post an invoice in the case of commercial shipments, or a statement of value in the case of merchandise not purchased nor consigned for sale, giving an accurate description and the value of the merchandise. If it is impracticable to enclose the invoice or statement, it shall be securely attached to the outside of the parcel.

(b) When the aggregate value of a mail shipment exceeds $100, the accompanying invoice is subject to the same requirements as to consular certification as invoices covering similar shipments imported otherwise than in the mails. When a certified consular invoice accompanies a mail shipment, no other invoice or statement is required. (Secs. 431, 482, 46 Stat. 719, 720, sec. 485, 48 Stat. 624, sec. 13, 52 Stat. 1083, secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1481, 1482, 1485, 1498, 1624)

CROSS REFERENCE: For exception to the requirements of this section with regard to customs invoices in the shipment of bona fide gifts under Public Law No. 790, see § 54.3 (e) of this chapter.

§ 9.2 *Treatment of mail importations at offices of first receipt and at offices of examination.* (a) Parcels of all classes of mail believed to contain articles liable to customs duty received at post offices other than New York, Chicago, San Francisco, or Seattle,[2] and such parcels received at exchange post offices at the four ports mentioned for delivery within their respective distribution districts as shown in the special distribution scheme,[3] shall be given customs treatment at the ports where received.

(b) All parcels, including those subject to formal entry, for delivery at points outside the distribution districts of the four exchange post offices named in paragraph (a) of this section, and received at such offices, shall be left in the custody of the postmaster, without customs examination, for redispatch to other distributing post offices in accordance with the special distribution scheme. Upon receipt at the distributing post offices, the dispatches shall be opened in the presence of customs officers and the mail given customs treatment. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

[2] Dutiable packages addressed to persons on commercial vessels in harbor bound for a foreign port are subject to duty unless remailed to a foreign destination or otherwise exported under customs supervision. (T. D. 38287 (3))

[3] Copies of the special distribution scheme will be furnished to collectors of customs and will be available for inspection by the public at the collectors' offices.

NOTE: T. D. 38287 not filed with the Division of the Federal Register.

§ 9.3 *Mail entries.* (a) In the case of importation in the mails not exceeding $100 in value, customs officers shall prepare and attach the proper entry form and return the shipment to the postal authorities for delivery and collection of duty.[4]

(b) No mail or other entry shall be issued for any shipment in the mails which is unconditionally free of duty and which does not exceed $100 in value. In the case of articles which are unquestionably the growth, produce, or manufacture of the United States, and which have not been advanced in value or improved in condition, if the collector is satisfied from the character thereof or otherwise that they are free of duty under paragraph 1615, Tariff Act of 1930, as amended, and if the total value of the articles of American origin contained in the shipment does not exceed $10, no mail or other entry shall be issued and no affidavit of the owner, importer, or agent on customs Form 3311 shall be required therefor.

(c) The date of entry for the purpose of determining applicable rates of duty in the case of a mail entry shall be the date on which the estimated duties or the free entry documents are received by the appropriate customs officer at the port where the mail entry was issued. (Sec. 498 (a) 46 Stat. 728; 19 U. S. C. 1498 (a))

§ 9.4 *Formal entry of mail importations.* Formal entry at the customhouse shall be required for every importation in the mails which exceeds $100 in value, except as provided for in § 10.20 (c) (3) of this chapter. When a mail shipment is examined and found to be subject to formal entry, the addressee or consignee shall be notified on customs Form 3509 of the arrival of the shipment and of the port at which entry is to be made. When a shipment is addressed to a point which is not a customs port or station, the port of entry specified in the notice shall be the port nearest the office of destination of the shipment. Single shipments not exceeding $100 in value, if mailed abroad at different times (as shown by the declaration or other mailing indicia) shall not be combined for the purpose of requiring formal customs entry, even though they reach customs at the same or approximately the same time, unless there was a splitting of shipments in order to avoid the payment of consular fees or the lawful customs duty. The collector may require formal entry of mail shipments regardless of value, if in his opinion such entry is necessary to protect the revenue. (Secs. 484, 624, 46 Stat. 722, 759; 19 U. S. C. 1484, 1624)

§ 9.5 *Sealed mail parcels to bear label or endorsement.* (a) The importation of merchandise in sealed parcels (other than parcel post) shall be permitted if the sealed letter or other sealed parcel bears on the address side thereof the label, Form C 1, provided for by the Universal Postal Convention or the endorsement "May be opened for customs purposes before delivery to the addressee," or words of similar purport definitely waiving the privacy of the seal and indicating that the parcel may be opened by customs officers without recourse to the addressee.[5]

(b) When a sealed envelope or other parcel (other than parcel post) believed to contain merchandise is not endorsed or labeled as required, the postmaster will detain it in his custody and request the addressee to furnish written authority for a customs officer to open the parcel in the presence of a representative of the postmaster. If the addressee does not furnish such written authority within 30 days after the date of notice by the postmaster or within such further time as may be allowed, the parcel will be treated as undeliverable mail matter. If the parcel, upon being opened under proper written authority, is found to contain merchandise free of internal-revenue tax and free of duty either because unconditionally free or because the aggregate value of the shipment is not more than $1 and the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, the parcel may be delivered to the addressee without the collection of any fine on account of the article not having been endorsed or labeled in accordance with paragraph (a) of this section.

(c) Except as provided for in paragraph (b) of this section, if a sealed letter or other parcel not endorsed or labeled as required by paragraph (a) of this section is found to contain merchandise subject to duty (including conditionally free merchandise) or subject to internal-revenue tax, the merchandise is subject to seizure and forfeiture as having been imported contrary to law. Under the authority contained in section 618, Tariff Act of 1930, any forfeiture so incurred is hereby mitigated to an amount equal to 10 percent of the loss of revenue which was or might have been sustained, provided there is no evidence indicating to the collector that failure to label or endorse the parcel was due to willful negligence or to an intent to defraud the revenue. If there is any such evidence, or if for any other reason the collector believes that it would not be in the interest of the United States to grant this relief, the matter shall be reported to the Bureau of Customs for instructions. When the shipment does not exceed $100 in value, customs Form 3421 shall be used for the entry of the merchandise and the duty, any internal-revenue tax, and the amount of the mitigated forfeiture shall be entered as separate items thereon. If a parcel for which a mail fine entry has been issued in accordance with the foregoing provision is undeliverable, it will be returned to the collector of customs at the port where the mail entry was issued, for disposition in accordance with § 9.12 (d) relating to articles subject to seizure. The addressee or sender may file a petition with the collector of customs at the port where the mail fine entry was issued for relief from the forfeiture incurred and for the release of the seized merchandise to the addressee or sender. (18 U. S. C. 545; secs. 618, 624, 46 Stat. 757, 759; 19 U. S. C. 361)

§ 9.6 *Importations not exceeding $1 in value.* (a) Customs officers may pass free of duty, without issuing a mail entry therefor, parcels containing articles (except those subject to internal-revenue tax) the aggregate value of which is not more than $1, provided the merchandise is not imported for sale or forwarded in a manner designed to evade the payment of customs duty.[6]

(b) When such importations are subject to internal-revenue tax, both duty and tax shall be assessed. (Sec. 624, 46 Stat. 759, sec. 7, 52 Stat. 1081; 19 U. S. C. 1624, 1321)

§ 9.7 *Parcels for the United States Government; merchandise in diplomatic pouches; parcels marked for copyright; books, engravings, etc., for the United States.* (a) Parcels addressed to offices or officials of the United States Government, believed to contain only official documents, shall be forwarded immediately to the addressees. Such parcels, when known or believed to contain merchandise, shall be treated in the same manner as similar parcels for other addressees.

(b) Books, engravings, and other articles enumerated in paragraph 1628, Tariff Act of 1930, which are imported by mail and addressed to the Library of Congress or any department or agency of the Government, shall be forwarded for delivery without the assessment of duty, if the collector is satisfied they are entitled to free entry under such paragraph 1628.

(c) Parcels marked for copyright, addressed to the Library of Congress, to the Copyright Office, or to the office of the Register of Copyrights, Washington, D. C., may be passed free of duty and promptly forwarded to destination.

(d) No merchandise of any character may be forwarded in diplomatic or other official pouches.[7] (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

[4] "The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of—

"(1) Merchandise not exceeding $100 in value, including such merchandise imported through the mails; * * *" Tariff Act of 1930, sec. 498 (a); 19 U. S. C. 1498 (a))

[5] Parcels imported under the provisions of the parcel-post conventions between the United States and foreign countries need not be labeled or endorsed since under the terms of these conventions such parcels, if sealed, may be opened by customs officers, immediately upon receipt and resealed with official seals after examination.

[6] "Collectors of customs are hereby authorized, under such regulations as the Secretary of the Treasury may prescribe, * * * to admit articles free of duty when the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, but the aggregate value of articles imported by one person on one day and exempted from the payment of duty under the authority of this section shall not exceed * * * $1 * * *" (Tariff Act of 1930, sec. 321, as amended; 19 U. S. C. 1321)

[7] The regulations contained in § 10.30 of this chapter, which govern the free entry of articles for diplomatic and consular officers and other representatives of foreign countries, are applicable in the case of mail articles.

§ 9.8 *Cigars, cigarettes, cheroots, and tobacco products, oleomargarine, and playing cards.* (a) In the case of mail entries for cigars, cigarettes, cheroots, other tobacco products, oleomargarine, or playing cards required to have internal revenue stamps affixed, customs officers shall fill out, sign, and attach to the entries internal revenue Form 923 (request to sell internal-revenue stamps) and customs Form 3473. Whenever the merchandise is addressed for delivery at the post office where it is examined and customs Form 3473 is not required to insure the taking of the action described therein, Form 3473 need not be prepared. The postmaster will furnish the addressee with the request to sell internal-revenue stamps. The addressee will be required to secure the necessary internal-revenue stamps, affix them to the immediate containers of the merchandise, and cancel the stamps before the parcels will be delivered to him.

(b) Customs inspection stamps, when required, shall be affixed to each immediate container of the merchandise by customs officers and canceled by them before the shipment is released for delivery.

(c) United States customs duty and internal-revenue tax on mail shipments of cigars for informal entry, dispatched to the United States under the provisions of the parcel-post convention with Cuba, effective September 1, 1930, may, at the option of the sender, be prepaid at Miami or Tampa, Fla., upon condition:

(1) That all such mail shipments of cigars from Cuba be sent in mail sacks addressed to the postmaster at Miami or Tampa for customs examination at either of those ports;

(2) That the Cuban sender will authorize, in writing, his representative at Miami or Tampa to prepay the customs duty and to purchase and affix the necessary internal-revenue stamps to each mail parcel before it is returned to the postmaster for delivery or dispatch to destination; and

(3) That each parcel, before dispatch to the United States, be plainly stamped "Customs duty and internal-revenue tax on this parcel to be paid at Miami (or Tampa) Fla."

(d) For each prepaid shipment the customs officer shall prepare customs Form 3419 in quadruplicate. Two copies shall be signed by the collector or the deputy collector and the sender's representative. One of these copies shall be given to the representative as a receipt for the duty paid and the other shall be listed in numerical order with other mail entries on customs Form 5171, transmitted to the comptroller of customs therewith, and liquidated.

(e) Each prepaid parcel shall be legibly stamped on the addressed side "U. S. customs duty and internal-revenue tax prepaid at Miami (or Tampa) Fla." followed by the mail entry number and the initials of two customs employees certifying to the appraisal of the merchandise, collection of the duty, and the affixing of the internal-revenue stamps. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 759)

§ 9.9 *Merchandise conditionally free.* (a) When the contents of a parcel may be conditionally free under the tariff act, the attached blank form of affidavit for free entry shall be properly executed and returned to the postal authorities by the addressee in order to obtain free entry.

(b) When an institution files evidence to show that it is entitled to import books, music, and other merchandise free of duty under paragraph 1631, Tariff Act of 1930, the name of such institution shall be placed on a free list, to be kept by the collector for that purpose, if the institution agrees in writing and under oath to notify the collector in the event goods not for the sole use of the institution arrive addressed to the institution. A mail importation of such merchandise valued at $100 or less and addressed directly to such an institution shall be passed free of duty without requiring compliance with paragraph (a) of this section and without issuing a mail entry.

(c) Articles imported in the mail from Guam or American Samoa are entitled to free entry when accompanied by a certificate of the chief customs officer at the port of shipment showing that the articles are the growth or product of, or actual importations into, Guam or American Samoa, as the case may be. When the parcel is not accompanied by such a certificate, and the merchandise is of a class or kind which would be subject to duty if not within the purview of this paragraph, estimated duties shall be collected and the addressee advised by notation on the addressee's copy of the entry, customs Form 3419, that the estimated duty may be refunded upon production of the certificate within 6 months. In such cases, liquidation of the entry shall be suspended for a period of 6 months from the date of the entry. Upon the production of the certificate within 6 months, the entry shall be liquidated free of duty and the estimated duty refunded; otherwise, the entry shall be liquidated as dutiable. A parcel containing products of Guam or American Samoa valued at $10 or less is not required to be accompanied by such a certificate if the collector is otherwise satisfied that the articles are entitled to free entry.

(d) A conditionally free shipment from the Virgin Islands, valued at more than $10 but not more than $100, when accompanied by a certificate of Virgin Islands origin, and any such shipment valued at $10 or less may be passed without the issuance of a mail entry if the collector is satisfied that the merchandise is entitled to free entry. Formal entry shall be required and the provisions of Parts 7 and 8 of this chapter shall be followed in the case of each shipment over $100 in value. (R. S. 251, sec. 624, 46 Stat. 759, 19 U. S. C. 66, 1624)

§ 9.10 *Dissatisfied addressees; undelivered dutiable parcels.* (a) Amounts collected on mail-entry forms will not be refunded by postmasters. If an addressee is dissatisfied with the charges, he may give written notice of his dissatisfaction to the postmaster, who will hold the package and report the facts to the collector of customs who issued the entry, forwarding such papers or statements as the addressee may submit. Such mail parcel will not be delivered until authority therefor is given by the collector of customs.

(b) If the addressee of a parcel covered by a mail entry objects to the rate or amount of duty assessed, or to the valuation placed upon the merchandise for customs purposes, and the collector is satisfied by a report of a customs officer who has reexamined the merchandise or by other sufficient evidence that the objection is well-founded, the collector may reclassify the merchandise or, with the concurrence of the appraising officer, amend the value, even though the merchandise has been delivered to the addressee, if such action is taken before liquidation or within 60 days thereafter.[*] A mail entry may be reliquidated to allow a claim of the addressee after the expiration of 60 days after liquidation only if a protest has been filed in the form and manner prescribed in section 514, Tariff Act of 1930.

(c) If for any reason an undelivered parcel known or supposed to be dutiable is not returned to the country of origin, it will be delivered to the proper customs officer for disposition under the customs laws and regulations governing seized or unclaimed merchandise. (Secs. 514, 624, 46 Stat. 734, 759; 19 U. S. C. 1514, 1624)

§ 9.11 *Exportation by mail; plant material; air transportation.* (a) Articles imported into the United States from foreign countries may be exported in the registered or ordinary mails, or in registered, insured, or ordinary parcel post, without the payment of duties that may have accrued thereon if the articles have remained continuously in the custody of the Government (customs or postal authorities), and the packages containing such articles are inspected and mailed under customs supervision. Waiver of the right to withdraw the package from the mails shall be endorsed on each package to be so exported and signed by the exporter.

(b) Shipments of plant material may be imported by mail free of duty for immediate exportation by mail subject to the following regulations, which have been approved by the Department of Agriculture and the Post Office Department:

(1) Each shipment shall be dispatched in the mails from abroad, accompanied by a yellow and green special mail tag bearing the serial number of the permit for entry for immediate exportation or immediate transportation and exportation, issued by the United States Department of Agriculture, and also the postal form of customs declaration.

(2) Upon arrival, the shipment shall be detained by or redispatched to the postmaster at Washington, D. C., Hoboken, N. J., San Francisco, Calif., Seattle, Wash., Honolulu, T. H., or San Juan, P. R., as may be appropriate, according

[*] Liquidation of mail entries are subject to protest as in the case of formal entries. Importations in the mails are not subject to appeal for reappraisement unless formal entry has been made.

to the address on the yellow and green tag, and there submitted to the customs officer and the Federal quarantine inspector. The merchandise shall under no circumstances be permitted to enter the commerce of the United States.

(3) After inspection by the customs and quarantine officers, and with their approval, the addressee or his authorized agent shall repack and readdress the mail parcel under customs supervision; affix to the parcel the necessary postage; and comply with other mailing requirements, after which the parcel shall be delivered to the postmaster for exportation by mail pursuant to paragraph (a) of this section. The contents of the original parcel may be subdivided and exported in separate parcels in like manner.

(4) Each parcel imported shall be subject to the payment of the regular 10-cent customs clearance fee and the 5-cent delivery fee exacted by the Postal Service.

(5) It will not be necessary to issue a customs mail entry nor to require formal entry of the shipments.

(6) The mail shipments referred to shall be accorded special handling only at the points specified in subparagraph (2) of this paragraph.

(7) The foregoing procedure shall not affect the movement of plant material in the international mails in transit through the United States.

(c) Mail parcels of foreign origin, addressed to or in care of an air transportation agency at a customs port in the United States, containing merchandise intended for immediate exportation by such agency, may be exported free of duty, under customs supervision, subject to the following conditions: The postmaster will, upon written authority of the addressee and in the presence of a customs officer, rewrap and readdress the mail article, which will be retained in postal custody until a reasonable time before the departure of the exporting aircraft. Thereafter, the postmaster will have the article dispatched in postal equipment to the point of departure of the aircraft and delivered to the customs officer, who shall, in turn, deliver it on board the departing aircraft after the latter has cleared for a foreign destination. It will not be necessary to prepare a mail entry in cases where the article reaches the port of exportation unaccompanied thereby. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C., 66, 1624)

§ 9.12 *Prohibited and restricted mail importations; seizure under the customs laws.* (a) Each mail shipment of admissible arms, implements of war, or other nonexplosive munitions of war designated in the President's Proclamation, No. 2237, of May 1, 1937, referred to in section 12 (i) of the Neutrality Act of 1930 (22 U. S. C. 452i) or in any proclamation of the President made under the authority of said section 12 (i) shall be detained by customs until an import license from the Secretary of State has been submitted for such shipment. Likewise, a shipment of firearms, as that term is defined in the National Firearms Act, as amended (26 U. S. C. 2733) shall be detained by customs until an import permit from the Commissioner or Internal Revenue has been submitted by the addressee. If the import license or the import permit is found to be in proper form, the mail parcel shall be endorsed by customs to show that it is entitled to entry and released to the postmaster for delivery or dispatch to destination in the mails, subject to any duties that may accrue and to other customs requirements applicable thereto. Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable, with certain exceptions (18 U. S. C. 1715), and when received in the mails such nonmailable articles are subject to seizure and forfeiture under the customs laws.

(b) Plants and plant products, including seeds and bulbs of all kinds, may be imported into the United States only under the conditions set forth in the plant quarantine act, amendments thereto, and regulations thereunder. All such articles shall be submitted through customs officials to plant quarantine inspectors of the United States Department of Agriculture for fulfillment of the requirements of the law.

(c) Viruses, serums, toxins, and other biological products covered by the act of July 1, 1902 (42 U. S. C. 141–148) may be imported only in accordance with the provisions of the act and the regulations thereunder (42 CFR 73.20–73.23) In all cases mail shipments of such products shall be submitted to customs representatives who shall communicate with the addressees and determine whether such importations are in compliance with the law and regulations.

(d) All mail shipments containing articles, except lottery matter and contraceptive literature which are prohibited importation and all mail shipments containing articles subject to seizure as being imported or brought into the United States in any manner contrary to law shall be immediately taken and held by customs officers for appropriate treatment under the customs laws. All mail parcels which are known or believed to contain merchandise and of which the addressee refuses to take delivery, or for which the addressee declines to make formal entry when requested by the customs officer in cases where the appraised value exceeds the value shown in the declaration or invoice, will be delivered to customs officers for treatment under the customs laws upon production to the postmaster concerned of satisfactory evidence of fraudulent intent on the part of any of the persons mentioned in this paragraph. In all cases where articles are seized by customs officers, notice shall be given by customs officers to the addressee of that fact and the reason therefor.

(e) Mail parcels of all classes, sealed or unsealed, which upon inspection or examination are found to contain or are supposed to contain lottery matter prohibited importation under section 305, Tariff Act of 1930, or enclosures pertaining thereto, will be retained by the Postal Service, or shall be delivered to that Service by the Customs Service, for disposition under the Postal Laws and Regulations. If such a parcel is found to contain other merchandise, the parcel shall be held by, or delivered to, the Customs Service for appropriate treatment under the customs laws and regulations.

Mail parcels which upon inspection or examination are found to contain contraceptive literature will be retained by the Postal Service, or shall be delivered to that Service by the Customs Service, for disposition under the Postal Laws and Regulations. If the Postal Service shall determine in any case that it is proper to release contraceptive literature to an addressee, such literature before delivery to the addressee will be turned over to the nearest customs officer located at a post office for treatment by customs in the same manner as other articles imported in the mails. (Secs. 305, 624, 46 Stat. 688, 759; 19 U. S. C. 1305, 1624)

PART 10—ARTICLES CONDITIONALLY FREE SUBJECT TO A REDUCED RATE, ETC.

DOMESTIC PRODUCTS EXPORTED AND RETURNED

Sec.
10.1 Requirements on entry.
10.2 Waiver of evidence.
10.3 Drawback; internal-revenue tax.
10.4 Internal-revenue marks; erasure.
10.5 Shooks and staves; cloth boards; consular account.
10.6 Certificates of foreign shipper and box maker.
10.7 Drums, quicksilver flasks, etc.
10.8 Articles exported for repairs or alterations.
10.9 Books bound abroad.
10.10 News-reel films.

HOUSEHOLD EFFECTS

10.11 Declaration.
10.12 Use abroad.

IMMIGRANTS' TEAMS

10.13 Immigrants' teams; free entry.

EFFECTS OF CITIZENS DYING ABROAD; TOOLS OF TRADE

10.14 Effects of citizens dying abroad; procedure.
10.15 Tools of trade.

PASSENGERS' BAGGAGE

10.16 Status of passengers.
10.17 Exemptions for returning residents.
10.18 Exemptions for non-residents.
10.19 Declaration and entry.
10.20 Unaccompanied shipments.
10.21 Examination procedure; collection of duties and taxes.
10.22 Crews' effects.
10.23 Vessels transiting the Panama Canal; treatment of passengers' baggage and crews' effects.
10.24 Naval vessels.
10.25 Army and Navy transports; baggage brought in.
10.26 Household and personal effects of Army, Navy, and Marine Corps personnel and of civilian employees of the Panama Canal.
10.27 Unclaimed and unaccompanied baggage.
10.28 Registration of valuable effects.

DIPLOMATIC AND CONSULAR OFFICERS

10.29 Baggage.
10.30 Importations for resident representatives of foreign governments.
10.30a Organizations included.
10.30b Importations for resident representatives of the United Nations and specialized agencies thereof.

ARTICLES FREE UNDER 6-MONTHS' BOND

10.31 Entry; bond.
10.32 Animals or poultry for breeding; exhibition; competition.

Sec.
10.33 Theatrical effects.
10.34 Articles brought by professional artists, lecturers, or scientists.
10.35 Models of women's wearing apparel.
10.36 Commercial travelers' samples.
10.37 Extension of bonds.
10.38 Exportation.
10.39 Cancelation of bonds.
10.40 Refund of special deposits.
10.41 Horses, vehicles, and craft brought in for a temporary stay.

AUTOMOBILES AND OTHER VEHICLES

10.42 Automobiles and other vehicles, boats, teams, and saddle horses taken abroad.

ARTICLES FOR INSTITUTIONS

10.43 Requirements on entry.
10.44 Declaration of dealer or agent; certificate of delivery; stipulation.
10.45 Serial publications; list of publications.
10.46 Articles for the United States.

WORKS OF ART

10.47 Statuary and casts of sculpture.
10.48 Original paintings, engravings, drawings, sculpture, etc.
10.49 Articles for exhibition; requirements on entry.
10.50 Works of American artists.
10.51 Articles for institutions.
10.52 Stained or painted glass windows for houses of worship.
10.53 Artistic antiquities.
10.54 Gobelin tapestries.

VEGETABLE OILS

10.56 Vegetable oils; denaturing; release.

IMPORTED POTATOES

10.57 Certified seed potatoes.

BOLTING CLOTHS

10.58 Bolting cloths; marking.

WITHDRAWAL OF SUPPLIES FOR VESSELS

10.59 Exemption from customs duties and internal-revenue tax.
10.60 Forms of withdrawals; bond.
10.61 Withdrawal permit; lading; store log.
10.63 Vessels withdrawn from trade or diverted to nonprivileged trade; landing of bonded supplies and stores.
10.64 Crediting or cancellation of bonds.
10.65 Tobacco products.

ARTICLES EXPORTED FOR EXHIBITION, ETC.

10.66 Articles exported for temporary exhibition and returned; procedure on entry.
10.67 Articles exported for scientific or educational purposes and returned; procedure on entry.

THEATRICAL EFFECTS, MOTION-PICTURE FILMS, AND COMMERCIAL TRAVELERS' SAMPLES

10.68 Procedure.
10.69 Samples to Great Britain and Ireland under reciprocal agreement.

ANIMALS AND BIRDS

10.70 Purebred animals for breeding purposes; affidavit; certificate.
10.71 Purebred animals; bond for production of evidence; deposit of estimated duties; stipulation.
10.72 Horses and mules for immediate slaughter.
10.73 Cows for dairy purposes.
10.74 Animals straying or driven across boundary for pasturage; offspring.
10.75 Wild animals and birds; zoological collections.
10.76 Game animals and birds.
10.77 Skins bearing wool as fur skins.

PRODUCTS OF AMERICAN FISHERIES

Sec.
10.78 Entry.
10.79 Affidavit; manifest.

SALT FOR CURING FISH

10.80 Remission of duty; withdrawal; bond.
10.81 Use in any district.
10.82 Proof of use.
10.83 Bond; cancellation; extension.

LEATHER, HIDES, AND SKINS

10.84 Leather for use in the manufacture of footwear.
10.85 Leather to be used in the manufacture of harness or saddlery.
10.86 Hides and skins of the India water buffalo to be used in the manufacture of rawhide articles.
10.87 Leather to be used in the manufacture of footballs, basketball, soccer balls, or medicine balls.

PATNA RICE

10.88 Patna rice to be used in the manufacture of canned soups.

MOTION-PICTURE FILMS, MASTER RECORDS, AND METAL MATRICES

10.89 Motion-picture films exposed abroad by American producers.
10.90 Master records and metal matrices.

WOOLS AND HAIR OF THE CAMEL FOR USE IN MANUFACTURING FLOOR COVERINGS AND OTHER ARTICLES

10.91 Importation under paragraph 1101; entry or withdrawal under bond.
10.92 Bond; form; penalty.
10.93 Records of receipt of wool or hair.
10.94 Sworn statements.
10.95 Records and reports of enumerated articles of wool or hair delivered; transfer certificates.
10.96 Reports of use or transfer for use in violation of bond.
10.97 Duties, exportation or destruction.

FLUXING MATERIAL

10.98 Copper-bearing fluxing material.

ETHYL ALCOHOL

10.99 Importation of ethyl alcohol for nonbeverage purposes.

RAPESEED OIL

10.100 Rapeseed oil to be used in the manufacture of rubber substitutes or lubricating oil.

LIMESTONE

10.101 Limestone to be used in the manufacture of fertilizer.

DOMESTIC PRODUCTS EXPORTED AND RETURNED

§ 10.1 *Requirements on entry.* (a) The following documents shall be filed in connection with the entry of articles claimed to be free of duty under paragraph 1615, Tariff Act of 1930, as amended: [1]

(1) A declaration of the foreign shipper on consular Form 129 (Invoice of Returned American Goods and Declaration of Foreign Exporter) certified by the American consular officer, if the value exceeds $100. An invoice on consular Form 138 shall not be required if consular Form 129 is filed within the period provided for in this part.

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[1] "(a) Articles, the growth, produce, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means.

"(b) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers of domestic or foreign manufacture, exported empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise, including shooks and staves produced in the United States when returned as boxes or barrels in use as the usual containers of merchandise.

"(c) Photographic dry plates and films of the manufacture of the United States (except moving-picture films to be used for commercial purposes), exposed abroad, whether developed or not.

"(d) Photographic films light struck or otherwise damaged, or worn out, so as to be unsuitable for any other purposes than the recovery of the constituent materials, provided the basic films are of the manufacture of the United States.

"(e) The foregoing provisions of this paragraph shall not apply to—

"(1) Any article upon which an allowance of drawback has been made under section 313 of this Act or a corresponding provision of a prior tariff Act, unless such article is in use at the time of importation as the usual container or covering of merchandise not subject to an ad valorem rate of duty.

"(2) Any article of a kind with respect to the importation of which an internal-revenue tax is imposed at the time such article is entered for consumption or withdrawn from warehouse for consumption, unless such article was subject to an internal-revenue tax imposed upon production or importation at the time of its exportation from the United States and it shall be proved that such tax was paid before exportation and not refunded;

"(3) Any article manufactured or produced in a customs bonded warehouse in the United States and exported under any provision of law; or

"(4) Any article made dutiable under the provision of paragraph 1606 (c) of this Act.

"(f) Upon the entry for consumption or withdrawal from warehouse for consumption of any article previously exported, which is excepted from free entry under this paragraph by the foregoing subparagraph (e) and is not otherwise exempted from the payment of duty, there shall be levied, collected, and paid thereon, in lieu of any other duty or tax, a duty equal to the total duty and internal-revenue tax, if any, then imposed with respect to the importation of like articles not previously exported from the United States, but in no case in excess of the sum of customs drawback, if any, proved to have been allowed upon the exportation of such article from the United States plus the amount of the internal-revenue tax, if any, imposed at the time such article is entered for consumption or withdrawn from warehouse for consumption upon the importation of like articles not previously exported from the United States. Manufactured tobacco subject to duty hereunder shall be retained in customs custody until internal-revenue stamps in payment of any part of the legal duties measured by a rate or amount of internal-revenue tax shall have been placed thereon.

* * * * *

"(h) The allowance of total or partial exemption from duty under any provision of this paragraph shall be subject to such regulations as to proof of identity and compliance with the conditions of this paragraph as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, par. 1615, as amended; 19 U. S. C. 1201, par. 1615)

(2) An affidavit of the owner, importer, consignee, or agent on customs Form 3311.

(3) A certificate, customs Form 4467, of the collector of customs at the port from which the merchandise was exported from the United States. Such certificate shall show whether drawback was claimed or paid on the merchandise covered by the certificate and, if any was paid, the amount thereof. This certificate shall be issued on application of the importer, or of the collector at the importer's request, and shall be mailed by the issuing officer directly to the port at which it is to be used. If the merchandise has been exported from the port at which entry is made and the fact of exportation appears on the records of the customhouse, the fact of reimportation shall be noted on such export record but the filing of the certificate on Form 4467 shall not be required.

(b) If, in any case where the appraising officer's report does not show definitely that merchandise the value of which exceeds $100 is of domestic origin, the affidavit on customs Form 3311 has not been signed by the owner or ultimate consignee, the collector may require the affidavit to be executed on such form by the owner or ultimate consignee. Such affidavit shall be filed within three months after the date of the demand therefor upon the person in whose name the entry was filed. If the owner or ultimate consignee is a corporation, such affidavit may be signed by the president, vice-president, secretary, or treasurer of the corporation, or it may be signed by any employee or agent of the corporation who holds a power of attorney executed under the conditions outlined in § 8.19 and a certification by the corporation that such employee or other agent has or will have knowledge of the pertinent facts. In the case of articles which are unquestionably the growth, produce, or manufacture of the United States and which have not been advanced in value or improved in condition, if the collector is satisfied from the character thereof or otherwise that they are free of duty under paragraph 1615, Tariff Act of 1930, as amended, and if the total value of the articles of American origin contained in the shipment does not exceed $10, no affidavit on customs Form 3311 shall be required therefor.

(c) In the case of motion-picture films exposed abroad, free entry shall not be allowed under paragraph 1615 (c) as amended, unless the requirements set forth above are met and the collector is satisfied by an affidavit of the importer and such other evidence as the collector shall deem necessary that the films are not to be used for commercial purposes. Such motion-picture films, when imported in passengers' baggage, may be passed free of duty without compliance with the requirements of this section if the collector is satisfied that the films were manufactured in the United States and are not to be used for commercial purposes. (Par. 1615: sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.2 *Waiver of evidence.* (a) The collector may waive record evidence of exportation and the declaration of the foreign shipper on consular Form 129 provided for in § 10.1 (a) (1) if he is satisfied by the production of other evidence as to the existence of all the facts upon which the entry of the merchandise under paragraph 1615, Tariff Act of 1930, as amended, is dependent. However, an invoice on consular Form 138, or a bond for the production thereof within 6 months from the date of entry, shall be required unless the article is otherwise exempt from the requirement that such invoice be filed. Should consular Form 129 be produced within the 6-months' period instead of consular Form 138, it may be accepted in cancelation of the bond.

(b) No evidence relative to the conditions of paragraph 1615 shall be required in the case of articles of domestic manufacture in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty unless such articles would be dutiable if not of domestic manufacture under special provisions of the Tariff Act of 1930, such as paragraphs 217, 328, and 408.

(c) A certificate from the master of a vessel showing the articles of domestic production are returned in the same vessel without having been unladen may be accepted in lieu of a declaration of the foreign shipper, consular Form 129. (Par. 1615: sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.3 *Drawback; internal-revenue tax.* (a) Except as prescribed in paragraph (b) of this section, no free entry shall be allowed under paragraph 1615, Tariff Act of 1930, in the final liquidation of an entry unless the collector is satisfied by the certificate of exportation or other evidence or information that no drawback was allowed in connection with the exportation from the United States, and unless no internal-revenue tax is imposed on the importation of like articles not previously exported from the United States or, if such tax is being imposed at the time of entry for consumption or withdrawal from warehouse for consumption, the collector is satisfied that an internal-revenue tax on production or importation was paid in respect of the imported article before it was exported from the United States and was not refunded.[2] In the absence of satisfactory evidence or information as to the allowance or nonallowance of drawback, and, in appropriate cases, as to the previous payment of internal-revenue tax without refund thereof, on any article of United States origin, the entry shall be liquidated with the assessment of duty equal to the total duty and internal-revenue tax, if any, imposed with respect to the importation of like articles not previously exported from the United States. If the imported article is of a kind which would be subject to an internal-revenue tax if of foreign origin and payment of an internal-revenue tax before exportation without refund thereof is not established, duty shall be assessed on the imported article in an amount equal to the internal-revenue tax imposed at the time of entry for consumption or withdrawal from warehouse for consumption on like articles of foreign origin, plus the amount of any drawback allowed on the exportation of the article from the United States; but if no drawback was allowed, the duty equal to internal-revenue tax shall be the total duty to be assessed. If an allowance of drawback on the exportation from the United States of the imported article is established, duty shall be assessed in an amount equal to such drawback, plus an amount equal to any internal-revenue tax which may be assessable in accordance with this paragraph; but in no case shall duty equal to drawback, or to drawback and internal-revenue tax, be assessed in an amount in excess of the ordinary customs duty and internal-revenue tax applicable to like articles of foreign origin. In any case, where payment of internal-revenue tax before exportation without refund thereof is established, no duty equal to an internal-revenue tax currently in force shall be assessed.

(b) The following articles shall be admitted free of duty, even though exported from the United States with benefit of drawback:

(1) Any article of a kind which would be admitted free of duty otherwise than under paragraph 1615 if of foreign origin;

(2) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers of domestic manufacture exported empty or filled with products of the United States, including shooks and staves when returned as boxes or barrels; all the foregoing when in use at the time of importation as the usual containers of merchandise not subject to an ad valorem rate of duty; and

(3) Other articles of domestic manufacture which are in use at the time of importation as the usual coverings or containers of merchandise not subject to

[2] "Upon the entry for consumption or withdrawal from warehouse for consumption of any article previously exported, which is excepted from free entry under this paragraph by the foregoing subparagraph (e) [see note 1] and is not otherwise exempted from the payment of duty, there shall be levied, collected, and paid thereon, in lieu of any other duty or tax, a duty equal to the total duty and internal-revenue tax, if any, then imposed with respect to the importation of like articles not previously exported from the United States, but in no case in excess of the sum of customs drawback, if any, proved to have been allowed upon the exportation of such article from the United States plus the amount of the internal-revenue tax, if any, imposed at the time such article is entered for consumption or withdrawn from warehouse for consumption upon the importation of like articles not previously exported from the United States. Manufactured tobacco subject to duty hereunder shall be retained in customs custody until internal-revenue stamps in payment of any part of the legal duties measured by a rate or amount of internal-revenue tax shall have been placed thereon." (Tariff Act of 1930, par. 1615 (f), as amended; 19 U. S. C. 1201, par. 1615 (f))

an ad valorem rate of duty, and which have not been advanced in value or improved in condition while abroad by any process of manufacture or other means.[3]

(c) Articles manufactured or produced in the United States in a customs bonded warehouse and exported shall be subject on reimportation to a duty equal to the total duty and internal-revenue tax, if any, imposed at the time of entry for consumption or withdrawal from warehouse for consumption with respect to the importation of like articles not previously exported from the United States.

(d) Animals straying across the border or driven across the border for pasturage purposes or for feeding to improve them for the market and not returned within 8 months are excluded from free entry as domestic products returned. (Par. 1615: sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.4 *Internal-revenue marks; erasure.* Internal-revenue brands or marks on casks or other containers previously exported from the United States must be erased at the importer's expense under customs supervision before their delivery from customs custody. (Par. 1615: sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.5 *Shooks and staves; cloth boards; consular account.* (a) Shooks and staves produced in the United States and returned in the form of complete boxes or barrels in use as the usual containers of merchandise are exempt from any duties imposed by the tariff laws upon similar containers made of foreign shooks or staves, provided their identity is established under the regulations in this part.

(b) The term "shook" embraces only shooks which at the time of exportation from this country are ready to be assembled into boxes or barrels without further cutting to size; except that box shooks may be exported in double lengths and cut abroad. The number of boxes made from such shooks which may be imported into this country free of duty cannot exceed the number of complete sets of shooks exported.

(c) Boxes imported filled with any fruit specified in paragraph 408, Tariff Act of 1930, and with the sides, tops, and bottoms consisting of fruit-box shooks exported from the United States may be entered or withdrawn upon the payment of duty at one-half the rate imposed on similar boxes of entirely foreign origin.[4] Proof as to the identity of such shooks shall be made under the regulations in this part.

(d) An exporter of shooks or staves in respect of which free entry or a reduction in duty is to be claimed when returned as boxes or barrels shall file with the collector of customs at the port of exportation, at least 6 hours before the lading of the articles on the exporting vessel, a notice of intent to export, customs Form 4481. Such shooks or staves shall be inspected and laden on board the exporting vessel under customs supervision.

(e) A certificate of exportation, customs Form 4479, describing the shooks and staves in the manner set forth in the notice of intent to export, shall be issued by the collector in duplicate after verification from the manifest of the exporting vessel and the return of the lading officer. The certificate shall show the number of bundles of shooks and staves exported, the number of shooks of each size, and the number of superficial feet of lumber contained in the shipment. The original certificate shall be forwarded by the collector to the American consul for the district to which the shooks and staves are exported and the copy shall be given to the exporter. If the shipment is to a "no consul" district, the original certificate shall be forwarded to the consignee.

(f) Whenever boxes or barrels alleged to have been manufactured from American shooks or staves are shipped to the United States from a consular district other than that into which the shooks or staves were imported from the United States, the consul for the district from which the boxes or barrels are shipped will require the consul for the district into which the shooks or staves were imported to forward the certificate or certificates, customs Form 4479, covering the exportation of the shooks or staves from the United States, or a verified extract therefrom, showing the number of shooks or staves covered by such certificate or certificates for which no consular shook certificate has been issued, together with the number of superficial feet of such shooks or staves.

(g) Accounts are kept by American consular officers of the shooks and staves for which certificates of exportation are received by them, showing the number of shooks of each size and the number of superficial feet of lumber therein received in each consular district, and the boxes and barrels made from such shooks for which consular shook certificates have been issued.

(h) A record of cloth boards of domestic manufacture exported[5] to be wrapped with foreign textiles will be be kept by American consuls similar to the record kept for shooks and staves. If such boards have been advanced in value or improved in condition while abroad, this fact will be noted on the certificates issued therefor, in order that free entry may be denied on importation. (Par. 408: sec. 1, 46 Stat. 630, par. 1615: sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1201, 1624)

(i) There shall be annexed to the certificate of the foreign shipper, on the same or a separate form, a certificate of the box maker, stating that the boxes or barrels were made from American shooks or staves and showing the number of boxes or barrels in the shipment, the dimensions of each, and number of shooks or staves of each size, together with the number of superficial feet of lumber used. This certificate shall be in the following form:

I, _____, of _____, do hereby certify that the boxes and (or) barrels mentioned in the annexed certificate of foreign shipper were made by me (wholly)* (except for the ends and partitions)* from shooks (or staves) of the manufacture of the United States as follows:

§ 10.6 *Certificates of foreign shipper and box maker.* (a) A foreign shipper desiring to export to the United States boxes or barrels alleged to have been made from American shooks shall execute and file in the American consulate, preferably with the invoice covering the merchandise contained in such boxes or barrels, a certificate of the foreign shipper, consular Form 130, stating that the boxes or barrels were made from American shooks or staves, and identifying the latter with the certificate covering their exportation from the United States. This foreign shipper's certificate shall be in the following form:

I, _____, of _____, do hereby certify that to the best of my knowledge and belief the boxes and (or) barrels mentioned in (the annexed invoice)* (invoice No. _____, of _____, 19__)* are made (wholly)* (except for the ends and partitions)* of shooks (or staves) of the manufacture of the United States, as stated in the accompanying certificate of _____, box maker; that the shooks (or staves) were exported from _____, per S. S. _____, on _____, 19__, and that the said boxes (or barrels) (will be)* (have been)* filled with _____, covered by the above-mentioned invoice, and (will be)* (have been)* shipped to the port of _____ in the United States, per S. S. _____, sailing from _____, on _____, 19__.

Dated at _____ this _____ day of _____, 19__.

_____
(Shipper)

*Cross out inapplicable words.

Number of boxes or barrels	Dimensions	Number of shooks or staves used and size thereof	Number of superficial feet used

Dated at _____, this _____ day of _____, 19__.

_____
(Box maker)

(c) The consul, after verification of the certificates of the shipper and box maker from the records of his office, will issue a certificate as follows:

[3] Filling, sealing, and labeling are held to advance the value of the contents rather than that of the container.

[4] "Boxes, barrels, and other articles containing oranges, lemons, limes, grapefruit, shaddocks or pomelos, 25 per centum ad valorem: *Provided*, That the thin wood, so-called, comprising the sides, tops, and bottoms of fruit boxes of the growth or manufacture of the United States exported as fruit-box shooks, may be reimported in completed form, filled with fruit, by the payment of duty at one-half the rate imposed on similar boxes of entirely foreign growth and manufacture; but proof of the identity of such shooks shall be made under regulations to be prescribed by the Secretary of the Treasury." (Tariff Act of 1930 par. 408; 19 U. S. C. 1001, par. 408)

[5] Cloth boards of domestic manufacture are conditionally free of duty under par. 1615, Tariff Act of 1930. See footnote 1 of this part.

I, _____, _____, of the United States of America at_____, do hereby certify that the certificates of the shipper and box maker required by the customs regulations have been filed with me and that such certificates and the records of this consulate show that the boxes and (or) barrels described in (the annexed invoice)* (invoice No. _____, of _____, 19__)* were manufactured from shooks or staves covered by a certificate of exportation issued by the collector of customs at the port of _____, on _____, 19__, and exported from the port of _____ on the S. S. _____, which sailed on _____, 19__.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office at _____, this _____ day of _____, 19__.

[SEAL] _____ _____ of the United States of America.

* Cross out inapplicable words.

(d) If a claim is made by the importer at the time of entry for an exemption from duty on account of boxes or barrels in the importation made from American shooks or staves, the consular certificate may be accepted if produced at any time prior to the liquidation of the entry.

(e) In the case of a shipment from a "no consul" district, a sworn statement of the foreign shipper that the boxes or barrels were made from American shooks or staves, and identifying the shooks or staves used with the certificates covering their exportation from the United States, shall be accepted in lieu of the consular certificate above described, provided the importer files an affidavit on customs Form 3311, appropriately modified. (Par. 1615: sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.7 *Drums, quicksilver flasks, etc.* (a) Except as provided for in § 10.2 (b) steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers of domestic manufacture shall be entered under the general regulations governing the free entry of domestic products exported and returned. If the record evidence of exportation is not produced, the collector may accept other satisfactory evidence of allowance or nonallowance of drawback. In the absence of satisfactory evidence as to the nonallowance of drawback or as to the amount thereof paid on metal drums of American manufacture not exempt from duty in accordance with § 10.3 (b) duty shall be assessed in the amount of 24 cents per drum, the fair average amount of drawback paid on such articles.

(b) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers of foreign manufacture, if actually exported from the United States empty and returned as usual containers of coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise, shall be exempt from duty if (1) exported in accordance with the regulations contained in § 10.5 (d) and (e) except that the notice of intent shall be on customs Form 4481 and the certificate of exportation issued by the collector of customs on customs Form 4479, and (2) there are filed in connection with the entry an affidavit of the importer on customs Form 3289 and certificates of the foreign shipper and the American consul in the forms prescribed by paragraphs (c) and (d) of this section. Such articles must be permanently and indelibly marked for identification prior to exportation from the United States.

(c) The certificate to be furnished by the foreign shipper to the American consul at the place of shipment shall be in the following form:

I, _____, of_____ do hereby certify that to the best of my knowledge and belief the (steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers)* mentioned in (the annexed invoice) (invoice No. _____ of_____, 19__)* are of the manufacture of _____ and were exported from the United States at the port of_____, per S. S. _____ on _____ 19__ (empty _____) (filled with _____),* and that the same are being returned to the United States (empty _____) (filled with_____).*

_____ (Shipper)

* Cross out inapplicable words.

(d) The consul, after verification of the foreign shipper's certificate from the records of his office, will issue a certificate as follows:

I, _____, _____ of the United States of America at_____, do hereby certify that the facts set forth in the attached certificate are in accordance with the records of this consulate, and are, in my opinion, entitled to full faith and credit.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office at_____ this _____ day of _____, 19__.

[SEAL] _____ _____ of the United States of America.

(e) If claim for exemption from duty for foreign steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers is made at the time of entry, the certificates of the foreign shipper and American consul may be accepted if produced at any time prior to the liquidation of the entry.

(f) In the case of a shipment from a "no consul" district, a sworn statement of the foreign shipper in the form set forth in paragraph (c) of this section may be accepted without the consular certification provided for in paragraph (d) of this section. (Par. 1615; sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.8 *Articles exported for repairs or alterations.* (a) For the purposes of paragraph 1615 (g) Tariff Act of 1930, as amended,[6] the term "repairs or alterations" shall be held to mean any restoration, change, addition, renovation cleaning, or other treatment which does not destroy the identity of the article exported or create a new or different article.

(b) Prior to the exportation of articles to be subject to duty on the value of repairs or alterations made abroad, as provided for in paragraph 1615 (g), an affidavit and application in duplicate on customs Form 4455 shall be filed with the collector of customs a sufficient length of time before the departure of the exporting conveyance to permit the examination of the articles.

(c) The owner or exporter shall be notified on customs Form 4455 to deliver the articles to the place designated by the collector for examination. All expense in connection with the delivery of the articles, cording, sealing, and transfer to the exporting vessel or conveyance shall be borne by the exporter. Photographs or other means of identification shall be furnished appraising officers when required.

(d) Upon the receipt of the reports of the appraiser and inspector showing the examination of the articles and their lading on the exporting conveyance, the collector shall deliver to the exporter the duplicate copy of customs Form 4455.

(e) When articles other than those exported by mail or parcel post are examined and registered at one port and exported for repairs or alterations through another port, they shall be forwarded to the port of exportation under a transportation and exportation entry, as prescribed in § 10.38 (d)

(f) If at the time of return the value of the articles in their repaired or altered condition exceeds $100, there shall be filed in connection with the entry an invoice showing separately the value of the articles in their repaired or altered condition and the cost or value of the repairs or alterations. This invoice, whether or not required to be certified by an American consul, shall have attached a declaration of the person in the foreign country who made the repairs or alterations, which declaration shall be certified in the same manner as a consular invoice. This declaration shall be in substantially the following form:

_____

I, _____, do solemnly and truly declare that the articles herein specified are, to the best of my knowledge and belief, the identical articles received by me (us) on _____, 19__, (Date of receipt) from _____, U. S. A., that (Name of owner in the United States) they were received by me (us) for the sole purpose of being repaired or altered; that the repairs or alterations described in detail below and no other repairs or alterations have actually been made by me (us); that the cost or value of such repairs or alterations and the value of the articles after repair or alteration are correctly stated below; and that no substitution whatever has been made to replace any of the articles originally

[6] "(g) Any article exported from the United States for repairs or alterations may be returned upon the payment of a duty upon the value of the repairs or alterations at the rate or rates which would apply to the article itself in its repaired or altered condition if not within the purview of this subparagraph.

"(h) The allowance of total or partial exemption from duty under any provision of this paragraph shall be subject to such regulations as to proof of identity and compliance with the conditions of this paragraph as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, par. 1615 (g), (h), as amended; 19 U. S. C. 1201, par. 1615)

received by me (us) from the owners thereof mentioned above.

(Signature)

(Capacity)

Marks and numbers	Quantity	Description of articles and of repairs and alterations	Cost or value of repairs or alterations	Total value of articles after repairs or alterations

(Place and date)

I do hereby certify that this declaration was produced to me by the signer and that I am satisfied that the person making the above declaration is the person he represents himself to be.

Witness my hand and seal of office the day and year aforesaid.

Consul of the United States of America.

(g) There shall also be filed in connection with the entry the certificate of registration, customs Form 4455, and a declaration made by the consignee, owner, or an agent having knowledge of the facts that the articles entered are the identical articles covered by the certificate of registration and that the cost or value of the repairs or alterations is correctly stated in the entry. In cases where an article exported and repaired or altered abroad is imported by a person who is not a regular importer and the exportation was not made in accordance with this section, the collector, if satisfied as to the bona fides of the transaction and that the exporter was ignorant of the regulation requirements, may waive the production of the certificate of registration, customs Form 4455, and compliance with so much of these regulations as relates to the exportation under such certificate.

(h) When the value of the returned articles in their repaired or altered condition is less than $100, a bill or statement showing separately the value of the articles in their repaired or altered condition and the cost or value of the repairs or alterations may be accepted in lieu of a certified consular invoice, and the certificate of the person in the foreign country who made the repairs or alterations need not be filed.

(i) Collectors shall require at the time of entry a deposit of estimated duties based upon the value of the repairs or alterations and shall order all packages containing such articles to the appraiser's stores for identification of the articles and appraisement of the values of the articles and of the repairs or alterations. (Par. 1615: sec. 201, 46 Stat. 674, sec. 35, 52 Stat. 1092, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.9 *Books bound abroad.* The provisions of § 10.8 with respect to articles exported for repairs or alterations shall be applicable in the case of books of domestic manufacture which have been advanced in value or improved in condition abroad and returned to the United States.[7] (Par. 1410: sec. 1, 624, 46 Stat. 656, 759; 19 U. S. C. 1001, 1624)

§ 10.10 *News-reel films.* Where free entry is claimed for news-reel films under the provisions of pargaraph 1726, Tariff Act of 1930,[8] there shall be furnished in connection with the entry a statement of the comeraman, shipper, or other person having knowledge of the facts, identifying the films with the invoice and stating that the basic films are to the best of his knowledge and belief the manufacture of the United States and that they have been exposed abroad and are shipped for use as news reel. There shall also be required in connection with the entry an affidavit of the importer to the effect that he believes the films entered by him are the ones covered by the statement above referred to and that they are for use as news reel. The invoice shall state the footage and title of each subject. (Par. 1726: sec. 201, 46 Stat. 679, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

HOUSEHOLD EFFECTS

§ 10.11 *Declaration.* (a) When household effects[9] are claimed to be free of duty under paragraph 1632, Tariff Act of 1930[10] a declaration of the owner on customs Form 3297 in the case of a returning resident of the United States, or customs Form 3299 in any other case, shall be required in connection with the entry.

(b) If it is impracticable to produce such declaration at the time of entry, the consignee may make declaration on customs Form 3303 and give a bond on customs Form 7551 or 7553 for the production of the owner's declaration within 6 months. (Par. 1632; sec. 201, 46 Stat. 675, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.12 *Use abroad.* (a) In order to obtain free entry for household effects under the provisions of paragraph 1632, Tariff Act of 1930, the required use of the effects abroad for 1 year must be proven to the satisfaction of the collector,[11] who may, in his discretion, require evidence other than the declaration of the applicant.

(b) Household effects used abroad not less than 1 year by a family of which the importer was a resident member for not less than 1 year during such period of use may be passed free of duty, whether or not the importer owned the effects at the time of such use.

(c) The free entry of household effects under paragraph 1632 shall be allowed to residents of the United States as well as to nonresidents. (Par. 1632; sec. 201, 46 Stat. 675, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

IMMIGRANTS' TEAMS

§ 10.13 *Immigrants' teams; free entry.* (a) An immigrant claiming free entry of a team or vehicle[12] under paragraph 1607, Tariff Act of 1930,[13] shall file in connection with the entry a declaration on customs Form 3299, made before a United States consular officer or before the collector of customs, stating the number and kind of animals, wagons, and other articles used by him for the purpose of emigration and that they are actually owned by him and have been in actual use by him abroad and are not intended for sale.

(b) Formal entry shall be required for such teams, vehicles, and effects valued at more than $100.

(c) Horses and vehicles owned by immigrants and used by them for the transportation of themselves and their baggage to a railway station, then shipped to the United States and again used by such immigrants to reach their destination, are entitled to entry free of duty. (Par. 1607: sec. 201, 46 Stat. 673; 19 U. S. C. 1201)

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[7] "* * * exported books of domestic manufacture, when returned to the United States after having been advanced in value or improved in condition by any process of manufacture or other means, shall, under rules and regulations prescribed by the Secretary of the Treasury, be dutiable only on the cost of materials added and labor performed in a foreign country; * * *" (Tariff Act of 1930, par. 1410; 19 U. S. C. 1001, par. 1410)

[8] "* * * undeveloped negative moving picture film of American manufacture exposed abroad for silent sound news reel; * * *" (Tariff Act of 1930, par. 1726 (free list); 19 U. S. C. 1201, par. 1726)

[9] The free entry of household effects under par. 1632 is limited to such as are similar to books, libraries, furniture, carpets, paintings, tableware, and other usual household furnishings. Automobiles, horses, carriages, sleighs, boats, and similar articles, and wines, provisions, and other consumable supplies do not constitute similar household effects within the meaning of par. 1632. Articles such as office safes and office furniture used abroad in business pursuits are not entitled to free entry as household effects.

[10] "Books, libraries, usual and reasonable furniture, and similar household effects of persons or families from foreign countries if actually used abroad by them not less than one year, and not intended for any other person or persons, nor for sale." (Tariff Act of 1930, par. 1632 (free list); 19 U. S. C. 1201, part 1632)

[11] The year of use need not immediately precede the time of importation nor need it be continuous.

As a general rule, household effects arriving more than 10 years after the last arrival of the importer in the United States from the country in which the effects were used should not be admitted free under par. 1632. If, however, the collector is satisfied from the importer's explanation that the effects were unavoidably detained beyond the 10-year period he may admit them to free entry upon the filing of a declaration on customs Form 3297 in the case of a returning resident of the United States or customs Form 3299 in any other case. In no case shall free entry be allowed under par. 1632 when a period of 25 years or more has elapsed since the last arrival of the importer in the United States from the country in which the effects were used. (T. D.'s 38663, 40174, 41935)

[12] Only such vehicles as are drawn by animals are entitled to free entry under par. 1607, Tariff Act of 1930. Automobiles are excluded from the privilege. (T. D. 31706)

[13] "* * * teams of animals, including their harness and tackle, and the wagons or other vehicles actually owned by persons emigrating from foreign countries to the United States with their families, and in actual use for the purpose of such emigration, under such regulations as the Secretary of the Treasury may prescribe; * * *" (Tariff Act of 1930, par. 1607 (free list); 19 U. S. C. 1201, par. 1607)

EFFECTS OF CITIZENS DYING ABROAD; TOOLS OF TRADE

§ 10.14 *Effects of citizens dying abroad, procedure.* (a) Articles claimed to be free of duty under paragraph 1739, Tariff Act of 1930,[14] as the effects of citizens of the United States dying abroad[15] shall be entered in accordance with the provisions of § 8.50 of this chapter.

(b) The collector shall require in connection with the entry an affidavit of a person having knowledge of the facts or otherwise satisfy himself as to the citizenship of the deceased owner of the effects at the time of his death. (Par. 1739: sec. 201, 46 Stat. 680, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.15 *Tools of trade.* (a) The owner of professional books, implements, instruments, and tools of trade, occupation, or employment claimed to be free of duty under paragraph 1747, Tariff Act of 1930,[16] shall execute and file in connection with the entry thereof a declaration on customs Form 3299.[17]

(b) Such articles, when claimed to be free of duty under paragraph 1798, Tariff Act of 1930, as amended,[18] if accompanying the importer upon his arrival in the United States, may be passed on the baggage declaration if the collector is satisfied that the articles were taken abroad by the passenger.[19] If they do not accompany a passenger, there shall be filed in connection with the entry a declaration of the owner on customs Form 3297 in the case of a returning resident of the United States, and on customs Form 3299 in any other case. (Par. 1747: sec. 201, 46 Stat. 680, sec. 624, 46 Stat. 759, par. 1798: sec. 201, 46 Stat. 683, sec. 36, 52 Stat. 1093; 19 U. S. C. 1201, 1624)

PASSENGERS' BAGGAGE[20]

§ 10.16 *Status of passengers.* (a) Persons arriving from foreign countries shall be divided into two classes for customs purposes: (1) Residents of the United States returning from abroad, and (2) all other persons, hereinafter referred to as nonresidents.

(b) Citizens of the United States, or persons who have formerly resided in the United States, shall be deemed to be residents thereof returning from abroad within the meaning of paragraph 1798, Tariff Act of 1930, as amended, in the absence of satisfactory evidence that they have established a home elsewhere. The residence of a wife shall be deemed to be that of her husband unless satisfactory evidence is presented that the wife has established a separate residence elsewhere. The residence of a minor child shall be presumed to be that of his parents.

(c) Any person arriving in the United States who is not a resident of the United States or who, though a resident of the United States, is not returning from abroad shall be treated for the purposes of these regulations in this part as a nonresident. (Par. 1798: sec. 201, 46 Stat. 683, sec. 337, 49 Stat. 1959, sec. 36, 52 Stat. 1093, Pub. Law 540, 80th Cong., sec. 498, 46 Stat. 728, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1498)

§ 10.17 *Exemptions for returning residents*—(a) *Personal and household effects taken abroad.* Each returning resident is entitled under the second and last provisos to paragraph 1798, Tariff Act of 1930, as amended,[21] to bring in free of duty and internal-revenue tax all personal and household effects which he took abroad. If any such effect has been advanced in value or improved in condition while abroad by repairs (including cleaning) not merely incidental to wear or use while abroad, or by alterations (including additions) which did not change the identity of the article, the cost or value of such repairs or alterations is subject to duty, unless all or part of such cost or value is covered by an allowance of the $100 or $300 exemption hereinafter mentioned. An effect taken abroad and there changed into a different article is dutiable at its full value when returned to the United States, unless covered in whole or in part by some provision for free entry.

(b) *Articles acquired abroad.* Subject to the limitations and conditions hereinafter stated, each returning resident is entitled under the third, seventh, and tenth provisos to paragraph 1798, as amended,[22] to bring in free of duty and internal-revenue tax up to but not exceeding $100, and in appropriate cases up to but not exceeding an additional $300, in value of articles for his personal or household use which were purchased or otherwise acquired abroad by him merely as an incident of the foreign journey from which he is returning. These exemptions do not apply to articles intended for sale or acquired on commission, i. e., for the account of another person, with or without compensation for the service rendered.

(c) *Gifts.* An article acquired abroad by a returning resident and imported by him to be disposed of after importation as his bona fide gift is for the personal use of the importer. Articles forwarded to a donee by a donor who is abroad are not imported by or for the account of the donor and are not allowed any exemption to which he may become entitled.

(d) *Tobacco products, alcoholic beverages, and foodstuffs.* Cigarettes, manufactured tobacco, not more than 100 cigars, and not exceeding an aggregate of 1 wine gallon of distilled spirits, wines, and malt liquors may be included within the $100 exemption. The exemption allowed for 1 wine gallon of alcoholic beverages may be applied to more than one kind of beverage. No distilled spirits, wines, malt liquors, or cigars shall be included in the $300 exemption. Foodstuffs may be included in either exemption.

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[14] "Personal effects, not merchandise, of citizens of the United States dying in foreign countries." (Tariff Act of 1930, par. 1739 (free list); 19 U. S. C. 1201, par. 1739)

[15] The term "personal effects," as used in par. 1739, Tariff Act of 1930, embraces all articles of personality not merchandise, and includes household effects. (T. D. 22622) Free entry is allowed under this paragraph only if the title to the effects is in the estate of the deceased citizen at the time of importation. (T. D. 45917 (2))

[16] "Professional books, implements, instruments, and tools of trade, occupation, or employment in the actual possession of persons emigrating to the United States owned and used by them abroad; but this exemption shall not be construed to include machinery or other articles imported for use in any manufacturing establishment, or for any other person or persons, or for sale, nor shall it be construed to include theatrical scenery, properties, and apparel; * * *" (Tariff Act of 1930, 1747 (free list); 19 U. S. C. 1201, par. 1747)

[17] The privilege of free entry granted by par. 1747, Tariff Act of 1930, applies whether the articles accompany the emigrant or are imported subsequent to his arrival, provided they were owned and used by him and in his possession abroad.

[18] "* * * in the case of individuals returning from abroad, all professional books, implements, instruments, and tools of trade, occupation, or employment, taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established under appropriate rules and regulations to be prescribed by the Secretary of the Treasury * * *" (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798)

[19] The articles need not actually accompany the traveler upon his departure from the United States, but if they did not it must be clearly established that the shipment of the articles was in connection with his departure from this country.

[20] "The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of— * * *

"(6) Articles carried on the person or contained in the baggage of a person arriving in the United States; * * *" (Tariff Act of 1930, sec. 498 (a); 19 U. S. C. 1498 (a))

[21] "(2) *Provided further,* That in case of residents of the United States returning from abroad all wearing apparel, personal and household effects * * * taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established under appropriate rules and regulations to be prescribed by the Secretary of the Treasury;

"(10) *And provided further,* That all articles exempted by this paragraph from the payment of duty shall also be exempt from the payment of any internal-revenue taxes." (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798)

[22] "(3) *Provided further* That up to but not exceeding $100 in value of articles (including distilled spirits, wines and malt liquors aggregating not more than one wine gallon and including not more than one hundred cigars) acquired abroad by such residents of the United States as an incident of the foreign journey for personal or household use, or as souvenirs or curios, but not bought on commission or intended for sale, shall be free of duty;

"(7) *Provided further* That in addition to the exemption authorized by the fourth preceding proviso, a returning resident who has remained beyond the territorial limits of the United States for a period of not less than twelve days, shall be permitted to bring into the United States up to but not exceeding $300 in value of articles (excluding distilled spirits, wines, malt liquors and cigars) acquired abroad by such resident of the United States as an incident of the foreign journey for personal or household use or as souvenirs or curios, but not bought on commission or intended for sale, free of duty:

"(10) *And provided further,* That all articles exempted by this paragraph from the payment of duty shall also be exempt from the payment of any internal-revenue taxes." (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798)

(e) *Cumulation of $100 and $300 exemptions.* (1) When all the applicable conditions of each exemption are met, both the $100 and $300 exemptions may be allowed to one person on one return. Moreover, the $300 exemption may be allowed when its conditions are satisfied and when it is in addition to an allowance under the $100 exemption within the preceding 30-day period.

(2) In each case in which both exemptions are allowed on one return, the declarant may designate accompanied or unaccompanied goods listed on his declaration which would not be entitled to application of the $300 exemption (alcoholic beverages and cigars) for allowance of the $100 exemption. Subject to this exception, in each such case the $100 exemption shall be applied first[23] and to the value of the articles subject to the highest rates, and the additional $300 exemption shall be applied to the value of articles subject to the next highest rates, including any amount in excess of $100 pertaining to articles covered in part by the $100 exemption. This rule shall be applied to articles accompanying the returning resident and the same rule shall be applied separately to each unaccompanied shipment covered by his declaration. If an internal-revenue tax is applicable, it shall be combined with the duty in determining which rates are highest.

(f) *Family grouping of exemptions.* Each member of a family is entitled to the $100 or $300 exemption, or both, subject to the conditions prescribed in paragraph 1798, as amended. Articles belonging to one person cannot be included in the $100 or $300 exemption of another person, except that when members of a family residing in one household travel together on their return to the United States, the $100 or $300 exemption, or both, to which the several members of the family may be entitled may be grouped and allowed without regard to which member is the owner of any of the articles. A grouped exemption shall not include any exemption for a family member not entitled to it in his own right, nor shall a grouped exemption be applied to any property of such a member. The term "members of a family residing in one household," as used herein, shall include all persons, regardless of age, related by blood, marriage, or adoption, who lived together in one household at their last permanent residence and who intend to live together in one household after their return to the United States. No exemption allowable to a resident servant accompanying the family shall be included in the family grouping.

(g) *Length of stay abroad.* In the case of articles acquired elsewhere than in Mexico, the $100 exemption shall not be allowed unless the returning resident has remained beyond the territorial limits of the United States for a period of not less than 48 hours. With respect to articles acquired in Mexico, the $100 exemption may be allowed without regard to the length of time the returning resident has remained outside the territorial limits of the United States, unless the resident returns through a port as to which there is in effect a special regulation or instruction requiring that the returning resident, in order to obtain the benefit of the $100 exemption for such articles, shall have remained beyond the territorial limits of the United States for such period, not to exceed 24 hours, as shall be specified in the special regulation or instruction.[24] The $300 exemption shall not be allowed unless the returning resident has remained outside the territorial limits of the United States for a period of not less than 12 days.

(h) *Frequency of allowances.* (1) The $100 exemption shall not be granted to a returning resident who has taken advantage of such exemption within the 30-day period immediately preceding his return to the United States, and the $300 exemption shall not be granted to a returning resident who has taken advantage of such $300 exemption within the 6-month period immediately preceding his return to the United States.[25] The date of the returning resident's latest prior arrival on which he declared articles for allowance of the $100 or $300 exemption shall be deemed the date he took advantage of the applicable exemption, notwithstanding that articles admitted under either exemption may have arrived before or after such latest arrival.

(2) A returning resident who has received a total exemption of less than $100 under the $100 exemption, or a total exemption of less than $300 under the $300 exemption, in connection with his return from one journey is not entitled to apply the remainder of either amount to articles acquired abroad on any previous or subsequent journey. Articles acquired on one journey and left in a foreign country cannot be allowed any exemption accruing upon the importer's return from a subsequent journey.

(i) *Computation of time requirements.* (1) The 24-hour or 48-hour period a returning resident must have been abroad to be entitled to the $100 exemption shall be computed exactly. For example, a resident leaving United States territory at 1:30 p. m. on June 1 would complete the 24-hour period at 1:30 p. m. on June 2 and the 48-hour period at 1:30 p. m. on June 3.

(2) The 12-day period a returning resident must have remained outside United States territory to be entitled to the $300 exemption shall be computed by excluding the day of arrival and counting the day of departure as a full day, irrespective of the time of either day at which the traveler crossed the land border or 3-mile limit at sea. Thus, a resident departing from such territory at 1:30 p. m. on June 1 would meet the 12-day requirement if he remained abroad until any time after midnight of June 12.

(3) The 30-day period immediately preceding the resident's return shall be computed by excluding the day of arrival and counting backward 30 days. In the case of an arrival on May 28, the resident would not be entitled to the $100 exemption if he had taken advantage of such exemption on or after the last preceding April 28.

(4) The 6-month period immediately preceding the resident's return shall be computed by excluding the day of arrival and counting backward 6 months. In the case of an arrival on July 28, the resident would not be entitled to the $300 exemption if he had taken advantage of such exemption on or after the last preceding January 28.

(j) *Arrival incidental to further foreign travel.* A resident who enters the United States merely as an incident of foreign travel and will continue his foreign travel before finally returning to the United States from the continuous trip shall not be required to clear through customs any articles he has acquired, or had repaired or altered, while abroad. Such articles may be left in customs custody, shipped in bond, or exported directly from customs custody in order that the resident may declare them, and possibly other later acquired articles, upon his final return to the United States from the continuous trip. If, however, the traveler fails to advise the customs officer of the incidental character of such an

[23] When the $100 exemption has been so applied, another claim for the $100 exemption within the following 30 days cannot be allowed. See § 23.5 (c) of this chapter.

[24] "(4) *Provided further,* That (a) in the case of articles acquired in any country other than a contiguous country which maintains a free zone or free port, the ($100) exemption authorized by the preceding proviso shall apply only to articles so acquired by a returning resident who has remained beyond the territorial limits of the United States for a period of not less than forty-eight hours and (b) in the case of articles acquired in a contiguous country which maintains a free zone or free port, the Secretary of the Treasury shall by special regulation or instruction, the application of which may be restricted to one or more individual ports of entry, provide that the exemption authorized by the preceding proviso shall be applied only to articles acquired abroad by a returning resident who has remained beyond the territorial limits of the United States for not less than such period (which period shall not exceed twenty-four hours) as the Secretary may deem necessary in the public interest or to facilitate enforcement at the specified port or ports of the requirement that the exemption shall apply only to articles acquired as an incident of the foreign journey:

(6) *"Provided further,* That no such special regulation or instruction shall take effect until the lapse of ninety days after the date of such special regulation or instruction." (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798)

The 24-hour limitation is now applicable only at ports in customs collection district No. 25, which includes all ports of entry in southern California below Los Angeles. (T. D. 49925)

[25] "(5) *Provided further,* That the ($100) exemption authorized by the second preceding proviso shall apply only to articles declared in accordance with regulations to be prescribed by the Secretary of the Treasury by a returning resident who has not taken advantage of the said exemption within the thirty-day period immediately preceding his return to the United States:

"(9) *Provided further,* That the ($300) additional exemption authorized by the second preceding proviso shall apply only to articles declared in accordance with regulations to be prescribed by the Secretary of the Treasury by such returning resident who has not taken advantage of the said exemption within the six-month period immediately preceding his return to the United States:" (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798)

entry or for other reason declares any articles for allowance of the $100 or $300 exemption, such declaration will start the running of the respective period or periods during which a further allowance cannot be granted.

(k) *Unaccompanied articles.* It is not necessary that articles accompany a returning resident at the time of his arrival in the United States to be within the $100 or $300 exemption. See § 10.20. However, customs officers shall apply the exemptions only to articles before them for examination, and the application of an exemption to unaccompanied articles shall be finally determined only after they have been imported and the importer has performed the acts required of him for their customs clearance. If any allowance of the $100 or $300 exemption is to be claimed in respect of any articles not cleared at the time of a resident's arrival, whether such articles have already arrived, will arrive later, or are being shipped in bond to another port, they must be declared in writing at the time of the resident's arrival. Failure to so declare such articles will preclude any allowance of either exemption for them. (§ 10.20 (c) (6).)

(l) *Replacements.* A duplicate article furnished by a foreign supplier as a replacement for an article declared for entry under the $100 or $300 exemption and found to be so damaged as to constitute a non-importation (§ 15.10 of this chapter) shall be considered to have been acquired abroad for the purposes of the $100 or $300 exemption provision, provided no charge is made to the importer for the duplicate article. An article furnished by a foreign supplier as a replacement for an article declared for entry under the $100 or $300 exemption and found not to conform to sample or specifications within the meaning of section 313 (c) Tariff Act of 1930, shall be considered to have been acquired abroad for the purposes of the $100 or $300 exemption provision, provided the importer returns the original article to customs custody for exportation under the provisions of section 313 (c) and pays duty thereon within 30 days after its release from customs custody. If regulations under section 313 (c) (§§ 22.35–22.39 of this chapter) are complied with, a drawback of 99 per centum of such duty may be allowed.

(m) *Sale.* An article brought in under the $100 exemption and subsequently sold is not dutiable by reason of the sale thereof if the returning resident actually acquired and imported the article for his bona fide personal or household use and not for sale. Any sale within 3 years after the date of a returning resident's arrival in the United States of any article which was admitted free under the $300 exemption in connection with that arrival shall subject the resident who declared the article to the payment of double the import duty which would have been collected in respect of each such article so sold had the $300 exemption not been in effect.[23] (Par. 1798; sec. 201, 46 Stat. 683, sec. 337, 49 Stat. 1959, sec. 36, 52 Stat. 1093, Pub. Law 540, 80th Cong., sec. 498, 46 Stat. 728; 19 U. S. C. 1201, 1498)

§ 10.18 *Exemptions for nonresidents*—(a) *Personal effects.* Every nonresident, regardless of age, is entitled under the first clause and last proviso of paragraph 1798, Tariff Act of 1930, as amended,[27] to entry free of duty and internal-revenue tax for his wearing apparel, articles of personal adornment, toilet articles, and similar personal effects. This exemption includes only articles which were actually owned by the nonresident and in his possession abroad at the time of, or prior to, his departure from a foreign country, and which are necessary and appropriate for his wear and use and are intended for such wear and use, and shall not be applied to merchandise or articles intended for other persons or for sale. "Similar personal effects" include all articles intended and appropriate for the personal use of the nonresident while traveling, such as hunting and fishing equipment, wheelchairs for invalids or crippled persons, pet and hunting dogs, and the like. Vehicles for travel are not included but may be entitled to entry under section 308 (5) Tariff Act of 1930, in appropriate cases. Articles brought in by a nonresident to be given to another person are not free under paragraph 1798.

(b) *Sale.* Any sale within 3 years after the date of a nonresident's arrival in the United States of jewelry or similar articles of personal adornment having a value of $300 or more and brought into the United States free of duty under the first clause of paragraph 1798 shall subject the nonresident to the payment of duty on the articles at the rate or rates in force at the time of such sale.[28]

(c) *Tobacco products and alcoholic beverages.* Fifty cigars, or 300 cigarettes, or 3 pounds of manufactured tobacco, and not exceeding 1 quart of alcoholic beverages, when brought in by an adult nonresident and not to be given to another person nor for sale or other commercial use, may be passed free of duty and internal-revenue tax. The exemption on tobacco products may be applied proportionately for example, to 25 cigars and 150 cigarettes, or, to 25 cigars, 50 cigarettes, and 1 pound of manufactured tobacco. The exemption for alcoholic beverages may be applied to more than one kind but not to an aggregate of more than 1 quart for one person. (Par. 1798; sec. 201, 46 Stat. 683, sec. 337, 49 Stat. 1959, sec. 36, 52 Stat. 1093, sec. 498, 46 Stat. 728; Pub. Law 540, 80th Cong., 19 U. S. C. 1201, 1498)

§10.19 *Declaration and entry*—(a) *Declaration required.* All articles brought into the United States by any individual shall be declared to a customs officer. The declaration may be made to a customs officer at the port of first arrival in the United States or on a train or ferry en route to the United States on which such an officer is assigned for that purpose. When all the articles to be declared are within allowable exemptions, the declaration may be submitted to a United States customs officer stationed in a foreign country for that purpose, if one is available.

(b) *Oral declarations.* Each arriving nonresident may make only an oral declaration if all the articles he has to declare are entitled to free entry under the first clause of paragraph 1798, and each returning resident may make only an oral declaration if (1) he has no article in his possession on which duty or internal-revenue tax is collectible, (2) all articles for which any exemption is to be claimed in connection with his arrival accompany him at the time of his arrival, and (3) the aggregate of the value of all articles acquired abroad by him and of the cost or value of alterations and dutiable repairs made abroad to personal or household effects taken out and brought back by him (see § 10.17 (b)) does not exceed $25; except that written declarations may be required generally or in respect of particular types of traffic if necessary at any seaport or airport to effect prompt and orderly clearance of passengers and their effects, and may be required in particular cases at any port if deemed necessary to protect the revenue.

(c) *Written declarations.* (1) Unless an oral declaration is accepted under the preceding paragraph, the declaration required by paragraph (a) of this section shall be in writing and in a form approved by the Commissioner of Customs. Effects of a nonresident entitled to free entry under the first clause of paragraph 1798, and effects of a returning resident entitled to free entry under the second proviso to paragraph 1798 (other than automobiles and other vehicles of residents returning from noncontiguous countries) need not be itemized in written declarations.

(2) Written declarations for passengers arriving by sea shall be executed fully and deposited with the purser of the vessel not later than the day before the vessel will arrive in port.

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[23] "(8) *Provided further,* That any subsequent sale, within three years after the date of arrival of such returning resident in the United States, of articles acquired and brought into the United States pursuant to the provisions of the immediately preceding proviso shall subject the returning resident declaring the articles to double the import duty which would have been collected had this additional exemption not been in effect:" (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798))

[27] "Wearing apparel, articles of personal adornment, toilet articles, and similar personal effects of persons arriving in the United States; but this exemption shall include only such articles as were actually owned by them and in their possession abroad at the time of or prior to their departure from a foreign country, and as necessary and appropriate for the wear and use of such persons and are intended for such wear and use, and shall not be held to apply to merchandise or articles intended for other persons or for sale.

"(10) *And provided further,* That all articles exempted by this paragraph from the payment of duty shall also be exempt from the payment of any internal-revenue taxes." (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798)

[28] "(1) *Provided,* That all jewelry and similar articles of personal adornment having a value of $300 or more, brought in by a nonresident of the United States, shall, if sold within three years after the date of arrival of such person in the United States, be liable to duty at the rate or rates in force at the time of such sale, to be paid by such person:" (Tariff Act of 1930, par. 1798 (free list), as amended; 19 U. S. C. 1201, par. 1798)

(d) *Acknowledgment.* Each written declaration shall be acknowledged by the declarant before the customs officer who examines the baggage covered by the declaration.

(e) *Amendment.* (1) If, before examination of a passenger's baggage has begun, the fact that any article has not been declared is brought by the passenger to the attention of the examining officer, the passenger shall be permitted to add such article to his declaration.

(2) If, after examination of the baggage has begun but before any undeclared article is found, the passenger advises the examining officer that he has such article and the examining officer is satisfied that there was no fraudulent intent, the passenger shall be permitted to add the articles to his declaration.

(3) Under no circumstances shall a passenger be permitted to add any undeclared article to his declaration after such article has been discovered by the examining officer.

(f) *Value.* Opposite the description of each article required to be declared specifically in a written declaration the passenger shall state the price actually paid for the article, or its fair value if it was acquired otherwise than by purchase. A statement of price shall be in the currency of purchase or its equivalent in United States currency, and a statement of value shall be in the currency of the country in which the article was acquired or in United States currency. Due adjustment shall be made by the appraising officer whenever the purchase price or value declared differs from the correct customs value, whether by reason of depreciation due to wear and use or for any other reason.

(g) *Family declarations.* One of a group of passengers who are members of the same family may declare for the entire group if all have the same residence status. Servants accompanying a family group shall not be included in the family declaration.

(h) *Merchandise.* Articles not personal in character, or which are intended for sale or are brought in on commission for another person, may be included in the baggage declaration of a resident or nonresident under the conditions specified in § 10.21 (e) If not so included, regular entry shall be required.

(i) *Regular entry.* Subject to any applicable exemption from entry requirements, articles imported as baggage but not passed under a baggage declaration or under the procedure provided for in § 10.20 shall be entered in the same manner as a cargo importation of like goods. In making regular entry for articles imported in baggage, the value of articles entitled to free entry under the second proviso to paragraph 1798 shall be disregarded in determining whether formal or informal entry is required.

(j) *Examination in foreign territory.* (1) When the baggage of a returning resident who is required to execute a written declaration (§ 10.19 (b) and (c)) is examined and passed by a customs officer stationed in foreign territory, the declaration shall be executed in triplicate. That officer shall indicate on all copies the articles passed by him, the applicable free-entry provisions, and the total customs value of the articles to which each such provision applies. The original and a certified duplicate of the declaration shall be returned to the declarant for surrender to the customs officer on the train or ferry on which the declarant arrives in the United States, or to the customs officer at the port of arrival, in order that such customs officer may determine what exemption, if any, already has been granted. The original shall be filed at the port of the passenger's arrival. If the certified duplicate is not needed, it shall be destroyed by the customs officer who gives final clearance to the passenger (§ 10.20 (c) (4))

(2) When a declarant, after his baggage has been examined and passed in foreign territory, acquires additional articles before he arrives in the United States, a supplemental written declaration thereof in original only shall be furnished to the customs officer to whom the declaration submitted in foreign territory is surrendered. The supplemental declaration, duly signed by the declarant and the customs officer, shall be attached to the declaration submitted in foreign territory and both shall be filed as one document. If the certified duplicate is required for clearance of unaccompanied goods or a shipment in bond, before it is returned to the declarant it shall be completed by the customs officer, who shall note thereon the additional articles declared, the total exemption granted by him and by the officer in foreign territory, and his certificate that the additional articles are covered by the supplemental declaration on file at the port of arrival. If the aggregate declared purchase prices or values exceed the allowable exemptions, the values determined for United States customs purposes of all articles for which exemptions are granted on the supplemental declaration shall be noted on such supplemental declaration and also on the certified duplicate. The customs officer who gives final clearance to the passenger shall not furnish to the declarant any certified or other copy of the passenger's declaration in addition to the duplicate certified by the customs officer in foreign territory. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

§ 10.20 *Unaccompanied shipments—* (a) *Effects taken abroad.* If effects entitled to free entry under the second proviso to paragraph 1798 do not accompany the returning resident or are forwarded in bond, no declaration of them at the time of the resident's arrival is required and any such declaration will serve no purpose. An affidavit on customs Form 3297 shall be filed in connection with the entry or certified duplicate declaration under which the shipment is finally cleared or, if no other articles are included in the shipment, it may be released without entry upon the filing of a proper affidavit on customs Form 3297.

(b) *Unaccompanied effects of nonresident.* When articles are claimed to be free of duty under the first clause of paragraph 1798 but do not accompany an arriving owner, there shall be filed in connection with the entry of such articles a declaration on customs Form 3299.

(c) *Articles acquired abroad by returning residents.* (1) When the declaration of a returning resident covers articles which do not accompany him or are shipped in bond to another port and such articles are likely to be claimed to be free of duty under the $100 or $300 exemption, the declaration shall be in writing regardless of the total value of the articles declared.

(2) If the declared articles which are not passed when the declarant arrives are all in one shipment in bond or it is expected that all have arrived, or will arrive, in one unaccompanied shipment, the declaration shall be prepared by the passenger in duplicate. The duplicate copy shall be certified by the customs officer who has examined the passenger's accompanying effects, and that officer shall note on both copies of the declaration with pen and ink or indelible pencil, over his signature and title, the amount of the exemption or exemptions allowed by him on articles cleared on the arrival of the passenger. He shall also indicate the declared articles which were not so cleared. The certified copy shall be returned to the declarant with advice as to the use he shall make of it.

(3) The certified copy may be used as an entry for clearing articles listed thereon which did not accompany the declarant at the time of his arrival or were shipped in bond to another port, including articles subject to duty, but not including any shipment which contains articles having an aggregate value in excess of $100 and consisting of other than personal or household effects. If practicable, the declarant shall forward the certified copy to the foreign shipper for attachment to the unaccompanied shipment.[2]

(4) If it is expected that declared articles not cleared when the declarant arrives will be included in more than one shipment, including any shipment in bond or of checked baggage not in bond, no certified duplicate of the declaration shall be furnished, and if one has been prepared it shall be destroyed by the customs officer. For each unaccompanied shipment which is not likely to be forwarded by the foreign shipper before the returning resident can communicate with him, and for which a claim under the $100 or $300 exemption will be made, a card, customs Form 3349, shall be issued to the declarant, who shall be informed as to its proper preparation and that it shall be forwarded to the foreign shipper for attachment to the unaccompanied shipment.[2] Customs Form 3349 shall not be given to a declarant when it will serve no purpose, as when an unaccompanied shipment has been despatched or will be forwarded before the foreign shipper can receive the card.

(5) When a shipment arrives with customs Form 3349 enclosed therein or attached to the shipping papers, and in other cases where allowance under the $100 or $300 exemption is claimed else-

[2] Documents forwarded to a foreign shipper for attachment to an unaccompanied shipment in accordance with this regulation shall be enclosed by the shipper in the parcel if the shipment is sent by mail, or attached to the invoice or bill of lading if the shipment is sent by freight or express.

where than at the port of the claimant's arrival in respect of an unaccompanied or bonded shipment but no certified duplicate declaration is presented, the collector at the port where the shipment is held for clearance shall fill in the top portion of customs Form 6059–A and forward it to the port where the claimant of the exemption arrived. The collector for such port of arrival shall certify on the Form 6059–A the amount or amounts of exemption allowable and return the form to the clearance port. Upon receipt of the properly completed Form 6059–A at the clearance port, such form shall be treated in all respects as a certified duplicate declaration and disposed of in the same manner.

(6) No application of the $100 or $300 exemption to an unaccompanied or bonded shipment shall be allowed in any case until the collector is satisfied by a certified duplicate declaration or a certificate on Form 6059–A that the articles for which the exemption is claimed were properly declared in writing at the time the claimant of the exemption returned to the United States.

(d) *Replacements.* When any article purported to be in a shipment declared by a returning resident is not found, or is so broken or destroyed as to constitute a nonimportation (§ 10.17 (1)) and a replacement for such article may be claimed to be free under the $100 or $300 exemption, the customs officer who clears the shipment through customs shall issue to the importer customs Form 3349 showing the port where the resident returned. The form should be sent by the resident to the foreign supplier to accompany the article shipped to replace the short or damaged articles. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

§ 10.21 *Examination procedure; collection of duties and taxes.* (a) Customs officers shall not open baggage or other containers for the purpose of examination.[20] Any such baggage or other container which is not opened by the owner or his agent for examination and any vehicle with a locked compartment which the person in charge refuses to open shall be treated as unclaimed.

(b) The inspector who examines the baggage of any person arriving in the United States, including inspectors on trains or ferries, may examine and pass, without limitation as to value, all articles in such baggage or otherwise accompanying such person which are personal or household effects of such person and are free of duty under paragraph 1632, 1747, or 1798 of the Tariff Act of 1930, as amended, or under § 10.42 of the regulations in this part. The inspector may examine, determine the dutiable value of, collect duty on, and pass articles accompanying the arriving person which are for his personal or household use but are subject to duty, including articles imported by a nonresident to be disposed of by him as bona fide gifts.

(c) The inspector may also examine, determine the customs value of, collect any duty due on, and pass articles properly listed on the baggage declaration which are not personal or household effects of the declarant, provided the aggregate customs value of such articles is not more than $100.

(d) In determining dutiable value under paragraph (b) or (c) of this section, the inspector shall apply the principles of section 402, Tariff Act of 1930, and shall not regard the declared price or value as conclusive. He shall give due consideration to the condition of the articles at the time of importation, but he shall not make any allowance for wear and use in excess of 25 per centum of the declared price or value of a worn or used article. A passenger who desires to claim a larger allowance may arrange for formal entry and appraisement of his goods.

(e) Articles not described in paragraph (b) of this section, having an aggregate value over $100 but not over $500, may be entered and cleared on a baggage declaration at the place of their arrival with a passenger, provided the articles are accompanied by a proper certified invoice if one is required, and provided it is practicable to make the required formal appraisement at that place. If the foregoing requirements are not satisfied, or if the value of such articles is over $500, regular entry shall be required.

(f) Whenever the customs officer deems it advisable, or at the request of the passenger, any or all of a passenger's baggage may be sent to the appraiser's store for examination or reexamination, in which case a receipt for such baggage shall be given on customs Form 6051.

(g) Passengers dissatisfied with the assessment of duty on their baggage may demand a reexamination, provided the articles have not been removed from customs custody.

(h) If reappraisement by the United States Customs Court is desired, the passenger must arrange for regular entry and formal appraisement of the articles in controversy and thereafter make written application for reappraisement to the collector of customs within 30 days after the formal appraisement.

(i) The remission of duty authorized in section 321, Tariff Act of 1930, as amended,[21] shall not be applied to importations subject to an internal-revenue tax, and on such importations both duty and tax shall be collected. The word "duty" as used in this statute shall not be deemed to include internal-revenue tax and the remission of duty under the foregoing authority shall not be construed as an exemption within the meaning of paragraph 1798 of the tariff act, as amended.

(j) When duties are collected on articles in passengers' baggage and the declarations is on customs Form 6063, the coupon receipt attached to the form shall be given to the passenger. When the declaration is on customs Form 6059, a receipt on customs Form 5103 shall be issued.

(k) Tea for personal use in one or more packages weighing not more than 5 pounds each, when imported in a passenger's baggage, may be delivered without examination for purity under 21 U. S. C. 41–50 and without payment of the examination fee prescribed in 21 U. S. C. 46a.

(l) Internal-revenue stamps shall be affixed to taxable tobacco products imported in baggage. Each stamp so affixed shall be endorsed across its face, by rubber stamp if practicable, "United States Customs; imported in passenger's baggage." No customs inspection stamps are required.

(m) Alcoholic beverages found in passengers' baggage shall be released without the placing of strip stamps on the bottles, provided it appears from the baggage declaration or otherwise that the liquors are for personal use and not for sale or other commercial purposes. The internal-revenue tax, however, shall be collected on all wines and liquors in excess of the quantity entitled to exemption as specified in § 10.17 (d) or § 10.18 (c) (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

§ 10.22 *Crews' effects.* (a) An officer or seaman leaving a vessel arriving from a foreign port shall be considered a returning resident of the United States for the purpose of paragraph 1798, Tariff Act of 1930, as amended, and §§ 10.17 to 10.21, provided he is a resident and (1) leaves the vessel without intention of reshipping on a vessel touching at foreign ports, or (2) remains on or transships to a vessel which is to proceed to another port of the United States in a movement in which entry of the vessel will not be required. All articles on board in the possession of or owned by an officer or seaman so returning to the United States shall be described and declared on customs Form 6063 (customs Form 6059 shall be used in the case of arrivals from contiguous countries, when written declaration is required) at the port where he leaves the vessel or, if he remains on a vessel which is to proceed on a movement described in subparagraph (2) of this paragraph, the declaration shall be made at the port where such movement begins. Any duties and taxes found due shall be collected as in the case of arriving passengers.

(b) Articles belonging to an officer or seaman who is not returning to the United States may be landed for consumption upon the filing of the proper entry and payment of duties and taxes, if any are due. If the total value of the

[20] "All merchandise and baggage imported or brought in from any contiguous country, except as otherwise provided by law or by regulations of the Secretary of the Treasury, shall be unladen in the presence of and be inspected by a customs officer at the first port of entry at which the same shall arrive; and such officer may require the owner, or his agent, or other person having charge or possession of any trunk, traveling bag, sack, valise, or other container, or of any closed vehicle, to open the same for inspection, or to furnish a key or other means for opening the same." (Tariff Act of 1930, sec. 461; 19 U. S. C. 1461)

[21] "Collectors of customs are hereby authorized, under such regulations as the Secretary of the Treasury may prescribe, * * * to admit articles free of duty when the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, but the aggregate value of articles imported by one person on one day and exempted from the payment of duty under the authority of this section shall not exceed $5 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States, or $1 in any other case." (Tariff Act of 1930, sec. 321, as amended; 19 U. S. C. 1321)

articles does not exceed $100, entry may be made on customs Form 5119, in which case appraisement and the assessment and collection of duties and taxes may be made by a customs officer on the wharf. If the value of the articles exceed $100, a formal entry shall be required. Except as provided for in paragraph (a) of this section, articles in the possession of or owned by officers or members of the crew and of a character for which entry must be made when they are brought into the United States, shall be entered only at the port where the articles are to be landed. Articles belonging to an officer or seaman may be transferred from one vessel to another in the foreign trade under the supervision of customs officers, by a bonded cartman if necessary, without entry, declaration, or assessment of duty.

(c) Any such articles which are required to be manifested and are not manifested shall be subject to forfeiture and the master shall be subjected to a penalty equal to the value thereof, as provided for in section 584, Tariff Act of 1930, as amended. If any such articles are landed without a permit, the penalties provided for in section 453, Tariff Act of 1930, will accrue. (See § 23.4 of this chapter) Secs. 498, 624, 46 Stat. 728, 759, sec. 584, 46 Stat. 748, sec. 204, 49 Stat. 523; 19 U. S. C. 1498, 1584, 1624)

§ 10.23 *Vessels transiting the Panama Canal; treatment of passengers' baggage and crews' effects.* Passengers' baggage and effects and purchases of officers and members of the crew landed in the United States from vessels which have transited the Panama Canal are subject to customs examination and treatment in the same manner as arrivals from a foreign country and a permit to unlade shall be obtained in such cases or the penalties provided for in section 453, Tariff Act of 1930, will be incurred. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

§ 10.24 *Naval vessels.* (a) Immediately upon the arrival of an American naval vessel from a foreign port, the commanding officer shall file with the collector of customs information as to dutiable articles acquired abroad in the following form:

UNITED STATES NAVY CUSTOMS DECLARATION

U. S. S. _____
Port of arrival_____
To the collector of customs:

Herewith is submitted a list of articles acquired in foreign countries by me and the respective officers and members of the crew under my command, which list is correct to the best of my knowledge and belief.

Owner	Rank	Description of articles	Cost or value

Date _____, 19____.
(Name)_____,
(Rank)_____,
Commanding Officer.

The listed articles shall be segregated until formally passed by the customs. If there are no articles to be listed, the statement "Nothing to declare" shall suffice.

(b) No baggage declarations shall be required, but the articles listed shall otherwise be examined and passed in the same manner as the baggage on passenger vessels. (Sec. 498, 46 Stat. 728; 19 U. S. C. 1498)

§ 10.25 *Army and Navy transports; baggage brought in.* (a) Commissioned officers and enlisted personnel of the armed forces of the United States engaged in the operation of an Army or Navy transport, enlisted men carried as passengers, and civilian officers and crew members, shall not be required to execute baggage declarations, but all articles acquired abroad by them must be listed on the manifest of the vessel, as provided for in § 4.5 of this chapter. Baggage declarations on customs Form 6063 shall be required for all cabin passengers.

(b) Passengers on transports shall be granted the applicable exemptions from duty provided for in paragraph 1798, Tariff Act of 1930, as amended, and commissioned officers and enlisted personnel of the armed forces of the United States engaged in the operation of the vessel shall be accorded the same privilege. Civilian officers and crew members shall be subject to the provisions of § 10.22 with respect to exemption from duty.

(c) Baggage on transports shall be examined at the port where landed in the same manner as baggage on commercial vessels. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

§ 10.26 *Household and personal effects of Army, Navy, and Marine Corps personnel and of civilian employees of the Panama Canal.* (a) A member of the armed forces of the United States returning from a foreign country in the course of his duty is ordinarily classifiable for customs purposes under the provisions of paragraph 1798, Tariff Act of 1930, as amended, as a returning resident of the United States, and such person shall be classified as a nonresident only if during his stay abroad he acquired a fixed place of residence and maintained no residence or place of abode in the United States. A citizen of the United States employed in a civilian capacity by the Panama Canal is usually a resident of the Canal Zone and shall be classified as a returning resident only upon inquiry developing that while abroad he has retained a place of abode in the United States as his home to which he at all times expected to return after the expiration of his foreign service.

(b) Effects of the persons above mentioned shipped to the United States otherwise than as baggage from points in the Canal Zone, the Virgin Islands, the Island of Guam, or American Samoa, where customs officials are stationed, shall be passed free of duty without examination upon arrival of the shipment in this country and upon an entry being filed to cover the importation: *Provided,* That (1) the effects have been corded and sealed immediately after an examination made by a principal customs officer at the place of shipment; (2) the cords and seals are intact at the time of importation; and (3) there are filed at the port of entry a sworn declaration of the owner and a certificate of the examining customs officer, both indicating that the packages corded and sealed contain nothing but articles of the classes entitled to free entry under paragraph 1615 or 1632, Tariff Act of 1930, as amended. Returning residents may also include in the corded and sealed packages articles classifiable under the second proviso to paragraph 1798, Tariff Act of 1930, as amended. Citizens of the United States who are employed in a civilian capacity by The Panama Canal and who are not returning residents may include in the corded and sealed packages articles classifiable under the first provision of paragraph 1798 of the tariff act, as amended, and professional books, implements, instruments, and tools of trade, occupation, or employment provided for in the second provision of the second proviso to paragraph 1798, as amended.

(c) The declaration of the owner shall contain an affidavit as to his residence and the certificate of examination shall contain or be supported by detailed inventories of the contents of the packages covered by the declaration and certificate, certified by the examining customs officer to be correct in every particular. Both the declaration and the certificate shall be executed in triplicate, the original to accompany the shipment to the United States, the duplicate to be retained by the shipper of the merchandise, and the triplicate to be forwarded by mail to the collector of customs at the port in the United States where the shipment will be imported.

(d) Effects of members of the armed forces of the United States who are returning to this country from points abroad where no customs officer under the jurisdiction of the United States is stationed may be examined abroad under the procedure outlined above, the examination to be made by the senior officer of the post, excluding the owner of the effects except where only one officer is stationed. Upon the arrival of such shipments consigned to an official representative of the Army, Navy, or Marine Corps and the receipt of the required certificates of inspection and declaration of the owner, the packages shall be delivered to the consignee under cord and seal in order to eliminate storage and other charges, but not finally released until an entry has been filed and the goods actually have been examined by a customs officer of the port of entry. Examination in these cases shall be made at Army, Navy, or Marine Corps storehouses and, if items are found which are not classifiable under paragraph 1615, 1632, or the second proviso to paragraph 1798, Tariff Act of 1930, as amended, the consignment shall again be corded and sealed and left in the custody of the official representative of the Army, Navy, or Marine Corps pending the payment of any duties applicable thereto.

(e) For the purpose of completing the collectors' records, the fact of arrival of Army, Navy, or Marine Corps personnel taking advantage of the provisions of

this section shall be certified to the collector of the port through which their effects have been imported by the proper representative of the service to which the owners of the effects belong.

(f) Nothing in this section shall be construed to preclude the examination and detention of any importation if a customs officer having proper jurisdiction deems such action advisable in the interest of the revenue. (Pars. 1615, 1632, 1798: sec. 201, 46 Stat. 674, 675, 683, sec. 35, 52 Stat. 1092, sec. 337, 49 Stat. 1959, secs. 35, 36, 52 Stat. 1092, 1093, secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1201, 1498, 1624)

§ 10.27 *Unclaimed and unaccompanied baggage.* Articles in passengers' baggage on which duties due are not paid and baggage not claimed within a reasonable time shall be treated as unclaimed and sent to general order. All baggage on board a vessel not accompanying a passenger and the marks or addresses thereof shall be listed on the last sheet of the passenger manifest under the caption "Unaccompanied baggage." (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

§ 10.28 *Registration of valuable effects.* The owner of valuable effects of foreign origin or plumage, prior to his departure from the United States, may make an application to the collector or his representative in the appraiser's office on customs Form 4455 in duplicate for the registration of such articles to facilitate their identification on return. Upon the filing of the application, the collector or his representative shall designate the place of examination and cause the articles to be examined. After the articles have been examined and the certificate of registration on customs Form 4455 has been executed, the duplicate copy of the form shall be delivered to the applicant for use on return and the original shall be filed in the collector's office. The duplicate copy of customs Form 4455 shall be filed in connection with the entry of the articles upon their return to the United States if it is to be used as evidence that the articles are free of duty. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

DIPLOMATIC AND CONSULAR OFFICERS

§ 10.29 *Baggage.* (a) Upon application to the Department of State and appropriate instructions from the Treasury Department in each instance, the privilege of admission free of duty without entry shall be extended to the baggage and effects of the following representatives of foreign governments and their families, suites, and servants, provided the governments which they represent grant reciprocal privileges to American officials of like grade accredited thereto or en route to or from other countries to which accredited.

(1) Ambassadors, ministers, and chargé d'affaires; secretaries, counselors and naval, military, and other attachés of embassies and legations; high commissioners, consular officers, and trade representatives; all the foregoing who are accredited to this Government or are en route to or from other countries to which accredited; and

(2) Other high officials of foreign governments and such distinguished foreign visitors as may be designated by the Department of State.

(b) In the absence of special authorization therefor from the Department prior to the arrival of representatives of foreign governments enumerated in paragraph (a) (1) of this section, the privilege may be extended to their baggage and effects upon presentation of their credentials or other proof of their identity.

(c) Foreign ambassadors, ministers, chargé d'affaires; secretaries, counselors, and naval, military, and other attachés of foreign embassies and legations shall not be detained or inconvenienced, and their baggage effects shall remain inviolate. Every proper means shall be afforded them to facilitate their passage through ports of the United States.

(d) The privilege of admission free of duty without entry of their baggage and effects may also be extended to representatives of this Government of the classes enumerated in paragraph (a) (1) of this section, including Treasury attachés and Treasury representatives, together with their families and servants, returning from their missions abroad, upon the production of their credentials; and to other high officials of this Government returning from special missions abroad, upon application therefor direct to the Treasury Department by the heads of the respective branches of the Government with which they are connected and the issuance of appropriate instructions. The free entry authorized hereunder shall not extend to alcoholic beverages, with respect to which the persons enumerated in this paragraph shall receive no other exemption from duty and internal-revenue tax than is allowed returning residents of the United States in accordance with § 10.18.

(e) If by accident or unavoidable delay in shipment the baggage or other effects of a person of any class mentioned in this section shall arrive after him, such baggage or effects may be passed free of duty, under the conditions specified above, upon satisfactory proof of ownership. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

§ 10.30 *Importations for resident representatives of foreign governments.* (a) Costumes, regalia, and other articles, including office supplies and equipment, for the official use of members and attaches of foreign embassies and legations, consular officers, and other representatives of foreign governments, may be admitted free of duty, provided the country which any such person represents accords like privileges to corresponding officials of the United States. Articles for the official use of representatives of foreign governments not listed in a Treasury decision[32] shall be admitted free of duty only upon the receipt of instructions from the Department, which will be issued only when application therefor is made through the Department of State.

[32] A list of countries whose governments accord such reciprocal privileges is published in TD 45547.

(b) Packages bearing the official seal of a foreign government with which the United States has diplomatic relations, accompanied by certificates under such seal to the effect that they contain only official communication or documents may be admitted free of duty without customs examination.

(c) The privilege of importing free of duty articles for their personal or family use may be granted to (1) members and attachés of foreign embassies and legations, and (2) other representatives and employees of foreign governments to whom the privilege is accorded under special agreements between the United States and the countries which they represent,[33] but in either case the privilege may be granted only upon the Department's instructions in each instance which will be issued only upon the request of the Department of State.

(d) No entry is required for shipments admitted free of duty under this section. (Secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1498, 1624)

PUBLIC INTERNATIONAL ORGANIZATIONS

§ 10.30a *Organizations included.* (a) The President, by virtue of the authority vested in him by section 1, 59 Stat. 669; 22 U. S. C. 288,[33a] has designated[33b] the following organizations as public international organizations entitled to the free entry privileges of that statute: The Food and Agriculture Organization, The International Labor Organization, The Pan American Union, The United Nations, The United Nations Relief and Rehabilitation Administration, The Inter-American Coffee Board, The Inter-Amer-

[33] Notices regarding the special agreements are published in the Treasury Decisions.

[33a] For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation; and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title. (Sec. 1, 59 Stat. 669; 22 U. S. C. 288)

[33b] Executive Orders Nos. 9698, 9751, 9823, 9863, 9887, 9911, and 9972, dated February 19, 1946, July 11, 1946, January 24, 1947, May 31, 1947, August 22, 1947, December 19, 1947, and June 25, 1948, respectively. Additions to this list or changes therein will be published in Treasury decisions.

ican Institute of Agricultural Sciences, The Inter-American Statistical Institute, The International Bank for Reconstruction and Development, The International Monetary Fund,[33c] The Pan American Sanitary Bureau, The Intergovernmental Committee on Refugees, The International Wheat Advisory Committee (International Wheat Council) The United Nations Educational, Scientific, and Cultural Organization, The International Civil Aviation Organization, and The International Telecommunication Union, The Preparatory Commission for the International Refugee Organization, the International Refugee Organization, the International Cotton Advisory Committee, and the International Joint Commission.

(b) Pursuant to sections 2 (d) and 3[33d] of the act, property of the above-named organizations and the baggage and effects of the alien officers and employees thereof, of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives, shall be admitted free of duties and internal-revenue taxes imposed upon or by reason of importation, but such exemption shall be granted only upon the receipt in each instance of the Department's instructions which will be issued only upon the request of the Department of State.

(c) The term "baggage and effects" as used in section 3 of the act includes all articles which were in the possession abroad, and are being imported in connection with the arrival, of a person entitled to the benefits of the act and which are intended for his bona fide personal or household use, but does not include articles imported as an accommodation to others or for sale or other commercial use.

(d) All articles accorded free entry under the act shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930, as amended, and the regulations thereunder.

(e) Certified or other customs invoices shall not be required for articles accorded free entry under the act.

(f) Any customs bond which may be required from one of the above-named organizations in connection with the importation or entry of merchandise into, or the exportation of merchandise from, the United States may be accepted without surety.

(g) The provisions of the act are applicable, insofar as duties and internal-revenue taxes imposed upon or by reason of importation are concerned, only with respect to articles entered, or withdrawn from warehouse, for consumption on and after December 29, 1945. (Secs. 498, 624, 46 Stat. 728, 729, sec. 3, 59 Stat. 669; 19 U. S. C. 1498, 1624; 22 U. S. C. 288b. E. O. 9698, Feb. 19, 1946; 3 CFR, 1946 Supp., ch. II)

§ 10.30b *Importations for resident representatives of the United Nations and specialized agencies thereof.* (a) The privilege of importing free of duty and internal-revenue tax articles for their personal or family use may be granted to (1) every person designated by a Member nation as the principal resident representative to the United Nations of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary, (2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the Government of the Member concerned, (3) every person designated by a Member of a specialized agency as its principal resident representative, with the rank of ambassador or minister plenipotentiary, at the headquarters of such agency in the United States, and (4) such other principal resident representatives of Members to a specialized agency and such resident members of the staffs of representatives to a specialized agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States and the Government of the Member concerned.

(b) This privilege shall be granted only upon the Department's instruction in each instance which will be issued only upon the request of the Department of State.

(c) No entry is required for shipments admitted free of duty and internal-revenue tax under this section. (Secs. 498, 624, 46 Stat. 728, 759; Art. V, sec. 15 Pub. Law 357, 80th Cong., 19 U. S. C. 1498, 1624)

ARTICLES FREE UNDER 6-MONTHS' BOND

§ 10.31 *Entry; bond.* (a) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under a temporary importation provision of paragraph 1607, 1747, or 1808, or section 303, Tariff Act of 1930, as amended,[34] shall be made on customs Form 7501 in duplicate, except that when the merchandise does not exceed $100 in value the forms provided for the informal entry of importations received through the mails, in passengers' baggage, and otherwise may be used in proper cases. When the articles are admitted under the provisions of section 303 (5) Tariff Act of 1930, as amended, without the requirement of security for exportation,

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[33c] Customs exemptions have also been prescribed for The International Monetary Fund and The International Bank for Reconstruction and Development in 59 Stat. 512; 22 U. S. C. 286 et seq.

[33d] Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments. (Sec. 2 (d), 59 Stat. 669; 22 U. S. C. 288a (d))

Pursuant to regulations prescribed by the Commissioner of Customs with the approval of the Secretary of the Treasury, the baggage and effects of alien officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation. (Sec. 3, 59 Stat. 669; 22 U. S. C. 288b)

[34] "The following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty, under bond for their exportation within six months from the date of importation, which period may, in the discretion of the Secretary of the Treasury (whether such articles are imported before or after this section becomes effective), be extended, upon application, for a further period not to exceed six months:

"(1) Articles to be repaired, altered, or otherwise changed in condition by processes which do not result in articles manufactured or produced in the United States;

"(2) Models of women's wearing apparel imported by manufacturers for use solely as models in their own establishment, and not for sale;

"(3) Samples solely for use in taking orders for merchandise, or for examination with a view to reproduction;

"(4) Articles intended solely for experimental purposes and upon satisfactory proof to the Secretary that any such article has been destroyed because of its use for experimental purposes such bond may be canceled without the payment of duty;

"(5) Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells and similar vehicles and craft, and horses, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents (A) for the purpose of taking part in races or other specific contests, or (B) for the transportation of such nonresidents, their families and guests, and such incidental carriage of articles as may be necessary and appropriate to the purposes of the journey, but not to be used for the transportation of persons or articles for hire nor in any case primarily for the carriage of articles (but nothing in this Act shall be construed as altering the customary exceptions of vehicles and other instruments of international traffic from the application of the customs laws); and in the case of horses, vehicles, and craft entered under this subdivision collectors of customs may, under such regulations as the Secretary of the Treasury may prescribe defer the exaction of a bond for not to exceed ninety days (or six months in the case of such horses, vehicles, and craft from a country which accords a similar privilege to horses, vehicles, and craft from the United States) after the date of importation, but unless such horse, vehicle, or craft is exported or the bond is given within the period of such deferment, such horse, vehicle, or craft shall be subject to forfeiture;

"(6) Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency;

"(7) Containers for compressed gases which comply with the laws and regulations for the transportation of such containers in the United States;

"(8) Articles imported by illustrators and photographers for use solely as models in their own establishments, in the illustrating of catalogues, pamphlets, or advertising matter;

"(9) Professional equipment, tools of trade, and camping equipment imported for their own use by nonresidents sojourning tempo-

the procedure provided for in § 10.41 shall be followed. In addition to the data usually shown on a regular consumption entry, there shall be set forth on each 6-months' bond entry (1) the provision of law under which entry is claimed, (2) a description of the use to be made of the articles in sufficient detail to enable the collector to determine whether they are entitled to entry under the provision of law claimed, and (3) a declaration that the articles are not to be put to any other use and that they are not imported for sale or sale on approval.

(b) The entry or invoice shall describe each article in detail and set forth any marks or numbers thereon or other distinguishing features thereof, together with the value of each item. When practicable and necessary, the articles shall be marked by the examining officer so as to enable the customs officer at the port of exportation to identify the articles at the time of exportation. Unless the articles are otherwise exempt from such requirement, a certified invoice shall be required whenever the value of the shipment exceeds $100, except in the case of articles entered under section 308 (5) Tariff Act of 1930, as amended, and automobiles imported from contiguous countries and entered under section 308 (1) of the tariff act, as amended.

(c) A bond shall be given in an amount equal to one and one-quarter times the duties which it is estimated would accrue had all the articles covered by the entry been entered under an ordinary consumption entry. When the articles are entered under paragraph 1607 or section 308 of the tariff act, as amended, the bond shall be on customs Form 7563 or other appropriate form; when under paragraph 1747 or 1808 of the tariff act, on customs form 7565. Cash deposits in the amount of the bond may be accepted in lieu of sureties. Such deposits shall be placed in the collector's special deposit account and customs form 5117-B shall be used as a collection voucher and receipt.

(d) Claim for free entry under paragraph 1607, 1747, or 1808, or section 308, Tariff Act of 1930, as amended, may be made for articles of the character described in any such paragraph or section which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been removed from customs custody, but the 6-months' period shall be computed from the date of importation. In the case of articles covered by an informal mail entry, such a claim may be made within a reasonable time either before or after the articles have been released from customs custody.

(e) After the completion of the entry and the filing of the bond, the articles may be released to the importer. Upon compliance with the conditions of the bond, the entry shall be liquidated free of duty. When any article covered by the entry has not been disposed of in accordance with the conditions of the bond prior to the expiration of the bond period (including any lawful extension) the following procedure shall govern. If the articles were entered under paragraph 1747 or 1808 of the tariff act, the entry shall be liquidated dutiable as to the articles which have not been disposed of in accordance with the conditions of the bond and the duties which would have accrued on such articles had they been entered for consumption shall be collected. If the articles were entered under paragraph 1607 or section 308 of the tariff act, as amended, the entry shall be liquidated free of duty, but at the time of such liquidation the amount of duties which would have accrued if the bond had not been given shall be ascertained for use in connection with the consideration of any petition for relief from the payment of liquidated damages. (Pars. 1607, 1747, 1808, 1809; sec. 201, 46 Stat. 673, 680, 684, sec. 308, 46 Stat. 690, sec. 4, 52 Stat. 1079; sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1308, 1624)

§ 10.32 *Animals or poultry for breeding; exhibition, competition.* (a) It must be shown to the satisfaction of the collector at the port of entry that any animals or poultry offered for entry under the temporary importation provisions of paragraph 1607, Tariff Act of 1930, are imported for a purpose mentioned in such provisions.[32]

(b) Animals imported for training for a racing exhibition to be held in the United States within 6 months after the date of entry are entitled to entry under paragraph 1607 of the tariff act.

(c) Temporary importation under bond shall be allowed for sulkies, carts, and other vehicles, equipment, and harness accompanying and intended for use only with animals entered under the temporary importation provisions of paragraph 1607 of the tariff act. (Par. 1607 · sec. 201, 46 Stat. 673, sec. 624, 46 Stat. 759; 19 U. S. C., 1201, 1624)

§ 10.33 *Theatrical effects.*[33] (a) In connection with the entry under bond of theatrical scenery, property, and apparel, a declaration of the manager or proprietor shall be required on customs Form 3325 in addition to the requirements of § 10.31.

(b) Animals imported for use or exhibition in theaters or menageries may be classified as theatrical effects.

(c) The term "theatrical scenery, properties, and effects" shall not be construed to include motion-picture films. (Par. 1747 · sec. 201, 46 Stat. 680, sec. 624, 46 Stat. 759; 19 U. S. C., 1201, 1624)

§ 10.34 *Articles brought by professional artists, lecturers, or scientists.* In connection with the entry of works of art and other articles provided for in paragraph 1808, Tariff Act of 1930, brought in by professional artists, lecturers, or scientists, a declaration on customs Form 3333 shall be required in addition to the requirements of § 10.31. (Par. 1808: sec. 201, 46 Stat. 684, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.35 *Models of women's wearing apparel.* (a) Models of women's wearing apparel admitted under section 308 (2) Tariff Act of 1930, shall not be removed from the importer's establishment for reproducing, copying, painting, sketching, or for any other use by others, nor be used in the importer's establishment for such purposes except by the importer or his employees.

(b) The importer shall file in connection with the entry an affidavit stating, in addition to his name and business address, that he is a manufacturer; that the articles are imported solely as models for use in his own establishment and will be so used; that they are not imported for sale or for sale on approval; and that they will not be removed from such establishment for reproducing, copying, painting, or sketching by others, nor used in his establishment for such purposes except by him or his employees.

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rarily in the United States, and articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export." (Tariff Act of 1930, sec. 308, as amended; 19 U. S. C. 1308)

"PAR. 1607. Animals and poultry, brought into the United States temporarily for a period not exceeding six months, for the purpose of breeding, exhibition, or competition for prizes offered by any agricultural, polo, or racing association; but a bond shall be given in accordance with regulations prescribed by the Secretary of the Treasury; * * *"

"PAR. 1747. * * * but this exemption shall not be construed to include * * * theatrical scenery, properties, and apparel; but such articles brought by proprietors or managers of theatrical exhibitions arriving from abroad, for temporary use by them in such exhibitions, and not for any other person, and not for sale, and which have been used by them abroad, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: *Provided,* That the Secretary of the Treasury may, in his discretion, extend such period for a further term of six months in case application shall be made therefor."

"PAR. 1808. Works of art, drawings, engravings, photographic pictures, and philosophical and scientific apparatus brought by professional artists, lecturers, or scientists arriving from abroad for use by them temporarily for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States, and not for sale, shall be admitted free of duty, under such regulations as the Secretary of the Treasury shall prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: *Provided,* That the Secretary of the Treasury may, in his discretion, extend such period for a further term of six months in cases where application therefor shall be made." (Tariff Act of 1930, pars. 1607, 1747, 1808 (free list); 19 U. S. C. 1201, pars. 1607, 1747, 1808)

[32] For regulations relating to the importation of animals for breeding purposes without limitation as to the time of their stay in the United States, see §§ 10.70 and 10.71. If horses are imported for racing or other contests by a nonresident, the entry should ordinarily be under sec. 308 (5) of the tariff act, which allows an extension of the bond period that is not permissible under par. 1607.

[33] For regulations relating to return without formal entry of theatrical effects taken from the United States, see § 10.68.

(c) Invoices covering models of women's wearing apparel entered under section 308 (2) or (3) shall state the kind and color of the principal material from which the apparel is made, and shall contain a description of the lining and the trimming, stating whether composed of fur, lace, embroidery, or other material. Invoices shall also contain a statement as to how the trimming is applied, that is, whether on the cuffs, collar, sleeves, or elsewhere, and the total value of each completed garment or article.

(d) Models of women's wearing apparel entered under section 308 (2) or (3) shall be marked for identification by means of a cord and lead or tin seal, the cord to be run through the article and all trimming thereon, where necessary, in such manner as to prevent the removal of the cord and seal without cutting the cord or injuring the article. A tag shall be attached to the cord, upon which shall be stated the name of the port at which the article was imported, the entry number, name of importer, and the number of the bond. (Secs. 308 (2) (3) 624, 46 Stat. 690, 759; 19 U. S. C. 1308 (2) (3) 1624)

§ 10.36 *Commercial travelers' samples.* Samples valued at less than $500 accompanying a commercial traveler may be entered on his baggage declaration in lieu of formal entry and examined and passed under section 308 (3) Tariff Act of 1930, at the place of arrival in the same manner as passengers' baggage upon the filing of the bond required by § 10.31 if the articles are accompanied by an adequate descriptive list and, in the case of articles valued at more than $100, the descriptive list is certified by an American consul or a certified invoice is furnished. Otherwise regular entry and appraisement shall be required. (Secs. 308 (3) 498, 624, 46 Stat. 690, 728, 759; 19 U. S. C. 1308 (3) 1498, 1624)

§ 10.37 *Extension of bonds.* Bonds given under paragraph 1607, Tariff Act of 1930, cannot be extended. All other 6-months' bonds to secure the exportation of temporary importations may be extended for a further period of 6 months by the collector of customs at the port where the entry was filed upon written application to such collector on customs Form 3173, provided the articles have not been exported (or duly destroyed) prior to the date of the receipt by the collector of the application, or liquidated damages have not been assessed under the bond prior to such receipt. (Pars. 1607, 1747, 1808: sec. 201, 46 Stat. 673, 680, 684, sec. 308, 46 Stat. 690, sec. 4, 52 Stat. 1079; sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1308, 1624)

§ 10.38 *Exportation.* (a) Articles entered under 6-months' bond may be exported at the port of entry or at another port and shall be delivered by the importer for examination at the appraiser's store or at such other place as the collector may designate. An application on customs Form 3495 shall be filed with the collector a sufficient length of time in advance of exportation to permit their examination, and the articles shall be identified as the same articles which were imported. The applicant shall be notified on customs Form 3497 where the articles are to be sent for identification.

(b) All expenses in connection with the delivery of the articles for examination, the cording and sealing of such articles, and their transfer for exportation shall be paid by the parties in interest.

(c) If exportation is to be made at a port other than the one at which the merchandise was entered, the application on customs Form 3495 shall be filed in duplicate. There shall also be filed with the application a certified copy of the import entry or a certified copy of the invoice used on entry.

(d) If the goods are examined at one port and are to be exported at another port, they shall be forwarded to the port of exportation under a transportation and exportation entry. In such cases customs Form 3495 shall be filed in duplicate. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

§ 10.39 *Cancelation of bonds.* (a) Bonds taken pursuant to paragraphs 1607, 1747, or 1808, or section 308, Tariff Act of 1930, may be canceled in the manner prescribed in § 25.15 of this chapter. In the case of articles entered under section 308 (4) Tariff Act of 1930, which are destroyed because of their use for experimental purposes, the bond shall not be canceled unless there is submitted to the collector an affidavit of the importer that the articles were destroyed during the course of a specifically described experiment, and the collector is satisfied that the articles were so destroyed as articles of commerce within the bond period (including any lawful extension). Bonds covering articles entered under other provisions of law shall not be canceled upon proof of destruction, except as provided for in paragraph (c) of this section, unless the articles are destroyed under customs supervision in accordance with section 557, Tariff Act of 1930, as amended, and § 15.4 of this chapter.

(b) Where exportation has been made at a port other than the port of entry, the bond may be canceled upon the certificate of lading received from the port of exportation, showing that such exportation was made within the bond period. In addition, the collector may require the production of a landing certificate signed by a revenue officer of the country to which the merchandise is exported.

(c) When articles entered temporarily free of duty under bond are destroyed within the bond period by death, accidental fire, or other casualty, application for relief from liability under the bond shall be made to the Bureau of Customs. The application shall be accompanied by an affidavit of the importer, or other person having knowledge of the facts, setting forth the circumstances of the destruction of the articles.

(d) If any article has not been exported or destroyed in accordance with the regulations in this part within the bond period (including any lawful extension) the collector shall (1) collect the duties found due on such article, if entered under paragraph 1747 or 1808; or (2) if the article was entered under paragraph 1607 or section 308 of the tariff act, as amended, make a demand in writing under the bond for the payment of liquidated damages equal to the entire amount of the bond, except that if the entry covering the articles is charged against a term bond the demand shall be limited to an amount equal to one and one-quarter times the estimated duties applicable to such entry. The written demand shall include a statement that a written application for relief from the payment of the full liquidated damages may be filed with the collector within 60 days after the date of the demand.

(e) If a written application for relief is timely filed, it shall be transmitted to the Bureau with a full report of the facts, unless it is allowed by the collector in whole or in part in accordance with this regulation. If the full amount of liquidated damages demanded does not exceed $1,000, or $2,000 in the case of articles entered under section 308 (5) and the collector is satisfied that the importation was properly entered under paragraph 1607 or section 308, and that there was no intent to defraud the revenue or delay the payment of duty, the collector may cancel the liability for the payment of liquidated damages as follows:

(1) If the articles in respect of which there was a default was entered under section 308 (1) or (5) and evidence is furnished which satisfies the collector that the article would have been entitled to free entry as domestic products exported and returned had the evidence been furnished at the time of entry, without the collection of liquidated damages.

(2) If the merchandise in respect of which there was a default has been exported or destroyed under customs supervision but not within the bond period, upon the payment of such lesser amount as the collector may deem appropriate under the law and in view of the circumstances, or without the collection of liquidated damages if the collector is satisfied that the delay in exportation or destruction was for the benefit of the United States or was occasioned wholly by circumstances reasonably beyond the control of the parties concerned and which could not have been anticipated by a reasonably prudent person.

(3) If the merchandise in respect of which there was a default was exported or destroyed within the bond period but not under customs supervision and satisfactory documentary evidence of actual exportation, such as a foreign landing certificate, or of death or other complete destruction, such as a veterinarian's certificate or affidavits of two disinterested witnesses, are furnished together with a complete explanation by the applicant of the failure to obtain customs supervision, upon the payment of such lesser amount as the collector may deem appropriate under the law and in view of the circumstances, or without the collection of liquidated damages if the collector is satisfied that the merchandise was destroyed under circumstances which precluded any arrangement to obtain customs supervision.

(4) If there has been compliance with the terms of the bond in respect of part of but not all the articles and the default with respect to the other articles is not within the purview of subparagraphs (1), (2) or (3) of this paragraph, upon the payment of an amount equal to one and one-quarter times the duty on the articles not disposed of in compliance with the bond.

(5) In any case involving articles entered under paragraph 1607 or section 308, upon the payment of an amount equal to one and one-quarter times the duties which would have accrued on the articles had they been entered under an ordinary consumption entry, if such amount is determined to be less than the full amount of the bond.

(f) If the collector believes that greater relief is warranted in any case than he is authorized to grant by paragraph (e) of this section, he shall forward the application to the Bureau with a full report on the case. If the applicant is not satisfied with a collector's action under paragraph (e) of this section and submits a supplemental application, both the original and the supplemental applications shall be transmitted to the Bureau with a full report on the case. (Pars. 1607, 1747, 1808; sec. 201, 46 Stat. 673, 680, 684, sec. 308, 46 Stat. 690, sec. 4, 52 Stat. 1079, sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1308, 1623, 1624)

§ 10.40 *Refund of special deposits.* (a) When a cash deposit is made in lieu of surety, the collector shall place such cash deposit in his special deposit account and it shall be refunded to the person in whose name the entry is made upon exportation in compliance with § 10.38.

(b) When any article entered under paragraph 1747 or 1808, Tariff Act of 1930, is not exported or destroyed within the bond period (including any lawful extension) and the liquidated duty on such article is found to be less than the special deposit, the amount in excess of the liquidated duty shall be refunded to the person in whose name the entry is made. If the liquidated duty exceeds the cash deposit, a demand shall be made upon the importer for the increased duties due. If any article entered under paragraph 1607 or section 308, Tariff Act of 1930, as amended, is not so exported or destroyed, the collector shall notify the importer in writing that the entire cash deposit will be transferred to the regular account as liquidated damages unless a written application for relief from the payment of the full liquidated damages is filed with the collector within 60 days after the date of the notice. If such an application is timely filed, the transfer of the cash deposit to the regular account as liquidated damages shall be deferred pending the decision of the Commissioner of Customs or, in appropriate cases, the collector of customs on the application. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

§ 10.41 *Horses, vehicles, and craft brought in for a temporary stay.* (a) If the collector is satisfied of the importer's identity and good faith, an article provided for in section 308 (5) Tariff Act of 1930, as amended,[37] may be admitted thereunder for a stay of not to exceed 90 days (or 6 months in the case of horses, vehicles, and craft from a country which accords a similar privilege to horses, vehicles, and craft from the United States) without entry or security for exportation. In such cases the collector shall issue to the importer a certificate on customs Form 4447, which shall be delivered with the horse, vehicle, or craft covered thereby to the customs officer at the port of exit at the time of departure. Certificates shall be issued to aircraft only when the craft are registered in a country with which the United States has a reciprocal agreement in regard to aircraft and piloting privileges,[38] or when the person in charge produces proper evidence of permission from the Department of Commerce to operate in the United States.

(b) If, at the time of arrival, it appears that the article is likely to remain in the United States beyond 90 days (or 6 months in the case of horses, vehicles, and craft entitled to entry for 6 months without bond) entry and bond shall be taken as provided for in § 10.31.

[37] "The following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty, under bond for their exportation within six months from the date of importation, which period may, in the discretion of the Secretary of the Treasury (whether such articles are imported before or after this section becomes effective), be extended, upon application, for a further period not to exceed six months:

* * * * *

"(5) Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and horses, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents (A) for the purpose of taking part in races or other specific contests, or (B) for the transportation of such nonresidents, their families and guests, and such incidental carriage of articles as may be necessary and appropriate to the purposes of the journey, but not to be used for the transportation of persons or articles for hire nor in any case primarily for the carriage of articles (but nothing in this Act shall be construed as altering the customary exceptions of vehicles and other instruments of international traffic from the application of the customs laws); and in the case of horses, vehicles, and craft entered under this subdivision collectors of customs may, under such regulations as the Secretary of the Treasury may prescribe, defer the exaction of a bond for not to exceed ninety days (or six months in the case of such horses, vehicles, and craft from a country which accords a similar privilege to horses, vehicles, and craft from the United States) after the date of importation, but unless such horse, vehicle, or craft is exported or the bond is given within the period of such deferment, such horse, vehicle, or craft shall be subject to forfeiture; * * *" (Tariff Act of 1930, sec. 308, as amended; 19 U. S. C. 1308)

[38] Lists of countries granting horses, vehicles, and craft from the United States the privilege of 6 months' free entry without bond, and of countries with which the United States has reciprocal agreements concerning aircraft and piloting privileges, will be published from time to time in the Treasury Decisions.

(c) When any horse, vehicle, or craft is admitted under the provisions of this section and the importer desires to prolong his stay beyond the time for which the horse, vehicle, or craft was admitted, an entry covering the horse, vehicle, or craft and security for its exportation shall be accepted under the provisions of § 10.31 at any port where the article may be presented for examination. Whenever an entry is substituted under the provisions of this paragraph for a certificate, customs Form 4447, the time during which the imported article may remain in the United States under the entry shall be computed from the date of original arrival in the United States and the article shall be appraised according to its value at the time of such arrival.

(d) In the case of a foreign-owned automobile, the registration card therefor may, if the owner so desires, be taken in lieu of the issuance of customs Form 4447, provided the collector is satisfied that the automobile will leave the United States via the same route within 90 days.

(e) Collectors of customs may issue to reputable persons residing in foreign territory adjacent to the port of entry annual identification cards on customs Form 4447 appropriately modified by the issuing officer for automobiles owned by such persons and used by them in making frequent trips across the border. An automobile covered by such identification card, when brought in by the owner, may be passed upon exhibition of the card without further formality.

(f) Foreign-owned trucks, busses, and taxicabs arriving with merchandise or passengers destined to points in the United States, or arriving empty or loaded for the purpose of taking out merchandise or passengers, are not subject to duty. Such vehicles may be admitted in the same manner and under the same conditions as automobiles arriving for touring purposes, except that in the case of trucks or busses operating on regular schedules which require them to leave the United States via the same route within 24 hours after arrival, the registration card need not be surrendered.

(g) The treatment of foreign-owned aircraft arriving in the United States carrying merchandise or passengers for hire shall be governed by the provisions of Part 6 of this chapter.

(h) Any foreign-owned vehicle, including aircraft, entering the United States for the purpose of carrying merchandise or passengers for hire between points in the United States, or for other commercial use, is dutiable, and a regular entry therefor shall be made. Each horse, vehicle, or craft shall be subject to forfeiture if it (1) has entered the United States under a touring certificate under the provisions of this section and is not duly exported, destroyed, or entered under bond, within the period of such certificate, or (2) is determined to have been imported (except as provided for in paragraph (f) of this section) for the transportation of persons or articles for hire, or (3) is determined to have been imported primarily for the carriage of articles.

AUTOMOBILES AND OTHER VEHICLES

§ 10.42 *Automobiles and other vehicles, boats, teams, and saddle horses taken abroad.* (a) Automobiles, aircraft, and other vehicles, boats, teams, and saddle horses of domestic origin, or of foreign origin if duty-paid, together with their accessories, taken abroad by the owner or his agent for noncommercial use and returned for the account of such owner shall be admitted without the payment of duty, except as provided for in paragraph (b) of this section, and without the requirement of a certified invoice, upon being satisfactorily identified.

(b) Repairs made abroad to such articles if incidental to use abroad are not subject to duty, but repairs not incidental to use abroad and alterations and additions made abroad shall be assessed with duty upon their value at the rate at which the article itself would be dutiable if imported. Accessories acquired abroad are dutiable as if separately imported. Certified invoices shall not be required for such repairs, alterations, and additions made abroad, or for such accessories acquired abroad.

(c) Upon the request of the owner or his agent, the collector of customs shall cause any such article to be examined before it is taken abroad and issue a certificate of registration therefor on customs Form 4455. On the return of the article, such certificate may be accepted as satisfactory identification for the purpose of admitting the article free of duty without the requirement of a certified invoice, whether the article is covered by a baggage declaration or by a regular entry, provided the article agrees with the description contained in the certificate. The state registration card for an automobile, the certificate of registration issued by the Department of Commerce for an aircraft, or the yacht license, or motorboat identification certificate for a pleasure boat may be accepted under the same conditions as, and in lieu of, customs Form 4455 and be given the same force and effect.

(d) Regular entry or entry on a baggage declaration shall be required if the owner or his agent is unable to produce a proper registration card or certificate covering the article, or if duty is to be collected, or if a claim for free entry under the $100 or $300 returning resident's exemption with respect to the articles is to be made. The value of any repairs, alterations, additions, or accessories for which free entry under the $100 or $300 exemption will be claimed shall be included in a returning resident's baggage declaration, whether or not the article accompanies the resident at the time of his return to the United States.

(e) The collector shall admit, under the provisions of the convention between the United States and Mexico and regulations thereunder, without entry and without the payment of duty, stolen or embezzled motor vehicles, trailers, airplanes, or component parts of any of them, only in cases where they are accompanied by a letter from the United States Embassy in Mexico City stating that such Embassy is satisfied from information furnished it that the property, which must be adequately described in the letter for identification purposes, is stolen property being returned to the United States under the provisions of the said convention and regulations.

(f) Trucks, busses, and taxicabs, whether of foreign or domestic origin, taking out merchandise or passengers for hire or leaving empty for the purpose of bringing back merchandise or passengers for hire shall be admitted free of duty without entry on their return to the United States upon their identity being established by state registration cards. However, such vehicles taken abroad for commercial use between points in a foreign country shall be considered to have been exported and must be regularly entered on return.

(g) Domestic truck, busses, and taxicabs upon which repairs have been made in a foreign country shall be subject upon reentry into the United States to a duty upon the value of the repairs at the rate at which the vehicles or other equipment would be dutiable if imported, but no such duty shall be assessed by reason of repairs required to restore any such article to the condition in which it last left the United States, or by reason of "running" repairs required for the immediate safety of transportation. For the purpose of this subsection, trucks, busses, and taxicabs and their equipment manufactured in, or regularly imported into, the United States, and not subsequently cleared through foreign customs into another country, nor use in foreign local traffic otherwise than as an incident of the return of the equipment to the United States, shall be considered "domestic." A report of the first arrival in the United States of such trucks, busses, and taxicabs after they have been repaired in a foreign country shall be made promptly, in writing, to the United States Customs at the port of entry, such report to state the time and place of arrival and the nature and value of the repairs. (Par. 1615 (g) (h) 52 Stat. 1093, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

ARTICLES FOR INSTITUTIONS

§ 10.43 *Requirements on entry.* (a) The importer of articles claimed to be exempt from duty under paragraph 1631[3] or 1773,[4] Tariff Act of 1930, shall file, as evidence that such articles are entitled to free entry, a declaration on customs Form 3321 of an executive officer or other authorized representative of the institution for which the articles are imported.

(b) The collector may require a copy of the charter or other evidence of the character of the institution for which the articles are imported, and may also require the production of the original of any order given by such society or institution to any importing agent or dealer for such articles. (Pars. 1631, 1773: sec. 201, 46 Stat. 675, 681, 19 U. S. C. 1201)

§ 10.44 *Declaration of dealer or agent; certificate of delivery; stipulation.* (a) When such articles are imported through a dealer, his declaration and that of the importer shall be filed on customs Form 3321.

(b) Such declarations shall be filed at the time of entry, and bonds shall not be accepted for their subsequent production. However, when it is impracticable to produce at the time of entry the declaration of the institution for which the importation is made, the importer may deposit the estimated duties and stipulate to produce such declaration within 6 months if he files a written statement at the time of entry showing why the declaration of the institution cannot be produced.

(c) Unless the importation is consigned to the institution or the receipt of the articles is acknowledged by the institution on customs Form 3321, a certificate of delivery, customs Form 3337, signed by an executive officer or other authorized representative of the institution, shall be filed within 6 months from the date of entry. (Pars. 1631, 1773; sec. 201, 46 Stat. 675, 681; 19 U. S. C. 1201)

§ 10.45 *Serial publications; list of publications.* One declaration may be made for books or other publications issued serially and imported in installments. A list shall be filed with the declaration on entry of the first importation of the publication, which list shall be signed by the importer immediately below the last-mentioned article in such list. Subsequent installments may be admitted free upon declaration of the importer that they are included in the list already filed. (Pars. 1631, 1773: sec. 201, 46 Stat. 675, 681, sec. 485 (b), 46 Stat. 724; 19 U. S. C. 1201, 1485 (b))

§ 10.46 *Articles for the United States.* Pursuant to paragraph 1628, Tariff Act of 1930,[5] books, engravings, and other

[3] "Any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or any college, academy, school, or seminary of learning in the United States, or any State or public library, may import free of duty any book, map, music, engraving, photograph, etching, lithographic print, or chart, for its own use or for the encouragement of the fine arts, and not for sale, under such rules and regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, par. 1631 (free list); 19 U. S. C. 1201, par. 1631)

[4] "* * * regalia and gems, where specially imported in good faith for the use and by order of any society incorporated or established solely for religious, philosophical educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, seminary of learning, orphan asylum, or public hospital in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe; but the term 'regalia' as herein used shall be held to embrace only such insignia of rank or office or emblems as may be worn upon the person or borne in the hand during public exercises of the society or institution, and shall not include articles of furniture or fixtures, or of regular wearing apparel, nor personal property of individuals." (Tariff Act of 1930, par. 1773 (free list); 19 U. S. C. 1201, par. 1773)

[5] "Books, engravings, photographs, etchings, bound or unbound, maps and charts imported by authority or for the use of the United States or for the use of the Library of Congress." (Tariff Act of 1930, par. 1628 (free list); 19 U. S. C. 1201, par. 1628)

articles therein enumerated, which are imported by authority or for the use of the United States or for the use of the Library of Congress, shall be admitted free of duty upon compliance with §§ 10.43–10.45, or upon the written request of the head of the bureau or executive department concerned. (Par. 1628: sec. 201, 46 Stat. 675, sec. 624, 46 Stat. 759; 19 U. S. C., 1201, 1624)

WORKS OF ART

§ 10.47 *Statuary and casts of sculpture.* (a) Pursuant to paragraph 1773, Tariff Act of 1930,[42] statuary and casts of sculpture for use as models or for art educational purposes only shall be admitted free of duty if reported by the appraising officer to be statuary or casts of sculpture, and if the collector of customs is satisfied that they are actually imported for the purposes above mentioned.

(b) The importer shall file in connection with the entry an affidavit of the ultimate consignee on customs Form 3307. (Par. 1773; sec. 201, 46 Stat. 681, 19 U. S. C., 1201)

§ 10.48 *Original paintings, engravings, drawings, sculpture, etc.* (a) Invoices covering works of art claimed to be free of duty under paragraph 1807, Tariff Act of 1930,[43] shall show whether they are originals, replicas, reproductions, or copies, and also the name of the artist who produced them, unless upon examination the appraiser is satisfied that such statement is not necessary to a proper determination of the facts.

(b) The following evidence shall be filed in connection with the entry:

(1) A certificate on consular Form 253 by the artist who executed the article, showing whether it is original, or, in the case of sculpture, the first or second replica or reproduction in the order produced; and in the case of etchings, engravings, or wood cuts, that they were printed by hand from hand-etched or hand-engraved plates or blocks.

(2) A declaration of the seller or shipper giving the information specified in subparagraph (1) of this paragraph, if it be shown that it is impossible to produce the certificate of the artist.

(3) A declaration of the importer on customs Form 3309.

(c) The certificate of the artist, or the declaration of the seller or shipper in lieu thereof, may be waived upon a satisfactory showing that it is impossible to produce either, but the declaration of the importer shall be required in all cases. (Par. 1807: sec. 201, 46 Stat. 684, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.49 *Articles for exhibition, requirements on entry.* (a) There shall be filed in connection with the entry of works of art and other articles claimed to be free of duty under paragraph 1809, Tariff Act of 1930,[44] a declaration by a qualified officer of the institution on customs Form 3335, and a bond on customs Form 7565.

(b) The collector may require a copy of the charter or other evidence of the character of the institution for which the articles are imported, and may also require the production of the original of any order given by such society or institution to any importing agent or dealer for such articles.

(c) Articles entered under paragraph 1809 of the tariff act may be transferred from one institution to another upon an application in writing in the case of each transfer describing the articles and stating the name of the institution to which transfer is to be made, provided the sureties to the bond assent in writing under seal or a new bond is filed. No entry or withdrawal shall be required for such a transfer.

(d) If any of the articles accorded free entry under paragraph 1809 shall be sold, offered or exposed for sale, transferred, or used in any manner contrary to the provisions of these regulations, the amount of the duties shall be collected immediately by the collector of customs at the port of entry and deposited as duties. If the articles are exported or destroyed under customs supervision, the liability under the bond shall be treated as terminated. (Par. 1809: sec. 201, 46 Stat. 684, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.50 *Works of American artists.* When works of art produced by American artists residing temporarily abroad are claimed to be free of duty under paragraph 1810, Tariff Act of 1930,[45] the importer shall file in connection with the entry of such articles a declaration of the artists on consular Form 155 made before the United States consul at the place of exportation, or on customs Form 3319 made before a customs officer at the port of entry. (Par. 1810: sec. 201, 46 Stat. 685; 19 U. S. C. 1201)

§ 10.51 *Articles for institutions.* When articles for institutions are claimed to be free of duty under paragraph 1774 or 1810, Tariff Act of 1930,[46] there shall be filed, in connection with the entry of such articles, a declaration on customs Form 3331 showing that the articles were expressly imported for presentation to the institution named in the entry, together with letters of presentation and acceptance from the donors and donees, respectively. (Pars. 1774, 1810: sec. 201, 46 Stat. 682, 685, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.52 *Stained or painted glass windows for houses of worship.* When stained or painted glass windows or window glass valued at $15 or more per square foot is claimed to be free of duty under paragraph 1810, Tariff Act of 1930,[47] the importer shall file in connec-

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[42] "Statuary and casts of sculpture for use as models or for art educational purposes only; * * *" (Tariff Act of 1930, par. 1773 (free list); 19 U. S. C. 1201, par. 1773)

[43] "Original paintings in oil, mineral, water, or other colors, pastels, original drawings and sketches in pen, ink, pencil, or water colors, artists' proof etchings unbound, and engravings and woodcuts unbound, original sculptures or statuary, including not more than two replicas or reproductions of the same; but the terms 'sculpture' and 'statuary' as used in this paragraph shall be understood to include professional productions of sculptors only whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, or metal, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone or alabaster or from metal, or cast in bronze or other metal or substance, or from wax or plaster, made as the professional productions of sculptors only; and the words 'painting, 'drawing,' 'sketch, 'sculpture, and 'statuary' as used in this paragraph shall not be understood to include any articles of utility or for industrial use, nor such as are made wholly or in part by stenciling or any other mechanical process; and the words 'etchings, 'engravings,' and 'woodcuts' as used in this paragraph shall be understood to include only such as are printed by hand from plates or blocks etched or engraved with hand tools and not such as are printed from plates or blocks etched or engraved by photochemical or other mechanical processes." (Tariff Act of 1930, par. 1807 (free list); 19 U. S. C. 1201, par. 1807)

[44] "Works of art, collections in illustration of the progress of the arts, sciences, agriculture, or manufacture, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities and artistic copies thereof in metal or other material, imported in good faith for exhibition at a fixed place by any State or by any society or institution established for the encouragement of the arts, science, agriculture, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation, for the purpose of erecting a public monument, and not intended for sale nor for any other purpose than herein expressed; but bond shall be given, under such rules and regulations as the Secretary of the Treasury may prescribe, for the payment of lawful duties which may accrue should any of the articles aforesaid be sold, transferred, or used contrary to this provision, and such articles shall be subject at any time to examination and inspection by the proper officers of the customs: *Provided,* That the privileges of this and the preceding paragraph shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character." (Tariff Act of 1930, par. 1809 (free list); 19 U. S. C. 1201, par. 1809)

[45] "Works of art, productions of American artists residing temporarily abroad * * * but such exemption shall be subject to such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, par. 1810 (free list); 19 U. S. C. 1201, par. 1810)

[46] "PAR. 1774. Altars, pulpits, communion tables, baptismal fonts, shrines, or parts of any of the foregoing, and statuary (except casts of plaster of paris, or of compositions of paper or papier-mâché), imported in good faith for presentation (without charge) to, and for the use of, any corporation or association organized and operated exclusively for religious purposes."

"PAR. 1810. * * * other works of art, including pictorial paintings on glass, imported expressly for presentation to a national institution or to any State or municipal corporation or incorporated religious society, college, or other public institution, * * * and excluding any article, in whole or in part, molded, cast, or mechanically wrought from metal within twenty years prior to importation; but such exemption shall be subject to such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, pars. 1774, 1810 (free list); 19 U. S. C. 1201, pars. 1774, 1810)

[47] "* * * stained or painted window glass or stained or painted glass windows which are works of art when imported to be used in houses of worship valued at $15 or more per square foot, * * * but such exemption shall be subject to such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, par. 1810 (free list); U. S. C. 1201, par. 1810)

tion with the entry an affidavit on customs Form 3321, showing that the importation is made for use in a house of worship, and a certificate of delivery on customs Form 3337. (Par. 1810: sec. 201, 46 Stat. 685; 19 U. S. C. 1201)

§ 10.53. *Artistic antiquities.* (a) Regardless of the value of the articles, the invoice filed in connection with the entry of artistic antiquities and other articles provided for in paragraph 1811, Tariff Act of 1930,[43] shall contain a declaration by the actual foreign vendor if the merchandise is shipped in pursuance of a purchase or agreement to purchase, or by the foreign owner if the merchandise is shipped otherwise than in pursuance of a purchase or agreement to purchase, showing the name and address of the person from whom the articles were acquired by him, the date when so acquired, and, if possible, the place and approximate date of production. A declaration executed on the invoice by an agent competent to declare the value of facts of the invoice may be accepted as a sufficient compliance with this regulation. The declaration may be waived by the collector in any case in which he is satisfied that failure to produce it is not due to any lack of diligence or good faith on the part of the importer and that the information is not required for any purpose in connection with the classification and appraisement of the articles, provided the affidavit of the owner in this country or of the person in this country importing otherwise than in pursuance of a purchase or agreement to purchase, required by paragraph (b) of this section, is supplemented by a sworn statement of such owner or person, giving all the facts within his knowledge tending to show how long the articles have been in existence and where they were produced.

(b) An affidavit, on customs Form 3343, of the owner in this country or of the person in this country importing otherwise than in pursuance of a purchase or agreement to purchase shall also be filed in connection with the entry. If the owner is a corporation, but not otherwise, the affidavit may be signed by an agent or attorney who holds, in addition to a power of attorney executed under the conditions outlined in § 8.19 of this chapter, a certification by the corporation that such agent or attorney has or will have knowledge of the pertinent facts.

(c) Articles brought in as passenger's baggage and entitled to entry under the passenger's declaration and entry which are claimed to be entitled to free entry as artistic antiquities may be admitted free of duty upon the execution by the passenger of an affidavit on Form 3343, provided the passenger is the owner of the articles and they are not for sale or other commercial use, and provided the collector, after examination by the appraising officer, is satisfied that the articles are artistic and of the requisite age.

(d) Artistic antiquities, if of the age prescribed by paragraph 1811, shall be admitted free of duty though repaired or renovated. If, however, an artistic antiquity has been repaired with a substantial amount of additional material, without changing the original form or shape or enhancing its artistic quality, the original and added portions shall be appraised and reported as separate entities and the basis for such report shall be plainly indicated on the invoice by the appraiser. In such cases duty shall be assessed on the portion added. If the repairs consist of an addition to an article of an artistic or other feature which changes it substantially from the article originally produced, or if the antique portion has otherwise been so changed as to lose its identity as the article which was in existence prior to the time prescribed in paragraph 1811, the entire article shall be excluded from free entry under paragraph 1811.

(e) Furniture claimed to be free of duty under paragraph 1811 may be entered for consumption only at the ports of Baltimore, Md., Boston, Mass., Chicago, Ill., Honolulu, T. H., Los Angeles, Calif., New Orleans, La., New York, N. Y., Philadelphia, Pa., San Francisco, Calif., and Seattle, Wash.[44] However, such furniture may be entered at any port for immediate transportation in bond to one of the ports named herein. Examination and appraisement of such furniture shall not be made elsewhere than at a port of entry for antique furniture.

(f) A claim for the free entry of an article under paragraph 1811 on the basis of antiquity may be made on the entry or filed subsequent thereto at any time before the release of the article from customs custody, if the collector is satisfied that it was not imported for sale, or, if imported for sale, at any time before the examination of the article for the purpose of appraisement or classification has begun. No claim shall be entertained, nor shall evidence as to the antiquity of the article be considered, unless submitted within that time.

(g) In the case of furniture previously entered at a port not designated for the entry of antique furniture, a claim for free entry under paragraph 1811 shall not be considered after the appraiser has made his report in the case of articles not imported for sale, or after the examination of the articles for the purpose of appraisement or classification has begun in the case of articles imported for sale. If such a claim is made before that time at such port, the entry shall be canceled and, if the importer does not enter the articles for exportation or for shipment in bond to a port designated for the entry of antique furniture, the articles shall be treated as unclaimed.

(h) The additional duty of 25 percent imposed by section 489, Tariff Act of 1930,[45] shall apply to any article which is imported for sale and claimed, either at the time of entry or at a later date, to be free of duty under paragraph 1811 if such article is later found to be unauthentic in respect of the antiquity claimed as a basis for such free entry, unless the claim under paragraph 1811 is withdrawn in writing before the examination of the article for the purpose of appraisement or classification has begun.

(i) The 25 percent additional duty provided for in section 489 of the tariff act shall not be assessed if the importer establishes by evidence satisfactory to the collector that the article was not imported for sale. In the case of any article imported in a passenger's baggage, the collector may accept the statement of the passenger that the article was not imported for sale if he is satisfied of the truth of such statement. (Par. 1811, sec. 201, 46 Stat. 685, secs. 489, 624, 46 Stat. 725, 759; 19 U. S. C. 1201, 1489, 1624)

§ 10.54 *Gobelin tapestries.* (a) Pursuant to paragraph 1812, Tariff Act of 1930,[46] only Gobelin tapestries produced in the Manufacture Nationale des Gobelins factories at Paris and Beauvais under the direction and control of the French Government shall be accorded free entry if of a kind used as wall hangings.

(b) An affidavit executed before the American consul by the manager or other responsible employee of the Gobelin factory establishing the authenticity of the article shall accompany the invoice. If the absence of such an affidavit is satisfactorily explained, other evidence establishing the necessary facts may be accepted. (Par. 1812: sec. 201, 46 Stat. 685, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

VEGETABLE OILS

§ 10.56 *Vegetable oils, denaturing; release.* (a) Olive, palm-kernel, rapeseed, sunflower, and sesame oil shall be admitted free of duty under the provisions of paragraph 1732, Tariff Act of 1930,[47] if denatured abroad or under cus-

[43] "Works of art (except rugs and carpets made after the year 1700), collections in illustration of the progress of the arts, works in bronze, marble, terra cotta, parian, pottery, or porcelain, artistic antiquities, and objects of art of ornamental character or educational value which shall have been produced prior to the year 1830, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of Treasury may prescribe. Violins, violas, violoncellos, and double basses, of all sizes, made in the year 1800 or prior year." (Tariff Act of 1930, par. 1811 (free list); 19 U. S. C. 1201, par. 1811)

[44] "• • • Furniture described in paragraph 1811 shall enter the United States at ports which shall be designated by the Secretary of the Treasury for this purpose. • • •" (Tariff Act of 1930, sec. 489; 19 U. S. C. 1489)

[45] "• • • If any article described in paragraph 1811 and imported for sale is rejected as unauthentic in respect to the antiquity claimed as a basis for free entry, there shall be imposed, collected, and paid on such article, unless exported under customs supervision, a duty of 25 per centum of the value of such article in addition to any other duty imposed by law upon such article." (Tariff Act of 1930, sec. 489; 19 U. S. C. 1489)

"Furniture" within the meaning of section 489, Tariff Act of 1930, is defined as "movable articles of convenience or decoration designed for use in furnishing a house, apartment, place of business or of accommodation." This definition embraces most articles claimed to be free of duty as artistic antiquities. (See T. D. 44165)

[46] "Gobelin tapestries used as wall hangings." (Tariff Act of 1930, par. 1812 (free list); 19 U. S. C. 1201, par. 1812)

[47] "• • • olive, palm-kernel, rapeseed, sunflower, and sesame oil, rendered unfit for use as food or for any but mechanical or

toms supervision after importation but before release from customs custody, at the request and expense of the importer, by a formula prescribed by the Bureau, or if by their method of production abroad they are rendered unfit for use as food or for any but mechanical or manufacturing purposes.

(b) Each cask or package of oil claimed to have been before importation denatured or otherwise rendered unfit for use as food or for any but mechanical or manufacturing purposes shall be sampled and tested by an appraising officer.

(c) The following formulas are prescribed:

To 100 gallons of the oil to be denatured add any of the following substances:

(1) Three gallons of rosin oil, preferably second or third runs.

(2) Three gallons of refined, destructively distilled, wood turpentine, boiling not lower than 160° C.

(3) One hundred fluid ounces of lavender oil.

(4) One-fourth gallon of pyridin.

(5) One-half gallon of creosote.

(6) Four gallons of aniline oil.

(7) Six gallons of dark-colored oleic acid.

(8) Six ounces of oleoresin capsicum.

(9) Not less than 2 gallons of pine tar.

(10) One hundred ounces of linalool.

(11) One hundred ounces of HO oil.

(12) One-third ounce of brucine alkaloid dissolved in a solution composed of two parts by volume of alcohol and four parts by volume of rosemary oil, steam-distilled pine oil, or synthetic pine oil, or other suitable essential or distilled oil.

(13) One gallon of sulphuric (66° B.) acid, and the mixture allowed to stand at least 24 hours before being released.

(14) One hundred ounces of a mixture of two parts by weight of terpineol and one part by weight of phenyl acetic aldehyde.

(15) One and one-half gallons of heavy coal-tar naphtha conforming to the following specifications:

Specific gravity at 15.5° C.. 0.915 to 0.950.
Distillation: 10 percent not lower than 160° C., 70 percent at 199° to 201° C., 95 percent not higher than 260° C.
Flash point: Not less than 38° C.
Free from separated moisture and dirt.

(16) One and one-half gallons of special heavy coal-tar naphtha of the following specifications:

Specific gravity at 15.5° C.. 0.880 to 0.970.
Distillation: Not over 10 percent at 160° C., 90 percent not higher than 200° C.
Flash point: Not less than 38° C.
Free from separated moisture and dirt.

(17) Two gallons of special mineral denaturing oil of the following specifications:

Initial boiling point: Not lower than 205° C.
Flash point (open cup) Not lower than 75° C.
Specific gravity at 15.5° C.. Not lower than 0.819.
This special mineral denaturing oil must be easily recognizable by its pronounced and unmistakably disagreeable taste and odor when present in the vegetable oil to be denatured in the proportion of two parts of the mineral oil to 100 parts of the vegetable oil.

(18) One gallon of a petroleum oil oxidation product meeting the following specifications:

The denaturant upon distillation shall yield not less than 20 percent and not more than 60 percent, by volume, below 200° C.
Ten cubic centimeters of the denaturant with 15 cubic centimeters of Schiff-Elvove reagent (Journal of Industrial and Engineering Chemistry, June 1921, p. 543) must show decided violet color within 30 seconds after addition and agitation.
The iodine numbers (Hanns) shall be not less than 35.

(19) One hundred fluid ounces of steam-distilled pine oil or synthetic pine oil.

(20) One hundred ounces of Oil Bois de Rose Brazil.

(d) The Bureau will from time to time prescribe additional formulas, and will consider any formula for special denaturing that may be submitted.

(e) The collector may, if he deems it advisable, require an importer requesting permission to use any authorized denaturant to submit to the appraiser an adequate sample of such denaturant, in order that the appraiser may report to the collector whether or not such denaturant is suitable for rendering the oil unfit for use as food or for any but mechanical or manufacturing purposes.

(f) No such oil shall be released free of duty until the appraiser shall have made a special report that it has been properly denatured and the owner or consignee shall have filed with the collector an affidavit on customs Form 3339. (Par. 1732; sec. 201, 46 Stat. 680; 19 U. S. C. 1201)

POTATOES

§ 10.57 *Certified seed potatoes.* Claim for classification as seed potatoes under paragraph 771, Tariff Act of 1930, as modified pursuant to the General Agreement (T. D. 51802) shall be made at the time of entry. Such classification shall be allowed only if the articles are white or Irish potatoes which are imported in containers and if, at the time of importation, there is firmly affixed to each container an official tag supplied by the government of the country in which the potatoes were grown, or an agency of such government. The tag shall bear a certificate to the effect that the potatoes in the container were grown, and have been approved, especially for use as seed. The tag shall also bear a number or other symbol identifying the potatoes in the container with an inspection record of the foreign government or its agency on the basis of which the certificate was issued. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

BOLTING CLOTHS

§ 10.58 *Bolting cloths; marking.* (a) As a prerequisite to the free entry of bolting cloth for milling purposes under paragraph 1626, Tariff Act of 1930,[53] the cloth shall be indelibly marked from selvage to selvage at intervals of not more than 4 inches with the words "bolting cloth expressly for milling purposes" in block letters 3 inches in height. Such cloth shall be allowed free entry only under the following conditions:

(1) Bolting cloths composed of silk imported expressly for milling purposes shall be considered only such cloths as are suitable for and are used in the act or process of grading, screening, bolting, separating, classifying, or sifting dry materials, or of dry materials mixed with water, if the water is merely a carrying medium.

(2) If an importer is a manufacturer of mills or machines for any process described above, or conducts a business wherein any act or process described above, constitutes an activity, he shall file with the collector of customs in connection with the entry an affidavit certifying that he is such a manufacturer or conducts such a business and that such bolting cloths are imported expressly for milling purposes.

(3) If bolting cloths are imported by an agent in fulfillment of an accepted order, the importer shall file with the collector of customs in connection with the entry an affidavit showing the name of the actual purchaser of such bolting cloths and that such purchaser is a manufacturer or conducts a business as described, or conducts a business for the purpose of supplying such manufacturers and businesses.

(4) If bolting cloths are imported for stock, the importer shall file with the collector of customs in connection with the entry an affidavit to the effect that he imports such bolting cloths expressly for the purpose of supplying manufacturers and businesses as described, or of supplying other firms who in turn supply manufacturers and businesses as described.

(b) Bolting cloths not marked in the manner above indicated at the time of importation may be so marked by the importers in public stores under the supervision of customs officers. (Par. 1626; sec. 201, 46 Stat. 675, sec. 624, 46 Stat. 759; 19 U. S. C., 1201, 1624)

WITHDRAWAL OF SUPPLIES FOR VESSELS

§ 10.59 *Exemption from customs duties and internal-revenue tax.*[52] (a) A

manufacturing purposes, by such means as shall be satisfactory to the Secretary of the Treasury and under regulations to be prescribed by him; * * *" (Tariff Act of 1930, par. 1732 (free list); 19 U. S. C. 1201, part 1732)

[53] "Bolting cloths composed of silk, imported expressly for milling purposes, and so permanently marked as not to be available for any other use." Tariff Act of 1930, par. 1626 (free list); 19 U. S. C. 1201, par. 1626)

[52] "(a) *Exemption from customs duties and internal-revenue tax.* Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse free of duty or internal-revenue tax, or from any internal-revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal-revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any

vessel shall not be considered to be actually engaged in the foreign trade, or in trade between the Atlantic and Pacific ports of the United States, or between the United States and its possessions, as the case may be, for the purpose of withdrawing supplies from bonded warehouses free of duty and internal-revenue tax pursuant to section 309 (a), Tariff Act of 1930, as amended, unless it is:

(1) Operating on a regular schedule in a class of trade which entitles it to the privilege;

(2) Actually transporting passengers or merchandise to or from a foreign port, a port on the opposite coast of the United States, or between a port in a possession of the United States and a port in the United States or in another of its possessions;

(3) Proceeding in ballast to another domestic port to lade passengers or cargo for a foreign port, and its last carriage of passengers or cargo prior to departure from the port of withdrawal was in foreign trade; or

(4) Departing in ballast from the port at which the withdrawal is made for a foreign port, a port on the opposite coast of the United States, a port in one of the possessions of the United States (or if the port of withdrawal is in a possession of the United States, for a foreign port, the United States, or another possession of the United States) for the purpose of lading passengers or cargo at the port of destination for transportation in a class of trade specified in section 309 (a), Tariff Act of 1930, as amended, for which class of trade the vessel is suitable and seaworthy at the time of leaving the port of withdrawal and from which it is not diverted prior to such lading.

(b) The classes of articles which may be withdrawn as provided for by section 309, Tariff Act of 1930, as amended, and I. R. C. sec. 3451 include the containers in which the articles are withdrawn and laden even though for tariff purposes the containers are classifiable separately from their contents, except unusual containers within the purview of section 504, Tariff Act of 1930.

(c) United States war vessels, transports, and vessels belonging to the United States and engaged exclusively in the transportation of Government property shall be excluded from the privilege of withdrawing supplies free of duty or tax under section 309 (a) Tariff Act of 1930, as amended, since such vessels are not engaged in trade.[17]

(d) The privilege shall be accorded to vessels of war of the following countries: Argentina, Brazil, Chile, Colombia, the Dominican Republic, England, Mexico, Salvador, Sweden, and Venezuela.[18]

(e) Sections 10.60–10.64, insofar as applicable, shall apply with respect to aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions and aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, when such trade by foreign aircraft is permitted. (Sec. 5 (a) 52 Stat. 1080; 19 U. S. C. 1309 (a))

§ 10.60 *Forms of withdrawals; bond.* (a) Withdrawals from warehouse shall be made on customs Form 7506. Withdrawals from continuous customs custody elsewhere than in a bonded warehouse shall be made on customs Form 7512.

(b) If the withdrawal is made by other than the principal on the warehouse or rewarehouse entry, as the case may be, the assent of such principal shall be endorsed on the withdrawal, unless the principal has otherwise authorized such withdrawal in writing.

(c) A bond on customs Form 7561 or other appropriate form shall be taken when the withdrawal from warehouse is made by a person other than the principal on the warehouse or rewarehouse entry, as the case may be, except when the vessel departs from the port of withdrawal directly for a foreign port.

(d) When the merchandise is to be laden at a port other than the port of withdrawal from warehouse, it shall be withdrawn for transportation in bond to the port of lading. Three copies of the manifest on customs Form 7512, in addition to six copies of the withdrawal on customs Form 7506, shall be required. The procedure shall be the same as that prescribed in § 18.19 (b) of this chapter (the six copies of customs Form 7506 taking the place of the entry copies of customs Form 7512).

(e) No bond shall be required in the case of war vessels.

(f) When articles are withdrawn from continuous customs custody elsewhere than in a bonded warehouse for lading at the port of withdrawal, the procedure provided for in § 18.25 of this chapter shall be followed, except that the bond required shall be on customs Form 7557, 7559, or 7595. When articles are withdrawn from continuous customs custody elsewhere than in a bonded warehouse for lading at another port, the procedure set forth in § 18.26 of this chapter shall be followed, except that the withdrawal when filed shall be supported by a bond on customs Form 7557, 7559, or 7595. There shall be such examination of the articles as may be necessary to satisfy the collector that they are subject to the privileges of section 309, Tariff Act of 1930, as amended, or I. R. C. section 3451, as the case may be, and that the value and quantity declared for them are correct.

§ 10.61 *Withdrawal permit; lading; stores log.* (a) Upon the filing of the withdrawal and the execution of the bond, when required, the collector shall issue a permit on customs Form 7506–A or 7512.

(b) Upon the lading on a vessel of supplies withdrawn from bond for which an affidavit is required under § 10.64, they shall be entered by a representative of the vessel in a special bound stores log book of the vessel in ink or indelible pencil. The stores log shall be kept on board available for customs inspection and use at any time and shall contain the following information with respect to each withdrawal: Port where laden; date of lading; withdrawal number; quantity and description. After the supplies have been so entered in the vessel's stores log, the customs officer who supervised the lading thereof shall place his name and title after the entry in the log. (Sec. 5 (a), 52 Stat. 1080; 19 U. S. C. 1309 (a))

§ 10.63 *Vessels withdrawn from trade or diverted to nonprivileged trade; landing of bonded supplies and stores.* (a) If a vessel which has taken on board supplies or stores free of duty or tax is subsequently withdrawn from trade or is diverted to a class of trade which does not entitle it to the free withdrawal privilege, the withdrawal from trade or diversion shall be reported by the parties in interest to the collector at each port where any such supplies or stores were withdrawn in order that duty and tax may be collected under the bond on any unused bonded supplies or stores remaining on board. The foregoing report shall show the kind and quantities, if any, of the in-bound supplies or stores which were consumed while the vessel was laid up and out of trade or otherwise in a status which did not entitle

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nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or for supplies (not including equipment) of aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or for supplies (including equipment), maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

* * * * *

"(c) *Articles removed in, or returned to, the United States.* Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

"(d) *Reciprocal privileges.* The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country." (Tariff Act of 1930, sec. 309, as amended; 19 U. S. C. 1309 and Sup. I)

[17] I. R. C. sec. 3451 exempts any article sold for use as fuel supplies, ship's stores, sea stores, or legitimate equipment on vessels of war of the United States from the import and other taxes provided for in sec. 3420–3425 and other provisions of chapter 29 of the Internal Revenue Code.

[18] Additions to this list or changes therein will be published in the Treasury Decisions.

it to use the supplies or stores without payment of duty or tax thereon.

(b) In any case in which it is desired to land in the United States articles covered by a conditionally free withdrawal, the master shall make application for a permit to land such articles under customs supervision. Except when transfer to another vessel entitled to the free withdrawal privilege is permitted under the original vessel supply withdrawal, the articles landed shall be treated as imported merchandise under section 309 (c) Tariff Act of 1930. Such unloading into customs custody shall be regarded as satisfying any bond obligation assumed in connection with the withdrawal of such articles as vessel supplies or stores. (Sec. 5 (a) 52 Stat. 1080; 19 U. S. C. 1309 (a))

§ 10.64 *Crediting or cancelation of bonds.* (a) The warehouse or rewarehouse entry bond or the bond provided for in § 10.60 (c) or (f) covering articles withdrawn for use as supplies of a vessel may be credited or canceled in respect of such articles if an affidavit in the form prescribed below is filed with the collector at the port of withdrawal within 6 months after the date of withdrawal. Such affidavit shall not be required as a condition for crediting or canceling the bond as to articles which after lading are treated as imported under section 309 (c) Tariff Act of 1930, as amended, or which are used on a vessel while it is engaged in a class of trade in which it is required to enter. The 6 months' period for the production of the affidavit when required may be extended as provided for in § 25.16 of this chapter. The affidavit shall be executed by the master or other officer of the vessel on which the articles are used who has knowledge of the facts, and shall be in substantially the following form:

I, _____, of the vessel
(Master or other officer)
_____, declare that I have knowledge of the facts set forth herein, and that, during the period any of the articles covered by withdrawal No. _____, filed at _____ (as listed in the vessel's
(Name of port)
stores log of supplies withdrawn from bond) remained on board unused, the said vessel was engaged in the business or trade checked below:

1. Fisheries.
2. Whaling.
3. Trade between Atlantic and Pacific ports of the United States.
4. Trade between the United States and any of its possessions.
5. Foreign trade.

_____
(Name and title)

(b) An affidavit as to the intended business or trade of a vessel may, in the discretion of the collector, be accepted in lieu of the affidavit prescribed in paragraph (a) of this section when the amount of duty or tax, or both, involved in a single lading is less than $50, or $100 in the case of fuel oil or lubricating oil. (Sec. 5 (a), 52 Stat. 1080, sec. 3, 55 Stat. 602; 19 U. S. C. 1309)

§ 10.65 *Tobacco products.* (a) Imported manufactured tobacco, snuff, cigars, and cigarettes in bonded warehouse or otherwise in customs custody, and such articles manufactured with the use of imported materials in a bonded manufacturing warehouse of class 6, may be withdrawn under section 317, Tariff Act of 1930, as amended,[59] for consumption beginning beyond the 3-mile limit or international boundary, as the case may be, (1) on vessels actually engaged in the foreign, intercoastal, or noncontiguous territory trade within the purview of § 10.59 (a) (2) on vessels departing from the port where the withdrawal is made directly for a foreign port, a port on the opposite coast, or a port in one of the possessions of the United States; or (3) on vessels of war or other governmental activity.

(b) The privilege shall not be granted to vessels stationed in American waters for an indefinite period without sailing schedules.

(c) With the following additions and exceptions, the same procedure shall be followed as in the case of withdrawals under section 309 (a) Tariff Act of 1930, as amended.

(1) No bond shall be required in the case of vessels operated by the United States Government.

(2) When a shipping case containing tobacco products is made up of a number of units, each in a separate package, such units may be withdrawn separately, provided each unit is marked and numbered for identification and contains not less than 250 cigars or 1,000 cigarettes, or 5 pounds of tobacco or snuff. In the case of imported tobacco products so packed, only one unit from each shipping case shall be opened for examination, unless the appraiser shall deem it necessary for the protection of the revenue to examine a greater quantity.[60]

(3) When all the units in such shipping case are not to be withdrawn at the same time or for use on the same vessel, a blanket withdrawal may be filed for the entire case in lieu of a separate withdrawal for each unit. In such event, the withdrawal shall be retained by the storekeeper until delivery receipts are obtained for the entire quantity covered by the withdrawal, provided the total period of time during which the merchandise remains in bonded warehouse does not exceed 3 years. The bond on customs Form 7561 or other appropriate form, when required, shall be filed at the time of or prior to the removal of any of the merchandise from the warehouse for delivery to the vessel on which it is to be used.

(4) Merchandise for which blanket withdrawals are filed shall be stored in a separate room or encloure in a bonded warehouse under separate locks, and shall be inventoried at least once each month. If, at the time of any such inventory, any merchandise is missing and not properly accounted for, duties shall be paid thereon before any further withdrawals are permitted.

(5) The affidavit of use, when required, shall include a statement that consumption of the articles covered by the withdrawal did not begin until the withdrawing vessel or aircraft had proceeded beyond the 3-mile limit or the international boundary. (Sec. 317, 46 Stat. 696, sec. 5 (b) 52 Stat. 1081, sec. 624, 46 Stat. 759; 19 U. S. C. 1317, 1624)

ARTICLES EXPORTED FOR EXHIBITION, ETC.

§ 10.66 *Articles exported for temporary exhibition and returned; procedure on entry.* (a) In connection with the entry of articles, including livestock or other animals, exported for temporary exhibition and returned and claimed to be exempt from duty under 19 U. S. C. 194[61] or 19 U. S. C. 195,[62] there shall be filed:

(1) A certificate of exportation, customs Form 4467;

(2) A declaration made by the foreign shipper before the United States consul on consular Form 204, irrespective of the value of the shipment, stating that such articles were sent from the United States for temporary exhibition;

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[59] "(a) The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section 3448 of the Revised Statutes, shall be deemed exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

"(b) The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of, aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted, shall be deemed an exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax." (Tariff Act of 1930, sec. 317, as amended; 19 U. S. C. 1317)

"The internal revenue laws imposing taxes on tobacco, snuff, cigars, or cigarettes shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within a collection district or not." (26 U. S. C. 2197 (a))

[60] Imported tobacco products on which the duty or internal-revenue tax has been paid may not be withdrawn under section 317, Tariff Act of 1930, as amended, with a drawback of such duty or internal-revenue tax.

[61] "Whenever any article or articles or livestock shall be sent out of the United States for temporary use or exhibition at any public exposition, fair, or conference, held in a foreign country, such articles shall be entitled to be returned to the United States, under such regulations as may be prescribed by the Secretary of the Treasury, without the payment of customs duty, whether they shall be of domestic or of foreign production: *Provided*, That the articles of foreign production have once paid duty in the United States and no drawback has been allowed thereon, and if any domestic articles are subject to internal-revenue tax, such tax shall be proved to have been paid before exportation and not refunded." (19 U. S. C. 194)

[62] "The privilege of free entry conferred by section 194 of this title shall apply to wild and other animals of foreign origin taken abroad temporarily for exhibition in connection with any circus or menagerie, subject, however, to the conditions and limitations prescribed in said section. The provision of this section shall apply only in such cases as those of foreign-born animals taken abroad, and inventories of which are filed prior to their leaving the country with the collector of customs at the port of their departure." (30 Stat. 1372; 19 U. S. C. 195)

(3) A declaration of the importer on customs Form 3329 for articles of either domestic or foreign origin; and

(4) In the case of animals of foreign origin taken aboard for exhibition in connection with a circus or menagerie, the inventory required by 19 U. S. C. 195.

(b) If it is shown to be impracticable to produce the certificate of exportation required under paragraph (a) (1) of this section, the collector may accept other satisfactory evidence of exportation, or may take a bond to secure the production of such certificate or other evidence. A bond shall also be taken to secure the production of the foreign shipper's declaration required by paragraph (a) (2) of this section if it is not filed at the time of entry. (29 Stat. 122, 30 Stat. 1372; 19 U. S. C. 194, 195)

§ 10.67 *Articles exported for scientific or educational purposes and returned; procedure on entry.* (a) In connection with each entry of articles exported for scientific or educational purposes and returned under paragraph 1815, Tariff Act of 1930, as amended,[a] the following shall be required, irrespective of the value of the shipment:

(1) A certificate of exportation, customs Form 4467;

(2) A declaration made by the foreign shipper before the United States consul, on a modified consular Form 204, stating that such articles were sent from the United States solely for temporary scientific or educational use and describing the use to which they are put; and

(3) A declaration of the ultimate consignee in substantially the following form:

District No. ____, Port of _____,
Collector's Office, _____, 19____.

I, _____, declare under oath that the several articles described in the annexed entry are, to the best of my knowledge and belief the identical articles exported from the United States on the ____ day of _____, 19____, by _____
(Actual shipper)
address _____, for the account of _____, address _____, that they are returned to _____, address _____ for the account of _____, address _____, that the said articles were exported solely for temporary scientific or educational purposes and for no other use abroad than for exhibition examination, or experimentation; that they are being returned without having been changed in condition in any manner, except by reason of their bona fide use as follows:

_____
(Describe change in condition)

_____
(Ultimate consignee)

Declared to under oath before me this ____ day of _____, 19__.

_____
(Title or designation)

[a] "Articles, when returned after having been loaned and exported for use temporarily abroad solely for exhibition, examination, or experimentation, for scientific or educational purposes, if imported by or for the account of the person who exported them from the United States, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe." (Tariff Act of 1930 par. 1815 (free list), as amended; 19 U. S. C. 1201, par. 1815)

(b) If it is shown to be impracticable to produce the certificate of exportation required by paragraph (a) (1) of this section, the collector may accept other satisfactory evidence of exportation. The collector may take a bond to secure the subsequent production of any of the evidence or documents required by the preceding paragraph which are not available at the time of entry. (Par. 1815: sec. 201, 46 Stat. 1077, 1092, 1093; 19 U. S. C. 1201)

THEATRICAL EFFECTS, MOTION-PICTURE FILMS, AND COMMERCIAL TRAVELERS' SAMPLES

§ 10.68 *Procedure.* (a) Theatrical scenery, properties, and effects, motion-picture films, and commercial travelers' samples, of domestic or foreign origin, taken abroad may be returned without formal entry, *Provided*, That prior to exportation of such articles an application on customs Form 4455 was filed and the merchandise was identified as set forth in § 10.8, governing the exportation of articles sent abroad for repairs. When articles other than those exported by mail or parcel post are examined and registered at one port and exported through another port, they shall be forwarded to the port of exportation under a transportation and exportation entry, as prescribed in § 10.38 (d). In the case of commercial travelers' samples taken abroad for temporary use, collectors, in their discretion, may waive examination at the time of exportation.

(b) When any such articles are to be returned to the United States from a contiguous foreign country in which a United States customs officer is stationed, the articles may be presented to such officer with the duplicate copy of the application for examination and comparison with the descriptive list. Upon completion of such examination, the packages containing the articles shall be corded and sealed or forwarded in cars sealed by customs officers and shall be manifested in the same manner as personal baggage. Articles so treated shall be released upon arrival in the United States and removal of the seals by customs officers.

(c) When commercial travelers' samples consisting of raw cotton are taken to and returned from Canada, the application on customs Form 4455 shall be executed in triplicate, two copies thereof to be returned to the traveler for surrender to the customs officer on the return of the samples from Canada. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 10.69 *Samples to Great Britain and Ireland under reciprocal agreement.* Descriptive lists of samples taken to Great Britain and Ireland by commercial travelers of the United States under the joint declarations of December 3 and 8, 1910 (State Department treaty series 552) shall be required in triplicate, verified by the affidavit of the commercial traveler before a customs officer, and shall show that the samples are for use as models or patterns for the purpose of obtaining orders and not for sale and that the lists contain a full description of the articles. One copy shall be retained and the others shall be delivered to the commercial traveler—one for the identification of the samples on their return to the United States and one for the use of the foreign customs authorities. The latter copy must have been attested by a consular officer of the country concerned in the United States. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

ANIMALS AND BIRDS

CROSS REFERENCE: For regulations with respect to recognition of breeds and purebred animals see 9 CFR Part 151.

§ 10.70 *Purebred animals for breeding purposes; affidavit; certificate.* (a) There shall be filed in connection with the entry of purebred animals for breeding purposes under paragraph 1606, Tariff Act of 1930,[a] an affidavit on customs Form 3327 showing that the importer is a citizen of the United States and that the animals are imported specially for breeding purposes.[a]

(b) No claim for free entry shall be allowed in liquidation of the entry until the collector of customs has received from the Department of Agriculture a certificate that the animal is purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed. Importers are required by regulations of the Department of Agriculture to make application for a certificate of pure breeding directly to the Bureau of Animal Industry of that Department on A. H. Form 105, accompanied by an affidavit on A. H. Form 283. The regulations of the Department of Agriculture prescribing the requirements for the issuance of certificates of pure breeding provide that all animals imported under such regulations must be accompanied to the United States customs port of first

[a] "(a) Any animal imported by a citizen of the United States specially for breeding purposes shall be admitted free, whether intended to be used by the importer himself or for sale for such purposes, except black or silver foxes: *Provided*, That no such animal shall be admitted free unless pure bred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed: *Provided further*, That the certificate of such record and pedigree of such animal shall be produced and submitted to the Department of Agriculture, duly authenticated by the proper custodian of such book of record, together with an affidavit of the owner, agent, or importer that the animal imported is the identical animal described in said certificate of record and pedigree. The Secretary of Agriculture may prescribe such regulations as may be required for determining the purity of breeding and the identity of such animal: *And provided further*, That the collectors of customs shall require a certificate from the Department of Agriculture stating that such animal is pure bred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed.

"(b) The Secretary of the Treasury may prescribe such additional regulations as may be required for the strict enforcement of this provision." (Tariff Act of 1930, par. 1606 (a), (b) (free list); 19 U. S. C. 1201, par. 1606 (a), (b))

[a] The fact that such animals may be used incidentally for driving or working purposes will not exclude them from free entry if they are imported primarily for breeding purposes.

arrival by certificates of pedigree and transfers of ownership in order that identification may be accomplished, and that, if such animals are moved from such port prior to the presentation of such certificates and transfers, such action shall constitute a waiver of any further claim to certification under such regulations.

(c) The regulations of the Department of Agriculture prescribing the requirements for the issuance of certificates of pure breeding covering animals entered under paragraph 1606 require an examination for the purpose of determining identity by a Federal inspector at the coast or border port of arrival of the animals. In the cases of cats and dogs arriving at Canadian border ports, customs officers and employees are hereby authorized and directed to make the examination required by such regulations of the Department of Agriculture. Customs officers and employees are also authorized and directed to make such examinations at the ports of New York and Boston, provided the dog or cat is brought into the United States by a passenger. (Par. 1606: sec. 201, sec. 624, 46 Stat. 672, 759, R. S. 161, 19 U. S. C. 1201, 1624, 5 U. S. C. 22)

§ 10.71 *Purebred animals; bond for production of evidence; deposit of estimated duties; stipulation.* (a) When the pedigree certificate and evidence of transfer of ownership have been presented in accordance with the regulations of the Department of Agriculture mentioned in § 10.70 (b), the animal may be released from customs custody upon the furnishing by the importer of a bond on customs Form 7551 or 7553 for the production within 6 months of the affidavit required by § 10.70 (a) (if such affidavit cannot be filed at the time of entry) and a certificate of pure breeding.

(b) Such bond shall be canceled only upon the production of the required evidence or on payment of duties.

(c) In cases where the pedigree certificate and evidence of transfer of ownership have been presented in accordance with the regulations of the Department of Agriculture, the importer, if he so elects, may, in lieu of giving a bond, deposit estimated duties and file a stipulation with the collector within 10 days after the date of entry to produce the affidavit and certificate of pure breeding within 6 months from the date of entry, whereupon the liquidation of the entry shall be suspended.

(d) If the pedigree certificate and evidence of transfer of ownership were not presented in accordance with such regulations of the Department of Agriculture, a deposit of estimated duties, in addition to the regular entry bond, shall be required. (Par. 1606: sec. 201, sec. 624, 46 Stat. 672, 759, R. S. 161, 19 U. S. C. 1201, 1624, 5 U. S. C. 22)

§ 10.72 *Horses and mules for immediate slaughter* Horses or mules claimed to be entitled to free entry under paragraph 1695, Tariff Act of 1930,[c2] shall be admitted free of duty upon the submission of an affidavit in connection with the entry stating that the animals are being imported solely for slaughter, provided the collector is satisfied from an examination of the animals and such other investigation as he deems necessary that no other use is intended. (Par. 1695: sec. 201, 46 Stat. 678, sec. 624, 46 Stat. 759, 19 U. S. C. 1201, 1624)

§ 10.73 *Cows for dairy purposes.* (a) Claim for the reduced rate of duty on cows for dairy purposes under paragraph 701, Tariff Act of 1930, as modified pursuant to the Canadian Trade Agreement,[c1] shall be made at the time of entry. There shall be filed in connection with the entry an affidavit of the ultimate consignee certifying that the animals were imported in good faith for dairy purposes and that they have actually been delivered to a dairy, farm, or other place suitable for dairy operations, the address of which shall be stated. If the ultimate consignee is not the importer of record, the latter also shall file an affidavit executed by himself certifying that the animals are being imported in good faith for dairy purposes.

(b) This section shall be inoperative until the effective date of a proclamation of the President, made pursuant to item 701 of the trade agreement with Mexico (T. D. 50797) (Sec. 624, 46 Stat. 749; 19 U. S. C. 1624)

Paragraph	Description of article	Rate of duty
701	Cattle, weighing less than two hundred pounds each	1½¢ per lb.
	Provided, That such cattle weighing less than two hundred pounds each entered, or withdrawn from warehouse, for consumption in any calendar year after 1938 in excess of 100,000 head shall not be entitled to a reduction in duty by virtue of this item, but the rate of duty thereon shall not exceed	2½¢ per lb.
	Cattle, weighing seven hundred pounds or more each:	
	Cows, imported specially for dairy purposes	1½¢ per lb.
	Other	1½¢ per lb.
	Provided, That after December 31, 1938, such cattle weighing seven hundred pounds or more each (other than cows imported specially for dairy purposes (entered, or withdrawn from warehouse, for consumption in excess of 60,000 head in any quarter year shall not be entitled to a reduction in duty by virtue of this item, and such cattle (other than cows imported specially for dairy purposes) entered, or withdrawn from warehouse for consumption in excess of 225,000 head in any calendar year shall not be entitled to a reduction in duty by virtue of this item, but the rate of duty thereon shall not exceed	3¢ per lb.
	Provided further, That if, after consultation with the Government of the United States of America, the Government of Canada requests the allocation of the quantity entitled to enter at the reduced rate of duty under this item, the Government of the United States of America shall take the necessary steps to allocate the said quantity among countries of export on the basis provided for in Article III of this Agreement."	

(T. D. 49752)

§ 10.74 *Animals straying or driven across boundary for pasturage; offspring.* (a) When domestic animals for which free entry is to be claimed under paragraph 1606 (c) Tariff Act of 1930,[c3] are driven across the boundary for pasturage purposes, the owner shall file with the collector of customs a descriptive list stating the number of animals, their sex, age, and marks or brands, together with a written statement that the animals therein described are being taken abroad for temporary pasturage only.

(b) Upon the return of such animals within 8 months, entry shall be required and there shall be filed in connection therewith a declaration in the following form:

I, _____, do solemnly declare that I am a resident of _____, that the animals now being returned to the United States are _____ (Number) of the identical animals described in the list filed with the collector of customs at the port of _____ on the _____ day of _____, 19____, and that _____ (Number) of their offspring accompany said animals.

_____

(c) Animals which have strayed across the boundary line may be returned under the above-mentioned provision of law, together with their offspring, without entry if brought back within 30 days; otherwise entry shall be required; *Provided*, That the owner of any such animal shall report its return to the nearest customs officer and hold it for such inspection and treatment as may be deemed necessary by a representative of the Bureau of Animal Industry of the Department of Agriculture and any such animal found not to have been so reported or held shall be subject to seizure and forfeiture pursuant to section 593 (b) Tariff Act of 1930. (Par. 1606 (c) sec. 201, 46 Stat. 673; 19 U. S. C. 1201)

§ 10.75 *Wild animals and birds; zoological collections.* When wild animals or birds are claimed to be free of duty under paragraph 1607, Tariff Act of 1930,[c4] there shall be filed in connection with the entry a declaration of the ultimate consignee on customs Form 3321, showing that the animals or birds were specially imported pursuant to negotiations conducted prior to importation for the delivery of animals or birds of a named species meeting agreed specifications of reasonable particularity and that they are intended at the time of importation for public exhibition in a collection maintained for scientific or educational purposes and not for sale or for use in connection with any enterprise conducted for profit. The fact that an animal or bird may have been sent on approval shall not preclude free entry

[c1] Tariff Act of 1930.

[c2] "Horses or mules imported for immediate slaughter." (Tariff Act of 1930, par. 1695 (free list); 19 U. S. C. 1201, par. 1695.)

[c3] "* * * Horses, mules, asses, cattle, sheep, and other domestic animals straying across the boundary line into any foreign country or driven across such boundary line by the owner for temporary pasturage purposes only, together with their offspring, shall be dutiable unless brought back to the United States within eight months, in which case they shall be free of duty, under regulations to be prescribed by the Secretary of the Treasury * * * *" (Tariff Act of 1930, par. 1606 (c) (free list); 19 U. S. C. 1201, par. 1606)

[c4] "* * * wild animals and birds intended for exhibition in zoological collections for scientific or educational purposes, and not for sale or profit." (Tariff Act of 1930, par. 1607 (free list); 19 U. S. C. 1201, par. 1682)

under paragraph 1607 when it is actually accepted as a part of the zoological collection and so exhibited. (Par. 1607: sec. 201, 46 Stat. 673; 19 U. S. C. 1201)

§ 10.76 *Game animals and birds.* (a) The following classes of live game animals and birds may be admitted free of duty for stocking purposes under the provisions of paragraph 1682, Tariff Act of 1930,[70] without reference to the Bureau of Customs, if the requirements of the Fish and Wildlife Service, Department of the Interior, have been complied with.

ANIMALS

1. Cervidae, commonly known as deer and elk.
2. Leporidae, commonly known as rabbits.
3. Sciuridae, commonly known as squirrels.

BIRDS

1. Anatidae, commonly known as ducks and geese.
2. Gallinae, commonly known as turkeys, grouse, pheasants, partridges, and quail.
3. Otididae, commonly known as bustards.
4. Tinamidae, commonly known as tinamous.

(b) Application for the free entry of other live animals or birds under paragraph 1682 shall be referred to the Bureau of Customs for consideration. Animals imported for fur-farming purposes shall not be admitted free of duty under that paragraph.

(c) There shall be filed in connection with the entry a declaration by the importer or his agent on customs Form 3313. If the declaration is signed by an officer of the Federal Government or a state government, or by a person who shall present to the collector an order for the shipment given him by the Federal or state government, a statement as to the place of delivery shall not be required.

(d) Game animals and birds killed in foreign countries by residents of the United States, if not imported for sale or other commercial purposes, may be admitted free of duty upon the filing of a declaration on customs Form 3315 in connection with the entry. No bond or cash deposit to insure the destruction or exportation of the plumage of such birds shall be required. (Par. 1682; sec. 201, 46 Stat. 678; 19 U. S. C. 1201)

§ 10.77 *Skins bearing wool as fur skins.* (a) The following types of lambskins may be classified as fur skins under paragraph 1681, Tariff Act of 1930,[71] without special supporting evidence:

Astrakhan.	Chinese.
Bagdad.	Indian.
Bessarabian.	Karakul.
Bombay.	Krimmer.
Broadtail.	Moire.
Caracul.	Mosul.
Chekiang.	Multan.
Persian.	Southwest African.
Salzfells.	Taining.
Shiraz.	

[70] "Live game animals and birds, imported for stocking purposes, and game animals and birds killed in foreign countries by residents of the United States and imported by them for noncommercial purposes; under such regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe." (Tariff Act of 1930, par. 1682 (free list); 19 U. S. C. 1201)

[71] "Furs and fur skins, not specially provided for, undressed." (Tariff Act of 1930, par. 1681 (free list), 19 U. S. C. 1201)

(b) If any skins, other than the abovenamed lambskins, bearing wool or hair of a kind described in paragraph 1101 or 1102, Tariff Act of 1930, as amended, are claimed to be more specifically provided for as fur skins in paragraph 1681 of that act, the importer shall file in connection with the entry an affidavit that the skins are to be used for no other purpose than as fur skins, and free entry shall be dependent upon a report of the appraiser that no substantial part of the wool or hair on the skins can economically be removed otherwise than as an unsought residue and used or disposed of in competition with pulled or clipped wool, and that they are suitable for use, without removing the wool or hair from the skins, in the manufacture or trimming of clothing, driving gloves, or other articles in which the imported skins will be used as furs. (Par. 1681: sec. 201, 46 Stat. 677, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

PRODUCTS OF AMERICAN FISHERIES

§ 10.78 *Entry.* (a) Except as prescribed in § 10.79 (d) no entry shall be required for fish or other marine products taken on the high seas by vessels of the United States or by residents of the United States in undocumented vessels owned in the United States when such fish or other products are brought into port by the taking vessel.

(b) An American fishery, within the meaning of paragraph 1730 (a), is defined as a fishing enterprise conducted under the American flag by vessels of the United States on the high seas or in foreign waters in which such vessels have the right, by treaty or otherwise, to take fish or other marine products and may include a shore station operated in conjunction with such vessels by the owner or master thereof.

(c) The employment of citizens of a foreign country by an American fishery is permissible but the purchase by an American fishery of fish or other marine products taken by citizens of a foreign country on the high seas or in foreign waters will subject such fish or other marine products to treatment as foreign merchandise.

(d) Products of an American fishery shall be entitled to free entry although prepared, preserved, or otherwise changed in condition, provided the work is done at sea by the master or crew of the fishery or by persons employed by and under the supervision of the master or owner of the fishery. Fish (except cod, haddock, hake, pollock, cusk, mackerel, and swordfish) the product of an American fishery landed in a foreign country and there not further advanced than beheaded, eviscerated, packed in ice, frozen, and with fins removed, shall be entitled to free entry, whether or not such processing is done by the American fishery. Products of an American fishery prepared or preserved on the treaty coasts of Newfoundland, Magdalen Islands, or Labrador, as such coasts are defined in the Convention of 1818 between the United States and Great Britain, shall be entitled to free entry only if the preparation or preservation is done by an American fishery.[72] (Par. 1730 (a) sec. 201, 46 Stat. 679, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

§ 10.79 *Affidavit; manifest.* (a) When products of American fisheries claimed to be free of duty under paragraph 1730 (a) Tariff Act of 1930, are imported by the taking vessel, or are shipped to the United States by the master, owner, or agent of the taking vessel otherwise than in the taking vessel, an affidavit, customs Form 3295, by the master of the taking vessel, verified by at least two members of the crew, shall be required in connection with the entry. Additional proof may be required if doubt exists. If any of the products have been landed or transshipped in a foreign country, there shall also be filed in connection with the entry an additional statement as to what, if any, change has been made in the condition of the fish or other marine products since their taking and where such change occurred. If the products are fresh or frozen fillets, fresh or frozen fish steaks, or fresh or frozen slices of fish substantially free of bone (including any of the foregoing divided into sections) which have been processed in a foreign country or its territorial waters, a further statement shall be made in connection with the entry as to the residence status of all persons whose labor was used in the processing of such products.

(b) If fish or other marine products are shipped to the United States by one in a foreign country who has purchased them from the master, owner, or agent of the taking vessel, the affidavit on customs Form 3295 shall be executed by the master and two members of the crew of

[72] "All products of American fisheries (including fish, shellfish, and other marine animals, and spermaceti, whale, fish, and other marine animal oils), which have not been landed in a foreign country or which, if so landed, have been landed solely for transshipment without change in condition: *Provided*, That fish the product of American fisheries (except cod, haddock, hake, pollock, cusk, mackerel, and swordfish) landed in a foreign country and there not further advanced than beheaded, eviscerated, packed in ice, frozen, and with fins removed, shall be exempt from duty: *Provided further*, That products of American fisheries, prepared or preserved by an American fishery, on the treaty coasts of Newfoundland, Magdalen Islands, and Labrador, as such coasts are defined in the Convention of 1818 between the United States and Great Britain, shall be exempt from duty." (Tariff Act of 1930, par. 1730 (a) (free list); 19 U. S. C. 1201, par. 1730 (a))

"Wherever, in the statutes of the United States or in the rulings, regulations, or interpretations of various administrative bureaus and agencies of the United States there appears or may appear the term 'products of American fisheries' said term shall not include fresh or frozen fish fillets, fresh or frozen fish steaks, or fresh or frozen slices of fish substantially free of bone (including any of the foregoing divided into sections), produced in a foreign country or its territorial waters, in whole or in part with the use of the labor of persons who are not residents of the United States." (1 U. S. C. 6)

the American fishing vessel for the entire quantity discharged at the foreign port and shall be placed on file with the American consul having jurisdiction of that port, or with the principal United States customs officer stationed there, if any, if there is no American consul at the port. In such cases there shall be filed in connection with the entry a declaration of the purchaser or his agent, certified by the consul or a United States customs officer authorized to administer oaths at the port where such customs Form 3295 is on file. Such declaration of the purchaser or agent shall be in the following form:

I, _____, agent of the _____ _____ at the port of _____, do hereby declare under oath that _____ did receive from the following-named American fishing vessels _____ pounds of _____ and _____ pounds of _____ and that _____ pounds thereof in _____ cases went forward in _____ consigned to _____ (Carrier) at _____, and that the above products have not been changed in condition after taking except as shown below:

Vessel and registry	Article	Pounds received	Date received	Pounds shipped	Number of cases	Nature of change in condition, place where so changed, residence of laborers. (See Note.)

_____ (Agent for)

Sworn to before me this _____ day of _____, 19____.

I further certify that the affidavit of the master and two members of the crew of each of the vessels scheduled above, dated as therein shown, covering products of American fisheries and stating such of the above facts as are within their knowledge, is on file at this office, and that to the best of my knowledge and belief the merchandise referred to in the attached invoice is a part of that covered by the said affidavits.

_____

_____ (Title)

NOTE: Insert in this column the name of country or, if the processing was done on board a vessel outside the territorial waters of any country, the name and registry of the vessel and its location at the time the processing occurred. If fish fillets, steaks, or slices are involved, insert also a statement as to the residence of all laborers engaged in the processing.

(c) If whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil) or marine-animal oil of any kind, whether or not such whale, fish, or marine-animal oil be refined, sulphonated, sulphated, hydrogenated, or otherwise processed, or fatty acids derived from any of the foregoing, entered for consumption or withdrawn from warehouse for consumption after June 30, 1939, is claimed to be free of the import tax provided in I. R. C. section 2491 (a) [73] as a product of American fisheries, there shall be filed in connection with the entry, in addition to the documents required by paragraph (a) of this section, a declaration of the master of the American fishery giving the names of the vessels which took and captured the whales, fish, or marine animals from which such oil or fatty acids were produced and stating whether such vessels at the time of taking the whales, fish, or marine animals were documented under the laws of the United States. No vessel shall be considered to be the taking vessel within the meaning of this regulation unless the whales, fish, or marine animals from which the oil or fatty acids were produced were taken and captured directly by such vessel with the use of no other boats than those carried as its regular equipment.

(d) No whale, fish, or marine-animal oil of a class or kind for which a rate of import tax is provided in I. R. C. section 2491 (a) shall be admitted without entry, notwithstanding the provisions of § 10.78 (a)

(e) If entry free of the import tax imposed by I. R. C. section 2491 (a) is claimed for any whale, fish, or marine-animal oil or fatty acid derived therefrom because of its production in the United States, the case shall be submitted to the Bureau for decision.

(f) For the purposes of paragraph (e) of this section and I. R. C. sections 2490 and 2491 (c) the term "United States," when used in a geographical sense, includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia (I. R. C. sec. 3797 (9)) In view of the provisions of I. R. C. section 2493 (3) the tax prescribed in I. R. C. section 2491 (a) shall apply to the oils and fatty acids enumerated in the proviso to such section 2491 (a) which are produced in any possession of the United States, even though such oils or fatty acids were produced from whales, fish, or marine animals taken by vessels of the United States. (Par. 1730 (a) sec. 201, 46 Stat. 679, I. R. C. sec. 2494, 53 Stat. 268, sec. 624, 46 Stat. 759, R. S. 251, 19 U. S. C. 66, 1201, 1624, 26 U. S. C. 2494)

SALT FOR CURING FISH

§ 10.80 *Remission of duty; withdrawal; bond.* Pursuant to section 313 (e), Tariff Act of 1930,[74] imported salt entered for warehouse may be withdrawn under bond for use in curing fish. Upon proof that the salt has been so used, the duties thereon shall be remitted. In no case shall the quantity of salt withdrawn exceed the reasonable requirements of the case. Withdrawal shall be made on customs Form 7506. When the withdrawal is made by a person other than the importer of record, a bond on customs Form 7561 or other appropriate form for the production of proof of proper use shall be filed. Upon acceptance of the bond, a withdrawal permit shall be issued on customs Form 7506-A. (Sec. 313 (e), (i), 46 Stat. 694, sec. 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313 (e), (i), 1624)

§ 10.81 *Use in any district.* (a) Salt withdrawn under bond for use in curing fish on the shores of navigable waters may be used for such purpose in any district, but the evidence of use in such cases shall be sworn to before a customs officer authorized to administer oaths in the district where the salt was used.

(b) If desired, salt to be used in curing fish on shore in another district than that in which it is warehoused in bond may be withdrawn under a transportation entry and shipped in bond to a port in the district in which it is to be used, at which port it may be entered on customs Form 7519 with customs Form 7506 attached to show withdrawal of the salt for use in curing fish. Thereupon, and upon the filing of a bond on customs Form 7561 or other appropriate form when necessary, such salt may be used without being sent to a bonded warehouse or public store. In such a case the proof of use shall be filed at the latter port. (Sec. 313 (e) (i), 46 Stat. 694, sec. 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313 (e), (i), 1624)

§ 10.82 *Proof of use.* (a) Proof that the salt withdrawn for use in curing fish has been so used shall be as follows:

(1) The affidavit, customs Form 3751, of the person making the withdrawal that the salt has been actually used in curing fish taken by vessels of the United States licensed to engaged in the fisheries or in curing fish on the shores of navigable waters of the United States, giving the names of the vessels, tonnage, names

[73] "In addition to any other tax or duty imposed by law, there shall be imposed upon the following articles imported into the United States, unless treaty provisions of the United States otherwise provide, a tax at the rates set forth in section 2491, to be paid by the importer." (Sec. 2490, I. R. C.)

"Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine-animal oil, tallow, inedible animal oils, inedible animal fats, inedible animal greases, fatty acid derived from any of the foregoing, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed, 3 cents per pound: *Provided*, That no whale oil (except sperm oil), fish oil, or marine animal oil of any kind (whether or not refined, sulphonated, sulphated, hydrogenated or otherwise processed), or fatty acids derived therefrom, shall be admitted to entry, after June 30, 1939, free from the tax herein provided unless such oil was produced on vessels of the United States or in the United States or its possessions, from whales, fish, or marine animals or parts thereof taken and captured by vessels of the United States; * * *" (Sec. 2491 (a), I. R. C.)

[74] "Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish on the shores of the navigable waters of the United States, whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted." (Tariff Act of 1930, sec. 313 (e); 19 U. S. C. 1313 (e))

of masters, the approximate quantity of fish cured thereby, and the locality in the district where cured if cured on shore;

(2) The affidavit of the master, customs Form 3745, and of at least one other person employed on board any vessel during any voyage on which it is claimed that any part of the salt so withdrawn for curing fish was used that the salt delivered to the vessel by the person making the withdrawal was actually used in curing fish taken by such vessel; and

(3) The affidavits, customs Form 3753, of at least two persons actually employed in curing fish on shore (if two or more were so employed) if any part of such salt was so used, stating the quantity of salt used in curing fish on shore and where cured, that it was used in curing fish taken by American fishermen, and the approximate quantity of fish cured.

(b) If the person making the withdrawal is actually employed in curing the fish on shore, the affidavit, customs Form 3751, of one other person so employed will be sufficient. (Sec. 313 (e), (i) 46 Stat. 694, sec. 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313 (e) (i) 1624)

§ 10.83 *Bond; cancelation; extension.* (a) The proofs required by § 10.82 shall be presented to the collector holding the bond before the first day of January next after the date of withdrawal, and if it shall appear to his satisfaction that the entire quantity of salt covered by the bond has been duly accounted for, either by having been used in curing fish or by the payment of duty, the collector may cancel the bond, but in his discretion he may first require additional evidence in corroboration of the proof produced.

(b) On application of the person making the withdrawal, the period of the bond may be extended 1 year so as to allow the salt to be used during the time of extension in curing fish with the same privileges as if used during the original period. (Sec. 313 (e) (i), 46 Stat. 694, sec. 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313 (e), (i) 1624)

LEATHER, HIDES, AND SKINS

§ 10.84 *Leather for use in the manufacture of footwear.* (a) Leather of the kinds provided for at a rate higher than 10 percent ad valorem in paragraph 1530 (c) Tariff Act of 1930,[75] or in any proclamation of the President supplementary thereto, may be admitted on payment of estimated duty at the rate of 10 percent ad valorem upon compliance with the following conditions:

(1) An affidavit of the importer that the leather is imported to be used in the manufacture of boots, shoes, or other footwear shall be filed in connection with the entry. In the case of merchandise entered for warehouse, such affidavit may be filed at the time of withdrawal, provided the declared intent existed at the time of importation.

(2) If the leather is entered for consumption, there shall also be filed in connection with the entry a bond on customs Form 7551, 7553, or other appropriate form, with an added condition for the payment of the increased duty in the event the leather is not used in the manufacture of footwear. Liquidation of the entry shall be suspended pending the production of proof of use.

(3) When the leather is entered for warehouse, the regular warehouse entry bond shall be given and withdrawals shall be made on customs Form 7505. Estimated duty at the rate of 10 percent ad valorem shall be deposited at the time of withdrawal and the liquidation of the warehouse entry shall be suspended pending the production of proof of use.

(b) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit in duplicate an affidavit of the superintendent or manager of the manufacturing plant that the leather has actually been used in the manufacture of boots, shoes, or other footwear. A blanket affidavit covering all purchases of leather from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish an affidavit showing in detail, in such manner as to be readily identified with each entry, the leather which he sold to such manufacturer during such period. The latter affidavit shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service.

(c) Upon satisfactory proof of use of the leather in the manufacture of boots, shoes, or other footwear, the entries shall be liquidated with duty at the rate of 10 percent ad valorem. When such proof of use is not filed within 3 years from the date of the entry or any extension of the period of the bond authorized by the Bureau, the entry shall be liquidated at the higher rate applicable under paragraph 1530 (c) (Par. 1530 (c) (g) sec. 1, 46 Stat. 666, 667; 19 U. S. C. 1001)

§ 10.85 *Leather to be used in the manufacture of harness or saddlery.* Leather to be used in the manufacture of harness or saddlery may be released on deposit of estimated duty at the rate provided for in paragraph 1530 (b) (3), Tariff Act of 1930,[76] as modified, in the same manner and subject to the same conditions as leather to be used in the manufacture of footwear, except that the proof of use shall show that the leather was used in the manufacture of harness or saddlery and the other documents required shall be modified accordingly. (Par. 1530 (b) (3) (g) sec. 1, 46 Stat. 666, 667; 19 U. S C. 1001)

§ 10.86 *Hides and skins of the India water buffalo to be used in the manufacture of rawhide articles.* Pursuant to paragraph 1691, Tariff Act of 1930,[77] hides and skins of the India water buffalo imported to be used in the manufacture of rawhide articles may be released without the deposit of duty in the same manner and subject to the same conditions as leather to be used in the manufacture of footwear, except that the proof of use shall show that the merchandise was used in the manufacture of rawhide articles and the other documents required shall be modified accordingly. (Par. 1691: sec. 201, 46 Stat. 678; 19 U. S. C. 1201)

§ 10.87 *Leather to be used in the manufacture of footballs, basketballs, soccer balls, or medicine balls.*[78] If, at the time of importation, leather of the character ordinarily used in the manufacture of footballs, basketballs, soccer balls, or medicine balls is not intended for the manufacture of such balls, it may be released upon the deposit of duty at the rate applicable to leather not intended for such use, in the same manner and subject to the same conditions as leather to be used in the manufacture of footwear, except that the affidavit filed on entry shall state that the leather is not to be used in the manufacture of footballs, basketballs, soccer balls, or medicine balls and the proof of use shall show that it was used in the manufacture of articles other than such balls, or was exported or destroyed, and the other documents required shall be modified accordingly. (Par. 1530 (b) (6) (g) sec. 1, 46 Stat. 666, 667; 19 U. S. C. 1001)

PATNA RICE

§ 10.88 *Patna rice to be used in the manufacture of canned soups.* Pursuant to paragraph 1752, Tariff Act of 1930,[79]

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[75] "Leather (except leather provided for in subparagraph (d) of this paragraph), made from hides or skins of animals (including fish, reptiles, and birds, but not including cattle of the bovine species), in the rough, in the white, crust, or russet, partly finished, or finished, 25 per centum ad valorem; vegetable-tanned rough leather made from goat or sheep skins (including those commercially known as India-tanned goat or sheep skins), 10 per centum ad valorem; any of the foregoing if imported to be used in the manufacture of boots, shoes, or footwear, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear, 10 per centum ad valorem." (Tariff Act of 1930, par. 1530 (c); 19 U. S. C. 1001, par. 1530 (c))

[76] "Leather (except leather provided for in subparagraph (d) of this paragraph), made from hides or skins of cattle of the bovine species: * * *

(3) leather to be used in the manufacture of harness or saddlery, 12½ per centum ad valorem;" (Tariff Act of 1930, par. 1530 (b) (3); 19 U. S. C. 1001, par. 1530 (b) (3))

Pursuant to trade agreements with Canada and the United Kingdom, the rate of duty has been modified to 10 percent ad valorem. Canadian Trade Agreement (T. D. 49752), schedule II, item 1530 (b); United Kingdom Trade Agreement. (T. D. 49753), schedule IV, item 1530 (b).

[77] "Hides and skins of the India water buffalo imported to be used in the manufacture of rawhide articles." (Tariff Act of 1930, par. 1691 (free list); 19 U. S. C. 1201, par. 1691)

[78] "Leather (except leather provided for in subparagraph (d) of this paragraph), made from hides or skins of cattle of the bovine species: * * *

"(6) leather to be used in the manufacture of footballs, basketballs, soccer balls, or medicine balls, 20 per centum ad valorem;" (Tariff Act of 1930, par 1530 (b) (6); 19 U. S. C. 1001, par 1530 (b) (6))

The rate as modified pursuant to the trade agreement with the United Kingdom is 15 percent ad valorem, schedule IV, 1530 (b) (6) (T. D. 49753)

[79] "Patna rice cleaned for use in the manufacture of canned soups." (Tariff Act of 1930, par. 1752 (free list); 19 U. S. C. 1201, par. 1752)

patna rice cleaned for use in the manufacture of canned soups may be released without the deposit of duty in the same manner and subject to the same conditions as leather to be used in the manufacture of footwear (see § 10.84) except that the proof of use shall show that the rice was used in the manufacture of canned soups, and the other documents required shall be modified accordingly. (Par. 1752: sec. 201, 46 Stat. 681, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

MOTION-PICTURE FILMS, MASTER RECORDS, AND METAL MATRICES

§ 10.89 *Motion-picture films exposed abroad by American producers.* (a) Estimated duties at the appropriate rate under paragraph 1551, Tariff Act of 1930, shall be collected on the entry of motion-picture films claimed to be dutiable at the rate of 1 cent per linear foot under the second proviso to that paragraph,[50] and there shall be filed in connection with the entry an affidavit in substantially the following form:

I, _____, do solemnly swear (or affirm) that I am an American producer of motion-picture films operating temporarily in a foreign country and that the ____ feet of films imported by me ex S. S. _____ on _____ were taken from the United States in the S. S. _____ on _____ and exposed by me in _____, for use in the picture
(Country)
entitled _____.

_____

Subscribed and sworn to before me this ___ day of _____, 19____.

_____

_____

(b) Within 6 months from the date of entry there shall be filed with the collector an affidavit of the American producer in substantially the following form:

I, _____, do solemnly swear (or affirm) that the _____ feet of motion-picture films imported by me ex S. S. _____ on _____ were used in connection with the production of the picture entitled _____.

I further swear (or affirm) that the number of feet of film in the completed picture is _____, of which _____ feet were made in the United States and _____ feet represent the _____ feet of films exposed in _____
(Country)
and imported as above stated.

_____

Subscribed and sworn to before me this ___ day of _____, 19____.

_____

_____

(c) The collector, in his discretion, may extend the 6-month period during which such affidavit may be furnished and he may refer the claim to a customs agent for investigation if he deems it desirable. Liquidation shall be suspended during the period allowed for the production of the affidavit and pending the receipt of any required report of a customs agent. If, after comparing the number of feet of film exposed abroad and found in the completed picture with the total number of feet in the completed picture, it appears that 60 percent or more of the completed picture was made in the United States and the other conditions of the proviso are met, the entry shall be liquidated with duty at the rate of 1 cent per linear foot on the total number of feet exposed abroad. (Par. 1551. sec. 1, 46 Stat. 670; 19 U. S. C. 1001)

§ 10.90 *Master records and metal matrices.* (a) An importer desiring to avail himself of the privilege of importing master records, or metal matrices obtained therefrom, under paragaph 1797, Tariff Act of 1930,[51] shall file an application with the Bureau. If the application has not been approved when the merchandise involved is imported, liquidation of the entry covering the importation shall be suspended until advice is received from the Bureau of the action taken in the matter.

(b) The importer (and the manufacturer, if the two are not identical) shall prepare a sworn statement and agreement describing (1) the use to be made of the records or matrices, (2) the means adopted to identify them and the products manufactured with their use, and (3) the accounts kept, and agreeing (i) that the plant and accounts shall be open to the inspection of customs officers at all reasonable times, and (ii) that the importer will notify the collector at the port where the records or matrices were imported and pay promptly an amount equal to the duties ordinarily collectible thereon in the event he uses or intends to use them in the United States otherwise than in the manufacture of sound records for export purposes.

(c) Consumption entries covering importations under paragraph 1797 shall be filed at a port in the customs district in which the factory where the articles will be used is located.

(d) There shall be filed in connection with each such entry an affidavit of the importer setting forth his name and business address; that he is an exporter of sound records; that the master records or metal matrices are imported for use in the manufacture by or for him of sound records for export purposes; and that sound records produced therefrom will not be used or sold for use in the United States.

(e) The invoice filed with the entry shall contain or be supported by a detailed statement of the cost of production, in the country where made, of each master record or metal matrix covered thereby. If the invoice covers merchandise of a total cost in excess of $100, it shall be certified in accordance with § 8.14 of this chapter.

(f) A bond on customs Form 7563 shall be filed in connection with each entry. Such bond shall contain an added condition that the principal shall export all the sound records made with the use of imported master records, or metal matrices obtained from master records, covered by the entry and that the principal shall not sell, expose for sale, or use any of the said articles contrary to law and the regulations issued thereunder or in default thereof that the obligors shall pay an amount equal to the lawful duties which would have accrued on the merchandise.

(g) If and when the application is approved, entries already filed and future entries shall be liquidated in due course without the assessment of duty, but liability on bonds given with the entries shall be discontinued with respect to any article covered thereby only upon payment of liquidated damages in an amount equal to the duties which would have accrued had the master records or metal matrices been imported for use otherwise than in the manufacture of sound records for export purposes, or upon satisfactory proof that the master records or metal matrices obtained therefrom have been exported or destroyed under customs supervision, and that all sound records made with the use of such articles have been exported. (Par. 1797: sec. 201, 46 Stat. 683, sec. 624, 46 Stat. 759; 19 U. S. C. 1201, 1624)

WOOLS AND HAIR OF THE CAMEL FOR USE IN MANUFACTURING FLOOR COVERINGS AND OTHER ARTICLES

§ 10.91 *Importation under paragraph 1101, entry or withdrawal under bond.* (a) Wool or hair of the camel[52] imported for use in the manufacture of any of the articles enumerated in paragraph 1101 (b) Tariff Act of 1930, as amended,[53] may be entered on customs Form 7501 and immediately released under bond or may be entered for warehouse on customs Form 7502 and remain in bonded warehouse under the ordinary warehouse bond until appropriately withdrawn or otherwise disposed of in accordance with law.

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[50] "* * * *Provided*, That upon the importation of photographic and motion-picture films or film negatives taken from the United States and exposed in a foreign country by an American producer of motion pictures operating temporarily in said foreign country in the course of production of a picture 60 per centum or more of which is made in the United States the duty shall be 1 cent per linear foot and the Secretary of the Treasury shall prescribe such rules and regulations as may be necessary for the entry of such films or film negatives under this proviso." (Tariff Act of 1930, par. 1551; 19 U. S. C. 1001)

[51] "Disks of soft wax, commonly known as master records, or metal matrices obtained therefrom, for use in the manufacture of sound records for export purposes." (Tariff Act of 1930, par. 1797 (free list); 19 U. S. C. 1201, par. 1797)

[52] Except with reference to entry or withdrawal, the term "wool or hair" means wool or hair in its imported or any other form, that is, wool or hair which has been entered or withdrawn under the provisions of par. 1101 (b), Tariff Act of 1930, as amended, and any product or substance composed wholly or in part of, and resulting from any processing of, such wool or hair under bond, but does not include articles made from such wool or hair and enumerated in such par. 1101 (b).

[53] "Any of the foregoing may be entered or withdrawn from warehouse without the payment of duty by a manufacturer, processor, or dealer upon the filing of a bond to insure that any wool or hair entered or withdrawn thereunder shall be used only in the manufacture of press cloth, camel's hair belting, knit or felt boots, heavy fulled lumbermen's socks, rugs, carpets, or any other floor covering. * * * The Secretary of the Treasury is authorized to prescribe such regulations, and the form conditions, and amounts of such bonds as may be necessary to carry into effect the provisions of this subparagraph." (Tariff Act of 1930, par. 1101 (b), as amended; 19 U. S. C. 1001, par. 1101 (b))

(b) When entry is made on customs Form 7501, it shall have endorsed thereon the following notation: "Above merchandise entered under bond for use in the manufacture of _____ (floor coverings, press cloth, camel's-hair belting, men's socks) under the provisions of paragraph 1101 (b) Tariff Act of 1930, as amended." The endorsement shall be signed by the obligor on the bond. When the merchandise is entered for ware-knit or felt boots, or heavy fulled lumberhouse, withdrawals for use in the manufacture of the articles enumerated shall be made on customs Form 7506 in the name of the obligor on the bond.

(c) Such wool or hair which has been released from custody shall not be restored to a customs status from which it could thereafter be entered or withdrawn under the provisions of paragraph 1101 (b) Tariff Act of 1930, as amended. (Par. 1101. sec. 1, 46 Stat. 646, sec. 33 (a) 52 Stat. 1090, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1624)

§ 10.92 *Bond; form; penalty.* (a) At the time of making entry for consumption or withdrawal from warehouse of the wool or hair there shall be filed a single entry bond on customs Form 7547, unless the transaction is charged against a term bond on customs Form 7549 or other appropriate form. The penalty of the single entry bond shall be in the amount equal to the value of the wool or hair, as set forth in the entry, plus double the estimated duties, as determined at the time of entry. The penalty of the term bond shall be $10,000, or such larger amount as the collector of customs deems necessary to the protection of the revenue.[84]

(b) A single entry or term bond shall be filed by each manufacturer, processor, or dealer entering or withdrawing the wool or hair under bond or receiving it by transfer under bond in its imported or other form.[85]

(c) Only one term bond shall be required from each manufacturer, processor, or dealer. If wool or hair is entered or withdrawn at any port other than that at which the original term bond is filed, a certified copy of such bond shall be filed at such other port. (Par. 1101. sec. 1, 46 Stat. 646, sec. 33 (a) 52 Stat. 1090, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1624)

§ 10.93 *Records of receipt of wool or hair.* (a) Each manufacturer, processor, or dealer who enters or withdraws wool or hair under bond, or who receives wool or hair by transfer under bond, shall keep records which will show:

(1) In the case of entry or withdrawal, the quantity, entered clean content, identity, and description of the wool or hair entered or withdrawn under bond; and

(2) In the case of receipt by transfer, the quantity, description, and date of transfer certificate (see § 10.95 (d)) of the wool or hair received by transfer under bond, and the name and address of the transferor from whom received.

(b) Every lot of wool or hair entered or withdrawn under bond, or received by transfer under bond, shall be marked or stored until put into process in such manner as to insure the identification of the lot with the entry, withdrawal, or transfer certificate.

(c) Each manufacturer or processor shall keep records showing when each lot of bonded wool or hair was put into process by him. (Par. 1101, sec. 1, 46 Stat. 646, sec. 33 (a) 52 Stat. 1090, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1624)

§ 10.94 *Sworn statements.* (a) Each manufacturer or processor shall keep the records specified in this section with respect to products and substances resulting wholly or in part from wool or hair. Such records may be kept by manufacturing lot or by period of manufacture of not to exceed 6 months, and shall show:

(1) The date or inclusive dates of the processing of each manufacturing lot or the inclusive dates of each period of manufacture;

(2) The quantity, identity, and description of the wool or hair not previously processed by the reporting manufacturer or processor put into process in the lot or during the period;

(3) The quantity and description of all intermediate products, stocks in process, and wastes (including noils) not described in the preceding paragraph which are put into process in the lot or during the period;[86]

(4) The quantity and description of the final products resulting from the processing by the manufacturer or processor; the quantity by weight of the wool or hair contained therein; and

(5) The quantity of any wastes (including noils) incurred which remain on hand upon completion of the manufacturing lot or period of manufacture. Such wastes shall be accounted for under the following designations:

Noils.

Soft (including all wastes, except noils, burr wastes, card strippings, and sweepings, produced after the scouring of the wool or hair and before the spinning operation).

Hard (including all wastes, except sweepings, produced in and after the spinning operation but before completion of the weaving operation or, in the case of the manufacture of article enumerated in par. 11101 (b), Tariff Act of 1930, as amended, which are not woven, before the completion of the enumerated article).

Fly (including all wastes other than noils and hard and soft wastes as above specified).

White soft wastes and white threads shall be accounted for separately.

(6) The records of each manufacturer or processor shall contain a detailed inventory of all wool and hair on hand at the close of each abstract period or at the completion of each manufacturing lot.

(b) When the manufacturer of any enumerated articles spins the yarns used in the manufacture thereof, he shall also keep records showing the quantity and description of all the yarns so spun.

(c) When a bonded manufacturer or processor has not manufactured or processed any bonded wool or hair for a period of 6 months since his last report, he shall promptly so advise the collector of customs.

(d) Within 3 months after the completion of each lot or period of manufacture, the manufacturer or processor shall submit to the collector of customs where his original bond is on file an abstract of his records of manufacture showing the data provided for heretofore in this section.

(e) Each such abstract shall bear the following affidavit of an authorized officer or member of the firm:

I, _____, do hereby solemnly swear (affirm) that this document is a true and correct abstract of our records of manufacture; that such records have been kept in the manner prescribed by § 10.94, Customs Regulations of 1942.

All wastes reported herein as resulting from operations in our plant resulted in the usual course of manufacture of articles enumerated in paragraph 1101 (b), Tariff Act of 1930, as amended, except as follows:

_____

_____

All wool or hair delivered from our plant during the period covered by this abstract, under a transfer certificate or otherwise, has been listed herein.

_____

_____

(Title)

Subscribed and sworn to before me this ___ day of _____, 19____.

_____

(Notary Public or Deputy Collector of Customs)

(f) In the case of preliminary processors, such as pullers, sorters, washers, scourers, and carbonizers, transfer certificates on customs Form 7531–A covering wool or hair processed and transferred by them may be accepted by the collector as abstracts of the manufacturing records if the certificate (1) shows that the quantity of wool or hair transferred is the entire quantity of product obtained by the transferor from a particular lot of wool or hair received by him for processing, (2) contains, with respect to such lot, an abstract of the data provided for in paragraph (a) of this section, and (3) is supported by the affidavit prescribed in paragraph (e) of this section. (Par. 1101. sec. 1, 46 Stat. 646, sec. 33 (a), 52 Stat. 1090; 19 U. S. C. 1001)

§ 10.95 *Records and reports of enumerated articles of wool or hair delivered; transfer certificates.* (a) Each manufacturer, processor, or dealer shall

[84] "* * * A manufacturer, processor, or dealer may be relieved of liability under his bond with respect to any wool or hair so entered or withdrawn which is transferred in its imported or any other form to another manufacturer, processor, or dealer who has filed a bond to insure that the merchandise so transferred shall be used only in the manufacture of the above-enumerated articles. * * *" (Tariff Act of 1930, par. 1101 (b), as amended; 19 U. S. C. 1001, par 1101 (b))

[85] Wool or hair is transferred under bond whenever it is transferred from the custody of one manufacturer, processor, or dealer to the custody of another manufacturer, processor, or dealer, whether the transferor or transferee is the owner of the merchandise or has received or is to receive such merchandise to be processed for the account of another.

[86] This applies only to materials carried over from a previous lot or period and does not require the keeping of records of materials which are put back into process in the same lot or period in which they resulted.

keep records showing the quantity, description, and wool or hair content of all wool or hair (including samples) and enumerated articles delivered from his premises pursuant to transfer under bond, purchase, consignment, or otherwise. Such records shall also show the date of delivery from the premises and the name and address of the transferee, purchaser, consignee, or other person to whom delivery is made. The records shall show also the exact designation under which any wool or hair was transferred, sold, consigned, or otherwise delivered and (except as to transfers under bond) the price paid or agreed to be paid, or, if there has been no sale or contract of sale, the price that the manufacturer, processor, or dealer would have received or was willing to receive for the wool or hair if sold in the ordinary course of trade. Every delivery within the purview of this paragraph, except of enumerated articles, shall be shown on the abstract prescribed in § 10.94 (d)

(b) Within 30 days after the delivery of wool or hair from the premises, otherwise than under a transfer certificate provided for in paragraph (d) of this section, the manufacturer, processor, or dealer making such delivery shall file an affidavit with the collector of customs in whose district his original bond is filed, showing the quantity and description of merchandise delivered, the date of delivery, and the name and address of the person to whom delivered. The affidavit shall show the particulars as to price specified in paragraph (a) of this section, whether representative samples have been retained, whether the merchandise resulted in the usual course of manufacture of enumerated articles, and whether such merchandise could have been used (with or without further preparation) in the manufacture of enumerated articles.

(c) The manufacturer, processor, or dealer shall retain for customs inspection a representative sample of not less than one pound of each kind of merchandise for which a report is required by § 10.96 (a) or (b) Such sample shall be properly identified in his records with the report covering such merchandise and shall be available for inspection by proper officers of the Government at all reasonable times for a period of 3 months after its delivery.

(d) Wool or hair transferred by one bonded manufacturer, processor, or dealer to another manufacturer, processor, or dealer shall be covered by a transfer certificate on customs Form 7531–A. When the transfer is made by a dealer, such certificate shall be filed within 30 days after the date of the transfer and when the transfer is made by a manufacturer or processor, it shall be filed within the period allowed for the filing of the abstract on which the transfer is required to be reported. When the original bonds of both the transferor and transferee are on file in the office of one collector of customs, the transfer of certificate shall be filed with that officer in duplicate. When the original bond of the transferee is on file in another customs district, the transfer certificate shall be filed in triplicate. The transferor shall not be relieved from liability under his bond until the transferred wool or hair has been charged against the bond of the transferee.

(e) The establishment of bonded manufacturers, processors, and dealers, and the originals of all books and records kept by such manufacturers, processors, and dealers relating to bonded wool or hair shall be available at all reasonable times for inspection by proper officers of the Government. (Par. 1101. sec. 1, 46 Stat. 646, sec. 33 (a) 52 Stat. 1090, sec. 624, 46 Stat. 759· 19 U. S. C. 1001, 1624)

§ 10.96 *Reports of use or transfer for use in violation of bond.* (a) When a bonded manufacturer or processor uses any bonded wool or hair otherwise than in the manufacture of the articles enumerated in paragraph 1101 (b) Tariff Act of 1930, as amended, or in preparation for such manufacture, he shall, within 30 days after such use, make a report thereof to the collector of customs in whose district his original bond is filed, showing the quantity and description of the wool or hair so used, the use to which it has been put, the date of such use, whether such wool or hair resulted in the usual course of manufacture of the enumerated articles, and whether it could have been used in the usual course of manufacture of such articles.[87]

(b) A manufacturer, processor, or dealer shall likewise report to such collector of customs within 30 days any transfer of bonded wool or hair for use otherwise than in the manufacture of the enumerated articles. The report shall show the quantity and description of the wool or hair, the date of transfer, the name and address of the transferee, and, if known, the specific use to which the wool or hair is to be put. Such a report of a manufacturer or processor shall state whether the wool or hair resulted in the usual course of manufacture of the enumerated articles and whether it could have been used in the manufacture of such articles.

(c) Whether merchandise has resulted in the usual course of manufacture shall be determined with respect to the bona fide and normal operations of the plant at which the merchandise resulted. Merchandise resulting in the usual course of manufacture which cannot be used (with or without further preparation) in the usual course of the manufacture of enumerated articles shall be the quantity of the merchandise resulting in the usual course of manufacture in excess of the quantity thereof which is used in the bona fide and normal operations at the plant at which it resulted. In determining, for the above-mentioned purposes, whether operations are bona fide and normal, consideration may be given to the conditions at the plant and in the industry as a whole. (Par. 1101. sec. 1, 46 Stat. 646, sec. 33 (a) 52 Stat. 1090, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1624)

§ 10.97 *Duties, exportation or destruction.* (a) All wool or hair in its imported form used or transferred for use otherwise than in the manufacture of the enumerated articles shall be assessed with duty in accordance with paragraph 1101 (b) Tariff Act of 1930, as amended.[88] As to merchandise resulting from the use of the imported wool or hair in the usual course of manufacture of the enumerated articles and which is used or transferred for use otherwise than in the manufacture of the enumerated articles, no duty shall be assessed unless such merchandise can be used (with or without further preparation) in ordinary commercial practice in the usual course of manufacture of such enumerated articles, except in the case of white soft wastes, white thread, and noils which shall be dutiable at seven-eighths of the regular duties when they are used or transferred for use otherwise than in the manufacture of the enumerated articles, irrespective of whether they can be used (with or without further preparation) in the manufacture of such enumerated articles. Wastes and other merchandise which have not resulted in the usual course of manufacture of the enumerated articles are dutiable when used or

[87] "* * * Every manufacturer, processor, or dealer who has given a bond pursuant to the provisions of this subparagraph shall report any use or transfer of merchandise in violation of the terms of his bond, within thirty days after such use or transfer, to the collector of customs in whose district the bond is filed; and for failure to so report, such manufacturer, processor, or dealer shall be liable to a penalty equal to the value of the merchandise so used or transferred at the time and place of such use or transfer. Such penalty shall be in addition to the duties above provided for. * * *" (Tariff Act of 1930, par. 1101 (b), as amended; 19 U. S. C. 1001, par. 1101 (b))

[88] "* * * If any wool or hair so entered, withdrawn, or transferred under bond is used or transferred for use in its imported or any other form in any manner otherwise than in the manufacture of the articles enumerated above, there shall be levied, collected, and paid on the merchandise so used or transferred in violation of the bond the regular duties which would apply to such merchandise if imported in its condition at the time of such use or transfer. Such duties shall be paid by the manufacturer, processor, or dealer whose bond is charged with the wool or hair at the time of such use or transfer; but such duties shall not be levied or collected on any merchandise (except white soft wastes, white threads and noils, which shall be dutiable at seven-eighths of such regular duties when used or transferred for use otherwise than in the manufacture of the enumerated articles) resulting in the usual course of manufacture of such enumerated manufactured articles which cannot be used (with or without further preparation) in the usual course of the manufacture of such enumerated articles, or which is exported or destroyed. When any wool or hair which has been entered or withdrawn under bond as provided for in this subparagraph is used or transferred for use, in its imported or any other form, otherwise than in the manufacture of the above-enumerated articles and prior to such use or transfer there shall have been combined or mixed with such wool or hair any other merchandise, the whole or the combination or mixture shall be presumed to be composed of wool or hair entered or withdrawn under bond, as provided for in this subparagraph, unless the manufacturer, processor, or dealer liable for the payment of the duties shall establish the quantity of bonded wool or hair in such combination or mixture. * * *" (Tariff Act of 1930, par. 1101 (b), as amended; 19 U. S. C. 1001, par. 1101 (b))

transferred for use otherwise than in the manufacture of the enumerated articles, irrespective of whether they could have been used with or without further preparation.

(b) Wool or hair, except wool or hair in its imported form, shall be credited against the covering bond if exported or destroyed under customs supervision (Par. 1101; sec. 1, 46 Stat. 646, sec. 33 (a) 52 Stat. 1090, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1624)

FLUXING MATERIAL

§ 10.98 *Copper-bearing fluxing material.* (a) For the purpose of this section, ores of concentrates usable as a flux or sulphur reagent, mentioned in the provision for such ores in I. R. C. section 3425,[80] shall include only ores or concentrates having a copper content of not more than 15 percent based upon the assay, with a deduction of 1.3 units.

(b) For the purpose of administering this provision of law, the tax year shall begin June 21 of each year and end June 20 of the succeeding year.

(c) There shall be filed in connection with the entry of such copper-bearing ores or concentrates, either for consumption or warehouse, an affidavit of the importer that the material is to be used for fluxing purposes only. In the case of a consumption entry, the estimated tax shall be deposited at the time of entry. Liquidation of entries shall be suspended pending proof of use for fluxing purposes as hereinafter provided.

(d) Samples of the material shall be taken in accordance with the commercial method in effect at the plant if to be used in a bonded smelting warehouse, or in accordance with § 8.48 of this chapter if entered for consumption, and the copper content thereof shall be determined by the Government chemist in accordance with the assay from which a deduction of 1.3 units shall be made by the collector in the liquidation of the entry.

(e) The management of the smelting or converting plant shall file with the deputy collector at Perth Amboy, N. J., a sworn statement based on its records of operation for each quarterly period showing for each furnace or converter the total quantity of material charged during each month or part thereof of each quarter, the total quantity of material used for fluxing purposes, and the quantity of imported ores or concentrates used for fluxing purposes for which free entry was claimed under the above-mentioned provision, together with the copper content of such imported ores or concentrates computed in accordance with the net Government assay. If the quantity of ores or concentrates used for fluxing purposes in any furnace or converter during any month or part thereof of any quarter is in excess of 25 percent of the charge of such furnace or converter, the quarterly statement shall be accompanied by an explanation of the necessity for using such quantity for fluxing purposes. (53 Stat. 415; I. R. C. sec. 3425; 26 U. S. C. 3425)

ETHYL ALCOHOL

§ 10.99 *Importation of ethyl alcohol for nonbeverage purposes.*[82] (a) If claim is made for the classification of ethyl alcohol of 160 proof or greater under the last clause of paragraph 4 of the Tariff Act of 1930,[83] there shall be filed in connection with the entry an affidavit of the importer that the alcohol is to be used for nonbeverage purposes only and will be withdrawn under permit issued by the Bureau of Internal Revenue for transfer under internal-revenue bond to industrial alcohol plants, industrial alcohol bonded warehouses, or denaturing plants, or under permit for direct shipment to an agency of the United States Government.

(b) Upon the filing of such affidavit and the presentation of the permit referred to therein, executed on Internal Revenue Form 1436, 1444, or 1463, and an application of the importer on Internal Revenue Form 1440 filed in triplicate, release from customs custody may be permitted upon the deposit of estimated duty, if any, and without the deposit of internal-revenue tax.

(c) Prior to release from customs custody, the alcohol shall be gauged by a customs officer who shall note on each copy of Internal Revenue Form 1440 a report of the gauge, the name of the country of exportation, the rate of customs duty paid on the alcohol, and the rate of customs duty which would have been applicable had such spirits been imported for beverage purposes.[84] When shipments are made in tank cars or tank trucks, the details of gauge of each tank car or tank truck shall be reported separately thereon in accordance with the column headings on Internal Revenue Form 1440. The customs officer shall forward two copies of Form 1440 to the storekeeper-gauger at the industrial alcohol plant, industrial alcohol bonded warehouse, or denaturing plant designated in the application and retain one copy for customs purposes.

(d) When shipments of alcohol from customs custody to the industrial plant, industrial alcohol bonded warehouse, or denaturing plant are made in tank cars or tank trucks, all openings affording access to the tanks shall be sealed by a customs officer with customs seals. When shipments of alcohol from customs custody are made in packages, a customs officer shall gauge and release the alcohol pursuant to appropriate permit on Internal Revenue Form 1436, 1444, or 1463, and application on Internal Revenue Form 1440 in triplicate in the same manner as alcohol shipped in tank cars or tank trucks except that the sealing of the car or truck in which transported shall not be required.

(e) When the industrial alcohol plant, industrial alcohol bonded warehouse, or denaturing plant premises are equipped with suitable dock facilities, the alcohol may, subject to compliance with the customs laws and regulations, be transferred by pipe line from the importing vessel or barge through weighing tanks or other suitable measuring tanks into locked empty storage tanks on the plant or warehouse premises or directly into locked storage tanks thereon, provided such storage tanks are equipped with suitable measuring devices for correctly indicating the actual contents. Such transfer shall be made under customs supervision and the alcohol shall be gauged by a customs officer and released from customs custody upon compliance with the customs laws and presentation of withdrawal permit on Internal Revenue Form 1436 or 1463, and application on Internal Revenue Form 1449 in triplicate.

(f) If the alcohol is withdrawn from customs custody by or for the account of an agency of the United States Government under a permit on Internal Revenue Form 1444, the alcohol, after due entry thereof, shall be gauged by a customs officer who shall prepare a report of gauge on Internal Revenue Form 1440 in triplicate. This form shall be completed in the manner prescribed in paragraph (c) of this section and shall be disposed of as follows: the original shall be retained by the collector of customs, one copy shall be forwarded to the governmental agency to which the alcohol is consigned, and one copy shall be forwarded directly to the Commissioner of Internal Revenue. A customs officer shall state on each copy of Form 1440 the permit number of Form 1444 under which

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[80] "* * * That ores or concentrates usable as a flux or sulphur reagent in copper smelting and/or converting and having a copper content of not more than 15 per centum, when imported for fluxing purposes, shall be admitted free of said tax in an aggregate amount or not to exceed in any one year 15,000 tons of copper content. * * *" (I. R. C. 3425)

[82] "(a) *Importation without payment of internal-revenue tax.* Under regulations to be prescribed by the Commissioner, with the approval of the Secretary, and subject from the time of its withdrawal from customs custody to all the applicable provisions of this part, alcohol of 160 proof, or greater, may be imported into the United States and be withdrawn, in bond, from customs custody, without payment of the internal-revenue tax imposed by section 2800 upon the act of importing such alcohol, for transfer to industrial alcohol plants, alcohol bonded warehouses, and denaturing plants for redistillation or denaturation and withdrawal, or withdrawal without redistillation or denaturation, tax free or tax paid as the case may be, for all the purposes authorized by this part. If such alcohol is withdrawn from the said industrial alcohol plants, alcohol bonded warehouses, or denaturing plants for beverage purposes, there shall be paid upon such withdrawal an additional tax equal to the duty which would have been paid had such spirits been imported for beverage purposes, less the duty already paid thereon.

"(b) *Withdrawal tax free for use of United States.* Alcohol may be withdrawn from customs custody by the United States or any governmental agency thereof for its own use, free of internal-revenue tax, under such regulations as may be prescribed." (Sec. 3125, Pt. II, Subch. C, Ch. 26, Internal Revenue Code; 26 U. S. C. Sup., 3125)

Section 3124 of Part II, Subchapter C of Chapter 26, of the Internal Revenue Code (26 U. S. C. 3124), provides that when used in that part the term "alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, from whatever source or whatever processes produced.

[83] "Alcohol: * * * ethyl for nonbeverage purposes only, * * *" (Tariff Act of 1930, par. 4; 19 U. S. C. 1001, par. 4)

[84] "* * * other spirits manufactured or distilled from grain or other materials, * * *" (Tariff Act of 1930, par. 802; 19 U. S. C. 1001, par. 802)

the alcohol is to be withdrawn, and shall prepare Internal Revenue Form 1453 and forward it to the government officer to whom the alcohol is to be delivered at destination. The alcohol may then be released upon the deposit of estimated duty, if any, or in accordance with the provisions of § 8.28 (c) of this chapter, and without the deposit of internal-revenue tax, for shipment to the United States governmental agency named in the permit on Internal Revenue Form 1444.

(g) Upon the completion of the procedure outlined above, the entry shall be liquidated with the assessment of duty at the appropriate rate, if any and without the assessment of internal-revenue tax. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22. 19 U. S. C. 66, 1624)

RAPESEED OIL

§ 10.100 *Rapeseed oil to be used in the manufacture of rubber substitutes or lubricating oil.* Pursuant to I.R.C. section 2491 (f) rapeseed oil imported to be used in the manufacture of rubber substitutes or lubricating oil may be released without the deposit of tax in the same manner and subject to the same conditions as leather to be used in the manufacture of footwear (see § 10.84), except that the proof of use shall include a description of the processing in sufficient detail to enable the collector to determine whether the rapeseed oil under consideration has been used in the manufacture of rubber substitutes or lubricating oil, and the other documents required shall be modified accordingly. (53 Stat. 267; I. R. C. sec. 2491 (f) 26 U. S. C. 2491 (f))

LIMESTONE

§ 10.101 *Limestone to be used in the manufacture of fertilizer* Pursuant to paragraph 1685, Tariff Act of 1930, as amended,[63] crude, crushed, or broken limestone when imported to be used in the manufacture of fertilizer, may be released without the deposit of duty in the same manner and subject to the same conditions as leather to be used in the manufacture of footwear (see § 10.84) except that the proof of use shall show that the limestone was used in the manufacture of fertilizer and the other documents required shall be modified accordingly. (Sec. 201, par. 1685, 46 Stat. 678, sec. 624, 46 Stat. 759, Pub. Law No. 750, 80th Cong., 19 U. S. C. 1201, 1624)

PART 11—PACKING AND STAMPING; MARKING; TRADE-MARKS AND TRADE NAMES; COPYRIGHTS

PACKING AND STAMPING

Sec.
11.1 Cigars, cheroots, and cigarettes.
11.2 Tobacco and snuff.
11.3 Cigarette papers and tubes.
11.4 Playing cards.
11.5 Oleomargarine.
11.6 Distilled spirits, wines, and malt liquors in casks and similar containers.
11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of Bureau of Internal Revenue.

MARKING

11.8 Marking of articles and containers to indicate name of country of origin.
11.9 Special marking on certain articles.
11.10 Exceptions to marking requirements.
11.11 Disposition of articles not properly marked.
11.12 Labeling of wool products to indicate fiber content.
11.13 False designations of origin and false descriptions; false marking of articles of gold or silver.

TRADE-MARKS AND TRADE NAMES

11.14 Trade-marks and trade names; prohibition of importation.
11.15 Trade-marks; recording.
11.16 Trade names; recording.
11.17 Detention; seizure; exportation; release.

COPYRIGHTS

11.18 False notice of copyright.
11.19 Recordation of copyrighted works.
11.20 Piratical copies.

PACKING AND STAMPING

§ 11.1 *Cigars, cheroots, and cigarettes.* (a) All cigars, cheroots, and cigarettes imported into the United States, except importations by mail, shall be placed in the public stores or in a designated bonded warehouse to remain until inspected, weighed, stamped, and repacked, if necessary, under the customs and internal-revenue laws.[1]

(b) After the cigars or cheroots have been examined, weighed, and appraised and before release, the importer shall, except in the case of cigars and cheroots entitled to entry as returned domestic products, affix and cancel the required internal-revenue stamp on each box.[2] Customs inspection stamps shall not be affixed. The inspecting officer shall also see that the classification label prescribed by Internal Revenue Regulations No. 8 (26 CFR Part 140) is affixed to each box of cigars weighting more than 3 pounds per 1,000.

(c) The required internal-revenue stamp shall be affixed and canceled by the importer on each package of imported cigarettes, except returned domestic products, in accordance with Internal Revenue Regulations No. 8 (26 CFR, part 140) Customs inspection stamps shall not be affixed.

(d) No cigars or cheroots weighing more than 3 pounds per 1,000 shall be released for consumption unless packed in boxes of 3, 5, 7, 10, 12, 13, 20, 25, 50, 100, 200, 250 or 500 each; and no cigarettes or small cigars weighing not more than 3 pounds per 1000 shall be imported unless in packages containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80 or 100 each. Cigars cheroots and cigarettes not contained in such packages at the time of importation may be repacked therein under customs supervision at the expense of the importer.

(e) The inspector shall affix customs stamps to all domestic cigars, cheroots, and cigarettes returned, and shall write across the face of the stamp in red ink "American goods returned" and his initials. They shall be packed in the same manner as other imported cigars, cheroots, or cigarettes. Internal-revenue stamps are not applicable to such returned domestic products. (R. S. 251, sec. 624, 46 Stat. 759, R. S. 161, I. R. C. secs. 2111, 2130; 5 U. S. C. 22, 19 U. S. C. 66, 1624, 26 U. S. C. 2111, 2130)

§ 11.2 *Tobacco and snuff.* (a) All smoking tobacco, snuff, fine-cut chewing tobacco, cut and granulated tobacco, shorts, refuse of fine-cut chewing tobacco which has passed through a riddle of 36 meshes per square inch, refuse scraps, clippings, cuttings, and sweepings of tobacco, and all other kinds of tobacco not otherwise provided for are required by law to be packed in packages containing ⅛, ⅜, ½, ⅝, ¾, ⅞, 1, 1⅛, 1¼, 1⅜, 1½, 1⅝, 1¾, 1⅞, 2, 2¼, 2½, 2¾, 3, 3¼, 3½, 3¾, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, or 16 ounces, except snuff in bladders or jars, which may contain not exceeding 20 pounds, and cavendish plug and twist tobacco, which may be put up in packages not exceeding 200 pounds net weight. This requirement applies to imported tobacco and snuff and no importations thereof shall be released from customs custody unless properly packed and internal-revenue stamps showing payment of taxes have been affixed and canceled by the importers.[2] Such merchandise is subject to the internal-revenue tax in addition to customs duties. Customs inspection stamps are not required on imported manufactured tobacco or snuff, but in the case of returned American manufactured tobacco or snuff the packages shall be marked or stamped, preferably over the internal-revenue stamp, with the inscription "American goods returned."

(b) Manufactured tobacco or snuff imported in packages of sizes other than those required by law may be repacked in customs custody at the expense of the owner or importer. If necessary the collector shall cause such tobacco or snuff to be transferred to a bonded warehouse, to be designated by him, for the purpose of repacking and stamping. (R. S. 251, 161, I. R. C. sec. 2100; 56 Stat. 975; 19 U. S. C. 66, 5 U. S. C. 22, 26 U. S. C 2100)

§ 11.3 *Cigarette papers and tubes.* The procedure for the collection of internal-revenue tax on cigarette papers and tubes is prescribed in article 188 of Internal Revenue Regulations No. 8, revised November 1934 (26 CFR 140.188) Customs officers shall require importers of cigarette tubes to affix to each package

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[63] "Guano; basic slag (ground or unground); manures; limestone, crude, crushed, or broken, when imported to be used in the manufacture of fertilizer; and (notwithstanding any other provision of this Act) those grades of substances used chiefly for fertilizers, or chiefly as an ingredient in the manufacture of fertilizers." (Tariff Act of 1930, par. 1685, as amended (free list); 19 U. S. C. 1201, par. 1685)

[1] See § 9.8 of this chapter, relative to stamping tobacco products imported by mail; § 10.18 of this chapter, relative to stamping tobacco products in passengers' baggage; and § 7.3 of this chapter, relative to stamping tobacco products from the Philippine Islands.

[2] Internal-revenue stamps for imported tobacco products, cigarette tubes, playing cards, and oleomargarine will be sold to the owner or consignee of the merchandise by the collector of internal revenue of the district in which is located the office of the collector of customs where the customs entry is filed, but only upon requisition therefor on internal-revenue Form 923, duly executed by an authorized customs officer.

of tubes the internal-revenue stamps prescribed in paragraph (d) of the said article 188 and cancel them before release from customs custody.[2] (R. S. 161, 251, 5 U. S. C. 22, 19 U. S. C. 66)

§ 11.4 *Playing cards.* (a) Imported playing cards shall not be released for consumption until the required internal-revenue stamps have been affixed thereto and canceled by the importer in accordance with Internal Revenue Regulations No. 66 (26 CFR Part 305) [2]

(b) Customs inspection stamps denoting the payment of duty equal to the internal-revenue tax shall be affixed to reimported playing cards which were exported without the payment of tax, but no internal-revenue stamps are required. (R. S. 161, 251; 5 U. S. C. 22, 19 U. S. C. 66)

§ 11.5 *Oleomargarine.* (a) All imported oleomargarine and imported articles suspected of being oleomargarine shall be detained by the collector of customs and the facts reported to the collector of internal revenue of the district, to whom such samples shall be furnished as may be requested.

(b) No imported oleomargarine shall be released for consumption until the proper internal-revenue stamps have been affixed and canceled by the importer as required by Internal Revenue Regulations No. 9 (26 CFR Part 310) [2] (R. S. 161, 251, I. R. C. sec. 2306; 5 U. S. C. 22, 19 U. S. C. 66, 26 U. S. C. 2306)

§ 11.6 *Distilled spirits, wines, and malt liquors in casks and similar containers.* All distilled spirits, wines, and malt liquors imported in pipes, hogsheads, tierces, barrels, casks, or other similar packages shall be stamped in accordance with 19 U. S. C. 467.[3] The provision in that section that such spirits, wines, and liquors shall be first placed in public store or bonded warehouse is construed as directory only and such merchandise, unless otherwise required to be sent to the public store, may, in the discretion of the collector, be inspected, gauged, marked, and stamped at the place of unlading or at another suitable place if, in the opinion of the collector such inspecting, gauging, marking, and stamping can be done with facility and effectiveness. (Sec. 11, 20 Stat. 342; 19 U. S. C. 467)

§ 11.7 *Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of Bureau of Internal Revenue.* The importation of distilled spirits and other alcoholic beverages in bottles and similar containers is subject to regulations of the Bureau of Internal Revenue relating to strip stamps and other matters. (Regulations 7, 10, 13, and 21; 27 CFR Part 7, 26 CFR Parts 175, 185, and 191). Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations. (R. S. 161, 5 U. S. C. 22)

MARKING

§ 11.8 *Marking of articles and containers to indicate name of country of origin.* (a) The term "country" as used in section 304, Tariff Act of 1930, as amended,[4] requiring the marking of articles to indicate the country of origin, shall be considered to mean the political entity known as a nation. Colonies, possessions, or protectorates, outside the boundaries of the mother country shall be considered separate countries. The name of any such colony, possession, or protectorate shall be considered acceptable marking, except when the Bureau of Customs finds that the name is not sufficiently well known to insure that the ultimate purchasers will be fully informed of the country of origin, or where the name appearing alone may cause confusion, deception, or mistake.[5]

(b) The marking required by such section 304 shall include the English name of the country of origin, unless other marking to indicate the English name of the country of origin is specifically authorized by the Bureau.[6] The adjectival form of the name of a country shall be accepted as a proper indication of the name of the country of origin of imported merchandise, provided the adjectival form of the name does not appear with other words so as to refer to a kind or species of product. For example, such terms as "English walnuts" or "Brazil nuts" are unacceptable. Variant spellings which clearly indicate the English name of the country of origin, such as Brasil for Brazil and Italie for Italy, are acceptable. Abbreviations which unmistakably indicate the name of a country, such as "Gt. Britain" for "Great Britain" and "Br. N. Borneo" for "British North Borneo," are acceptable.

(c) The country of manufacture or production shall be considered the country of origin. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within the meaning of this section.

(d) The method of marking shall be one suitable to produce marking on the particular article (or container) which, so far as the nature of the article (or container) will reasonably permit, will be legible to the usual ultimate purchaser of the article and so indelible and permanent as to assure that the marking will remain in a legible condition until the article is acquired by an ultimate purchaser. Stenciling upon such articles as bagging; branding or stenciling upon such material as wood; stamping with a rubber stamp upon such material as paper or cloth, but not upon metal; die-stamping, cast-in-the-mold lettering, etching, engraving, or marking by means of metal plates which bear the prescribed marking and which are securely attached to the article by screws or rivets on metal articles; marking in the mold or by etching or engraving on glassware, unless such marking at the time of manufacture would disfigure or otherwise injure the article for its intended use, in which case the marking may be by means of labels securely affixed; all the foregoing are ordinarily proper methods of marking. Articles (or containers) customarily marked by means of labels which remain on the articles (or containers) until they reach the ultimate purchaser, such as the usual labels securely affixed to bottles and tinned goods or varnish-coated decalcomania transfer labels affixed to articles, shall be regarded as acceptable methods of marking. Marking by means of tags shall be acceptable only when other methods of marking are impracticable by reason of injury or undue expense. Tags, when used, shall be securely attached to the articles (or containers) No marking shall be accepted which would be obliterated, destroyed, or permanently concealed by a minor processing to which the articles are ordinarily subjected in the United States before delivery to an ultimate purchaser, if there is a reasonable method of marking

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[2] Internal-revenue stamps for imported tobacco products, cigarette tubes, playing cards, and oleomargarine will be sold to the owner or consignee of the merchandise by the collector of internal revenue of the district in which is located the office of the collector of customs where the customs entry is filed, but only upon requisition therefor on internal-revenue Form 923, duly executed by an authorized customs officer.

[3] "All distilled spirits, wines, and malt liquors, imported in pipes, hogsheads, tierces, barrels, casks, or other similar packages, shall be first placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected, marked, and branded by a United States customs-gauger, and a stamp affixed to each package, indicating the date and particulars of such inspection; and the Secretary of the Treasury is authorized to prescribe the form of, and provide, the requisite stamps, and to make all regulations which he may deem necessary and proper for carrying the foregoing requirements into effect. Any pipe, hogshead, tierce, barrel, cask, or other package withdrawn from public store or bonded warehouse purporting to contain imported liquor, found without having thereon the stamp hereby required shall be, with its contents, forfeited to the United States; * * * " (19 U. S. C. 467)

"Still wines, including ginger wine or ginger cordial, vermouth, and rice wine or sake, and similar beverages * * *: *Provided*, That any of the foregoing articles specified in this paragraph when imported containing more than 24 per centum of alcohol shall be classed as spirits * * *" (Par. 804, Tariff Act of 1930; 19 U. S. C. 1001, par. 804)

[4] "Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. The Secretary of the Treasury may by regulations—

"(1) Determine the character of words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling, or by any other reasonable method, and a conspicuous place on the article (or container) where the marking shall appear; * * *" (Tariff Act of 1930, sec. 304 (a) as amended; 19 U. S. C. 1304 (a))

[5] In such cases, the Bureau will specify in decisions which will be published in the weekly Treasury Decisions the additional marking to be used in conjunction with the name of the colony, possession, or protectorate.

[6] Notices of acceptable markings other than the English name of the country of origin will be published from time to time in the Treasury Decisions.

the goods in a more permanently conspicuous and indelible manner.

(e) Articles (or containers) subject to marking to indicate the name of the country of origin shall be marked on an integral part in a reasonably conspicuous place where the marking can be easily read upon a casual examination of the article (or container) and is not likely to be defaced, destroyed, removed, altered, covered, obscured, or obliterated by the treatment or use made of the article (or container) before it reaches the ultimate purchaser. Merchandise imported for use in the manufacture of other articles in such a manner that the identity of the imported article is merged into a new article having a new name, character, or use, shall be marked appropriately to advise the ultimate purchaser of the article in its imported condition (the manufacturer of the new article) as to the name of the country of origin.

(f) Articles of foreign manufacture or production imported into the Philippine or Virgin Islands and reshipped to the United States are subject to all marking requirements applicable to merchandise of foreign origin imported directly from a foreign country.

(g) When an imported article is of a kind which is usually combined with another article subsequent to importation but before delivery to an ultimate purchaser, and the name indicating the country of origin of the article appears in a place on the article so that the name will be visible after such combining, the marking shall include, in addition to the name of the country of origin, words or symbols which shall clearly show that the origin indicated is that of the imported article only and not that of any other article with which the imported article may be combined subsequent to importation. For example, bottles, drums, or other containers imported empty, to be filled in the United States, shall be marked with such words as "Bottle (or drum or container) made in (name of country)." Labels and similar articles so marked that the name of the country of origin of the article is visible after it is affixed to another article in this country shall be marked with additional descriptive words such as "Label made (or printed) in (name of country)" or words of similar import.[7] This paragraph shall not apply to articles of a kind which are ordinarily so substantially changed in this country that the articles in their changed condition become products of the United States.

(h) In the case of containers not required to be marked except as provided for in section 304 (b) Tariff Act of 1930, as amended,[8] the container to be marked shall be the outermost container in which the article ordinarily reaches the ultimate purchaser.

(i) If an article is excepted under § 11.10 from the marking requirements, its container shall be marked to indicate the country of origin of the contained article, unless the container is exempt from marking by reason of the second sentence of section 304 (b) Tariff Act of 1930, as amended, or because the container itself is within an exception covered by § 11.10. This requirement applies even though the excepted article is itself actually marked to indicate the country of its origin.

(j) Unusual containers within the purview of section 504, Tariff Act of 1930, shall be marked to indicate clearly the country of their own origin in addition to any marking which may be required to show the country of origin of their contents.

(k) The duty of 10 percent provided for in subsection (c) of section 304, Tariff Act of 1930, as amended,[9] accrues upon merchandise not legally marked, exported, or destroyed prior to the liquidation of the entry covering it and shall be assessed upon the dutiable value as defined in section 503, Tariff Act of 1930. The 10 percent additional duty is assessable for failure either to mark the article (or container) to indicate the English name of the country of origin of the article or to include words or symbols required to prevent deception or mistake. When an article is to be exported or destroyed, or the article (or its container) is to be marked under customs supervision, under subsection (c) of such section 304, the identity of the imported article shall be established to the satisfaction of the collector.

(l) No article which has been repacked under § 19.8 of this chapter, or which has been manipulated under section 562, Tariff Act of 1930, as amended, shall be withdrawn for consumption unless such article (or its container) is marked in accordance with the provisions of section 304, Tariff Act of 1930, as amended, at the time of withdrawal,[10] except when the article and its container were exempt at the time of exportation from marking by reason of § 11.10.

(m) The compensation of customs officers and employees assigned to supervise the exportation, destruction, or marking of articles so as to exempt them from the application of marking duties shall be computed in accordance with § 19.5 (b) of this chapter, except to the extent that such supervision is performed by a customs officer or employee in an overtime status, in which case the compensation with respect to the overtime shall be computed in accordance with § 24.16 of this chapter.[11] The time for which compensation is charged shall include all periods devoted to supervision and all periods during which such officers or employees are away from their regular posts of duty by reason of such assignment and for which compensation to such officers and employees is provided for by law. In formulating charges for expenses pertaining to such supervision, there shall be included all expenses of transportation, per diem allowance in lieu of subsistence, and all other expenses incurred by such officers and employees by reason of such supervision. If the aggregate amount of compensation and expenses with respect to a single assignment, computed as herein provided, is less than 50 cents, no charge shall be made with respect to such assignment. If the importations of more than one importer are concurrently supervised, the service rendered for each importer shall be regarded as a separate assignment, but the total amount of the compensation, and any expenses properly applicable to more than one importer, shall be equitably apportioned among the importers concerned. (Sec. 304, 46 Stat. 687, sec. 3, 52 Stat. 1077, R. S. 251, sec. 624, 46 Stat. 759, R. S. 161, 19 U. S. C. 66, 1304, 1624, 5 U. S. C. 22)

§ 11.9 *Special marking on certain articles.* (a) Articles classifiable under paragraphs 354, 355, 357, 358, 359, 360,

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[7] See sec. 304 (a) (2), Tariff Act of 1930, as amended; 19 U. S. C. 1304 (a) (2).

[8] "Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a). If articles are excepted from marking requirements under clause (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements of this section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin." (Tariff Act of 1930, sec. 304 (b), as amended; 19 U. S. C. 1304 (b))

[9] "If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. * * *" (Tariff Act of 1930, sec. 304 (c), as amended; 19 U. S. C. 1304 (c))

[10] "No imported article held in customs custody for inspection, examination, or appraisement shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (c) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law." (Tariff Act of 1930, sec. 304 (d), as amended; 19 U. S. C. 1304 (d))

[11] "* * * The compensation and expenses of customs officers and employees assigned to supervise the exportation, destruction, or marking to exempt articles from the application of the duty provided for in this subsection shall be reimbursed to the Government by the importer." (Tariff Act of 1930, sec. 304 (c), as amended; 19 U. S. C. 1304 (c))

361, or 1553, Tariff Act of 1930, must be marked prior to importation in the manner prescribed in the respective paragraphs.

(b) Any article classifiable under paragraph 367 or 368 of the tariff act shall not be released for consumption until marked in exact conformity with the requirements thereof. If any article required to be marked under paragraph 367 or 368 is found not to be marked to indicate the country of origin, the 10 percent marking duty prescribed by section 304 (c) Tariff Act of 1930, as amended shall be assessed, unless such marking is accomplished or the merchandise is exported or destroyed under customs supervision prior to the liquidation of the entry, in accordance with the provisions of section 304 (d), Tariff Act of 1930, as amended.

(c) The name of the maker (manufacturer) or purchaser, which must appear on the articles classifiable under the special marking paragraphs, may consist of either the actual name of the maker or purchaser, or a duly registered trade name under which such maker or purchaser carries on his business, except as hereinafter provided for. A trademark shall be accepted only when it includes the actual name of the maker or purchaser or the trade name of such maker or purchaser as above specified. However, a trade-mark or trade name shall not be held to satisfy the requirements of paragraph 367 (g) unless such trade-mark or trade name includes the full name of either the manufacturer or purchaser as therein specified. The term "purchaser" as used in this paragraph means the purchaser in this country by whom or for whose account the articles are imported. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

§ 11.10 *Exceptions to marking requirements.* (a) Articles coming within the classes of merchandise specified in section 304 (a) (3) Tariff Act of 1930, as amended[12] are hereby exempt from the requirements of marking. The marking of the container of an article shall be regarded as reasonably indicating the origin of such article within the meaning of section 304 (a) (3) (D), Tariff Act of 1930, as amended, if the container is sealed and the article is usually sold to the ultimate purchaser without the container being opened to make the article readily available for inspection. No article shall be excepted from marking under section 304 (a) (3) (G) if there is a reasonable method of marking which could be used and which would not be obliterated, destroyed, or permanently concealed by the processing to which the goods are to be subjected in the United States.

(b) The following articles and their containers are not subject to the marking requirements of section 304, as amended, or paragraph 354, 355, 357, 358, 359, 360, 361, 367, 368, or 1553, Tariff Act of 1930:

(1) Articles entered or withdrawn for immediate exportation or for transportation and exportation;

(2) Products of American fisheries which are free of duty;

(3) Products of possessions of the United States.

(4) Products of the United States exported and returned;

(5) Articles exempt from duty under § 8.3 or 9.6 of this chapter. (Sec. 3, 52 Stat. 1077, sec. 624, 46 Stat. 759; 19 U. S. C. 1304, 1624)

§ 11.11 *Disposition of articles not properly marked.* (a) The appraiser, acting for the collector, shall notify the importer on customs Form 4647 to arrange with the collector's office to properly mark (when permissible) the articles or containers found upon examination not to be legally marked, or to return the unexamined packages to customs custody for exportation, or destruction. Such marking, exportation, or destruction shall be at the expense of the importer and under customs supervision.[13]

(b) Articles subject to special marking under paragraphs 354, 355, 357, 358, 359, 360, 361, or 1553 of the tariff act, if not properly marked when imported, may not be marked in the United States, but may be exported or destroyed under customs supervision upon payment of storage and other lawful charges, whereupon the entire amount of estimated duties shall be refunded upon liquidation of the entry. If an importer fails to export or destroy such unmarked articles within 90 days after the date of notice of lack of proper marking, the items shall be treated as prohibited and shall be seized and forfeited in accordance with the customs laws and regulations. Articles so forfeited may be sold on condition that they are exported by the purchaser under customs supervision.

(c) Articles (or containers) in examination packages may be marked in the appraiser's stores by the importer in accordance with the provisions of section 304, Tariff Act of 1930, as amended, or paragraphs 367 and 368, Tariff Act of 1930. If it is impracticable to mark such articles (or containers) in the appraiser's stores, the merchandise may be turned over to the importer for proper marking upon the deposit of adequate security to insure compliance with the marking requirements and the payment of any additional expense which will be incurred on account of customs supervision. If such merchandise is not exported, destroyed, or properly marked by the importer within a reasonable time, it shall be sent to general-order stores unless covered by a warehouse entry, and, if not exported within 1 year from the date of entry, shall be sold as abandoned merchandise upon the condition that it be marked by the purchaser under customs supervision or exported under such supervision.

(d) If in any case articles subject to marking, which have been released from customs custody, are not returned or properly marked within 30 days from the date of the requisition therefor, the collector shall demand payment of the liquidated damages incurred under the bond in an amount equal to the entered value of the articles not returned, plus any estimated duty thereon as determined at the time of entry. If payment is not made or an application for relief from such payment is not filed within the period prescribed in § 25.15 (e) of this chapter, the collector shall proceed in accordance with the provisions of that section. Any relief from the payment of the full liquidated damages incurred will be contingent upon the showing made concerning diligence and good faith shown by the importer in attempting to secure compliance with the marking requirements.

(e) If a written application for relief is timely filed, such application, together with a full report of the facts, shall be transmitted to the Bureau for decision, except that in cases involving only marking under section 304 of the tariff act, as amended, if the full amount of liquidated damages incurred for failure to redeliver does not exceed $1,500, collectors of customs are hereby authorized to cancel the liability incurred without the collection of liquidated damages, provided the marking duty due under that section of the tariff act has been

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[12] "* * * The Secretary of the Treasury may by regulations—

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"(3) Authorize the exception of any article from the requirements of marking if—

"(A) Such article is incapable of being marked;

"(B) Such article cannot be marked prior to shipment to the United States without injury;

"(C) Such article cannot be marked prior to shipment to the United States except at an expense economically prohibitive of its importation;

"(D) The marking of a container of such article will reasonably indicate the origin of such article;

"(E) Such article is a crude substance;

"(F) Such article is imported for use by the importer and is not intended for sale in its imported or any other form;

"(G) Such article is to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such article and in such manner that any mark contemplated by this section would necessarily be obliterated, destroyed, or permanently concealed;

"(H) An ultimate purchaser, by reason of the character of such article or by reason of the circumstances of its importation, must necessarily know the country of origin of such article even though it is not marked to indicate its origin;

"(I) Such article was produced more than twenty years prior to its importation into the United States; or

"(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: *Provided*, That this subdivision (J) shall not apply after September 1, 1938, to sawed lumber and timbers telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of the Act of June 12, 1934 (U. S. C., 1934 edition, title 19, secs. 1351-1354), as extended." (Tariff Act of 1930, sec. 304 (a) (3), as amended; 19 U. S. C. 1304 (a) (3).

[13] See footnotes 9 and 10.

deposited, and the collector is satisfied that the importer was not guilty of negligence or bad faith in permitting the not-properly-marked articles to be distributed, has been diligent in attempting to secure compliance with the marking requirements, and has attempted by all reasonable means to effect redelivery. (Secs. 3, 30, 52 Stat. 1077, 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1304, 1623, 1624)

§ 11.12 *Labeling of wool products to indicate fiber content.* (a) Wool products imported into the United States, except those made more than 20 years prior to importation, and except carpets, rugs, mats, and upholsteries, shall have affixed thereto a stamp, tag, label, or other means of identification, as required by the Wool Products Labeling Act of 1939 (54 Stat. 1129; 15 U. S. C. 68 et seq) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR Part 300) The term "wool product" means any product, or any portion of a product, which contains, purports to contain, or in any way is represented as containing wool, reprocessed wool, or reused wool.

(b) If imported wool products are not correctly labeled and the collector is satisfied that the error or omission involved no fraud or willful neglect, the importer shall be afforded a reasonable opportunity to label the merchandise under customs supervision to conform with the requirements of such act and the rules and regulations of the Federal Trade Commission.

(c) Packages of wool products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry the usual customs single entry or term bond in such amount as is prescribed for such bonds in §§ 25.3 and 25.4 of this chapter.

(d) The collector of customs shall give written notice to the importer of any lack of compliance with the Wool Products Labeling Act of 1939 in respect of an importation of wool products, and pursuant to § 8.26 (a) of this chapter shall demand the immediate return of the involved products to customs custody, unless the lack of compliance is forthwith corrected.

(e) If the products covered by a notice and demand given pursuant to paragraph (d) of this section are not promptly returned to customs custody and the collector is not fully satisfied that they have been brought into compliance with the Wool Products Labeling Act of 1939, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate customs officer an application for cancelation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancelation and shall be in duplicate and under oath.

(f) If any fraudulent violation of the act with respect to imported articles comes to the attention of the collector of customs, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from customs custody, and the case shall be reported to the Federal Trade Commission, Washington, D. C. (Sec. 8, 54 Stat. 1132; R. S. 161, 251, 15 U. S. C. 68f, 5 U. S. C. 22, 19 U. S. C. 66)

§ 11.13 *False designations of origin and false descriptions; false marking of articles of gold or silver* (a) Articles which bear, or the containers of which bear, false designations of origin, or false descriptions or representations, including words or other symbols tending falsely to describe or represent the articles, are prohibited importation and shall be detained.[14]

(b) Articles made in whole or in part of gold or silver or alloys thereof imported for sale by manufacturers or dealers which are marked or labeled in a manner indicating a greater degree of fineness than the actual fineness of the gold or silver or alloys thereof, and any plated or filled articles so imported which are marked or labeled to indicate the fineness of the gold or silver and are not also marked or labeled to indicate the plated or filled condition or are marked or labeled with the word "sterling" or the word "coin", are prohibited importation and shall be detained, and the facts shall be reported to the United States attorney.[15]

(c) Whenever any articles are detained in accordance with the provisions of paragraphs (a) and (b) of this section, and in the case of any articles detained under paragraph (b) of this section the United States attorney has indicated that he does not intend to prosecute, the articles shall be seized and forfeited in the usual manner except that in any such case within the purview of § 23.25 of this chapter the collector may release the merchandise upon the condition that the prohibited marking be removed or obliterated or that the articles and containers be properly marked to indicate their origin, contents, or condition, or may permit the articles to be exported or destroyed under customs supervision and without expense to the Government. If the case is not within the purview of § 23.25 of this chapter, the importer may petition the Commissioner of Customs for the release of, or permission to export or destroy, the articles under the same conditions.

(d) Articles forfeited for violation of the law set forth in footnote 14 or 15 and section 593 (b), Tariff Act of 1930 (19 U. S. C. 1593 (b)), may be disposed of in accordance with the procedure applicable to other customs forfeitures, but may not be released from customs custody except upon the removal by and at the expense of the party in interest of the prohibited marking by reason of which the articles were seized. (R. S. 161, secs. 1–5, 34 Stat. 260–262, secs. 593, 624, 46 Stat. 751, 759, secs. 42, 43, 60 Stat. 440, 441, 5 U. S. C. 22, 15 U. S. C. 294–298, 19 U. S. C. 1593, 1624)

TRADE-MARKS AND TRADE NAMES

AUTHORITY: §§ 11.14 to 11.17 issued under R. S. 161, sec. 27, 33 Stat. 730, secs. 526, 624, 46 Stat. 741, 759, sec. 42, 60 Stat. 440; 5 U. S. C. 22, 15 U. S. C. 294–298, 19 U. S. C. 1593, 1624.

§ 11.14 *Trade-marks and trade names; prohibition of importation.* (a) The importation of merchandise of for-

[14] "* * * no article of imported merchandise which * * * shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; * * *" (Sec. 42, Public No. 489, 79th Cong.)

"(a) Any person who shall affix, apply, or annex, or use in connection with any goods or services, or any container or containers for goods, a false designation of origin, or any false description or representation, including words or other symbols tending falsely to describe or represent the same, and shall cause such goods or services to enter into commerce, and any person who shall with knowledge of the falsity of such designation of origin or description or representation cause or procure the same to be transported or used in commerce or deliver the same to any carrier to be transported or used, shall be liable to a civil action by any person doing business in the locality falsely indicated as that of origin or in the region in which said locality is situated, or by any person who believes that he is or is likely to be damaged by the use of any such false description or representation.

"(b) Any goods marked or labeled in contravention of the provisions of this section shall not be imported into the United States or admitted to entry at any customhouse of the United States. The owner, importer, or consignee of goods refused entry at any customhouse under this section may have any recourse by protest or appeal that is given under the customs revenue laws or may have the remedy given by this Act in cases involving goods refused entry or seized." (Sec. 43, Public No. 409, 79th Cong.)

The laws of the United States relating to patents, trade-marks, and copyrights have been extended to the Virgin Islands. (See 48 U. S. C. 1405q.)

[15] "It shall be unlawful for any person, firm, corporation, or association, being a manufacturer of or wholesale or retail dealer in gold or silver jewelry or gold ware, silver goods or silverware, * * * to import or export or cause to be imported into or exported from the United States for the purpose of selling or disposing of the same, * * * any article of merchandise manufactured after June 13, 1907, and made in whole or in part of gold or silver, or any alloy of either of said metals, and having stamped, branded, engraved, or printed thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which said article is incased or inclosed, any mark or word indicating or designed or intended to indicate that the gold or silver or alloy of either of said metals in such article is of a greater degree of fineness than the actual fineness or quality of such gold, silver, or alloy, according to the standards and subject to the qualifications set forth in sections 295 and 296." (15 U. S. C. 294; see also 15 U. S. C. 295–298)

eign or domestic manufacture is prohibited if such merchandise bears a mark or name which copies or simulates a trade-mark or trade name recorded in the Treasury Department under the Trade-Mark Act of February 20, 1905, or the Trade-Mark Act of July 5, 1946, unless such merchandise is imported by or for the account of, or with the written consent of, the owner of the protected trade-mark or trade name.[15]

(b) A mark or name (including a mark or name which is a genuine trade-mark or trade name in a foreign country) on an article of foreign manufacture identical with a trade-mark or trade name recorded under the above-mentioned trade-mark laws, as well as a mark or name on an article of foreign or domestic manufacture counterfeiting such recorded trade-mark or trade name, or so resembling such recorded trade-mark or trade name as to be likely to cause confusion or mistake in the minds of the public or to deceive purchasers, shall be deemed to copy or simulate such protected trade-mark or trade name. However, merchandise manufactured or sold in a foreign country under a trade-mark or trade name, which trade-mark is registered and recorded, or which trade name is recorded under the above-mentioned trade-mark laws, shall not be deemed to copy or simulate such United States trade-mark or trade name if such foreign trade-mark or trade name and such United States trade-mark or trade name are owned by the same person, partnership, association, or corporation.

§ 11.15 *Trade-marks; recording.*[16] (a) To record a trade-mark with the Treasury Department, an application, which may be in the form of a letter, shall be addressed to the Bureau of Customs, Washington 25, D. C., stating the name, residence, and citizenship of the owner or owners (if a partnership, the citizenship of each partner; if a corporation or association, the country or state within which it was organized or created), and the name of the locality in which the goods are manufactured. The application shall be accompanied by one certified copy of the original certificate of registration issued by the Commissioner of Patents in accordance with the Trade-Mark Act of February 20, 1905, or section 7 of the Trade-Mark Act of July 5, 1946, to which shall be attached one printed Patent Office facsimile of the statement and drawing covering the trade-mark, such of the documents mentioned in paragraph (b) of this section as may be required to show the ownership of the applicant, and 500 uncertified facsimiles of the statement and drawing covering the trade-mark (which may be reproduced privately from a Patent Office facsimile) for distribution to all collectors of customs and appraisers of merchandise.[17]

(b) If ownership of a registered trade-mark is claimed by an applicant by virtue of an assignment of such trade-mark, there shall be transmitted with the application for recording, in addition to the documents and information specified in paragraph (a) of this section, a certified abstract of title from the records of the United States Patent Office showing the ownership of the applicant. Similar documentary evidence shall accompany an application for recording if the commercial name of the applicant has been changed subsequent to registration of the trade-mark. If the application for recording is presented after the expiration of the period for which the certificate of registration or a renewal thereof was issued, the application shall be accompanied by a certified copy of a certificate of renewal from the United States Patent Office showing that the registration is in force. In order to continue to receive the protection of the trade-mark statutes with respect to imported merchandise, such a certified copy of a certificate of renewal shall be filed with the Treasury Department if the period of protection expires after the trade-mark has been recorded.

§ 11.16 *Trade names; recording.* (a) To record the trade name (not a trade-mark) of a manufacturer or trader, an application, which may be in the form of a letter, shall be addressed to the Bureau of Customs, Washington 25, D. C., stating the trade name, the name, residence, and citizenship of the owner or owners (if a partnership, the citizenship of each partner; if a corporation or association, the country or state within which it was organized or created), a description of the class or kind of merchandise to which the trade name is applied, and the name of the locality in which the merchandise is manufactured.[17] The application shall be accompanied by supporting evidence in the form of affidavits by the owner or owners and by at least two other persons having actual knowledge of the facts, showing that the applicant has used the trade name in connection with the class or kind of merchandise described in the application for a specified period of time, that the trade name is not identical with, or confusingly similar to, any other trade name or registered trade-mark used in connection with merchandise of such class or kind, and that the applicant has the sole and exclusive right to the use of such trade name in connection with merchandise of such class or kind.

(b) Such affidavits accompanying an application to record the trade name of a manufacturer or trader located in a foreign country shall be acknowledged before an American consular officer.

§ 11.17 *Detention; seizure; exportation, release.* (a) Merchandise of foreign manufacture which bears a trade-mark entitled to the protection of section 526, Tariff Act of 1930,[18] and merchandise which bears a mark or name copying or simulating a trade-mark or trade name entitled to the protection of section 27, Trade-Mark Act of February 20, 1905, or section 42, Trade-Mark Act of July 5, 1946,[19] if not imported by or for the account of, or with the appropriate written consent of, the owner of the United States trade-mark or trade name shall

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[15] "Registration on the supplemental register or under the act of March 19, 1920, shall not be filed in the Department of the Treasury or be used to stop importations." (Sec. 28, 60 Stat. 436; 15 U. S. C. 1096)

[16] No fee is charged for recording trade-marks or trade names in the Treasury Department.

[18] "(a) *Importation prohibited.* It shall be unlawful to import into the United States any merchandise of foreign manufacture if such merchandise, or the label, sign, print, package, wrapper, or receptacle, bears a trade-mark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent Office by a person domiciled in the United States, under the provisions of the Act entitled 'An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same,' approved February 20, 1905, as amended, and if a copy of the certificate of registration of such trade-mark is filed with the Secretary of the Treasury, in the manner provided in section 27 of such Act, unless written consent of the owner of such trade-mark is produced at the time of making entry.

"(b) *Seizure and forfeiture.* Any such merchandise imported into the United States in violation of the provisions of this section shall be subject to seizure and forfeiture for violation of the customs laws.

"(c) *Injunction and damages.* Any person dealing in any such merchandise may be enjoined from dealing therein within the United States or may be required to export or destroy such merchandise or to remove or obliterate such trade-mark and shall be liable for the same damages and profits provided for wrongful use of a trade-mark, under the provisions of such Act of February 20, 1905, as amended." (Tariff Act of 1930, sec. 526; 19 U. S. C. 1526.)

[19] "That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer, or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this act or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark, and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer or customs." (Sec. 42, Public No. 489, 79th Cong. See similar provision in Trade-Mark Act of February 20, 1905, sec. 27; 15 U. S. C. 106.)

The laws of the United States relating to patents, trade-marks, and copyrights have been extended to the Virgin Islands. (See 48 U. S. C. 1405q.)

be detained for a period of 30 days from the date of notice to the importer that the merchandise is prohibited importation to permit the importer to secure the written consent of the owner of the trade-mark or trade name.

(b) Whenever merchandise is detained in accordance with the provisions of paragraph (a) of this section and the importer indicates that he will not attempt to secure the written consent of the owner of the trade-mark or trade name to the importation of the merchandise, or such consent is not presented to the collector prior to the expiration of the 30-day period, the merchandise shall be seized and forfeited in the usual manner, except that in any such case within the purview of § 23.25 of this chapter, the collector may release the merchandise upon the condition that the name, mark, or trade-mark be removed or obliterated prior to the release, or may permit the merchandise to be exported under customs supervision and without expense to the Government. If the case is not within the purview of § 23.25 of this chapter, the importer may petition the Commissioner of Customs, through the collector, for the release of, or permission to export, the merchandise under the same conditions.

(c) Merchandise forfeited for violation of any trade-mark law may be disposed of in accordance with the procedure applicable to other customs forfeitures, but only after removal or obliteration of the name, mark, or trade-mark by reason of which the goods were seized.

(d) If the violation is not discovered until after entry and deposit of estimated duty, the entry shall be endorsed with an appropriate notation, the duty refunded as an erroneous collection, and the merchandise disposed of in accordance with the provisions of paragraphs (b) and (c) of this section.

COPYRIGHTS

§ 11.18 *False notice of copyright.* (a) The importation of books, periodicals, newspapers, music, moving-picture films, and other articles which bear a false notice of copyright—that is, words indicating that they have been copyrighted in the United States when they have not in fact been so copyrighted—is prohibited.[20]

(b) All articles bearing a false notice of copyright (except when imported in the mails) shall be seized and forfeited. Such articles imported in the mails shall be returned to the postmaster for return to the sender as nondeliverable. (Secs. 15, 30, 31, 32, 35 Stat. 1078, 1082, 1083, 44 Stat. 818, 54 Stat. 106; 17 U. S. C. 15, 30–33)

§ 11.19 *Recordation of copyrighted works.* (a) When a copyrighted work has been registered in accordance with the provisions of the Copyright Act of March 4, 1909 (35 Stat. 1075) as amended, customs field officers shall be notified of such registration and, except in the case of books and other printed works which may be readily identified by title and name of the author, furnished with adequate photographic or other likenesses of the copyrighted work for comparison with similar imported works.[21]

(b) In the case of books and other printed works which may be readily identified by title and name of the author, the copyright proprietor, or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of such works, shall file in the office of the Director, Customs Information Exchange, 201 Varick Street, New York, N. Y., an application in duplicate for recordation of the copyrighted work, together with 1,000 notices in the form indicated below, printed in 11-point Roman type on plain white cards of medium weight, size 3 x 5 inches, for distribution to customs field officers throughout the United States, including Puerto Rico, the Virgin Islands, Hawaii, and Alaska.

(Name of book) (Author)

(Citizenship of author)

(Date) (Registration No.)

(Name and address—Copyright proprietor)

(c) When the work is published in a foreign country under a different title, the foreign title as well as the title under which the work is copyrighted shall be shown on the index cards. An ad interim copyright shall be indicated on the index card by the words "ad interim" preceding the registration number. When such ad interim copyright is extended to a full-term copyright, as provided for in section 22 of the copyright act, notice of such extension, together with the full-term registration number and the date thereof shall be communicated to the Commissioner of Customs, Washington, D. C., within 30 days after such date.

(d) In the case of copyrighted works other than those specified in paragraph (b) of this section, application for recordation shall be made to the Commissioner of Customs, Washington, D. C. Such application shall be accompanied by one certified copy of the certificate of registration issued by the Copyright Office pursuant to the provisions of section 55 of the copyright act, as amended, and a sufficient number of photographic or other adequate likenesses of the copyrighted work to permit recordation in such customs districts as the applicant may designate.

(e) The number of likenesses required for recordation in the Bureau of Customs and in individual districts shall be the same as the number of facsimiles of trade-marks specified in § 11.15 and footnote 17 of this part. (54 Stat. 106; 17 U. S. C. 33)

§ 11.20 *Piratical copies.* (a) Actual copies or substantial reproductions of legally copyrighted works produced and imported in contravention of the rights of the copyright proprietor shall be considered "piratical copies" within the meaning of the copyright act.

(b) Collectors shall not permit delivery of imported articles if representations are made that they are piratical copies and such representations are not denied by the importers, or if the collection in the event that it is held by the tor is satisfied that they do in fact constitute piratical copies.[22]

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[20] "The importation into the United States of any article bearing a false notice of copyright when there is no existing copyright thereon in the United States, or of any piratical copies of any work copyrighted in the United States, is prohibited." (17 U. S. C. 30)

The laws of the United States relating to patents, trade-marks, and copyrights have been extended to the Virgin Islands. (See 48 U. S. C. 1405q)

[21] "The Secretary of the Treasury and the Postmaster General are hereby empowered and required to make and enforce individually or jointly such rules and regulations as shall prevent the importation into the United States of articles prohibited importation by this title, and may require, as conditions precedent to exclusion of any work in which copyright is claimed, the copyright proprietor or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of such work to file with the Post Office Department or the Treasury Department a certificate of the Register of Copyrights that the provisions of section 12 of this title, as amended, have been fully complied with, and to give notice of such compliance to postmasters or to customs officers at the ports of entry in the United States in such form and accompanied by such exhibits as may be deemed necessary for the practical and efficient administration and enforcement of the provisions of sections 30 and 31 of this title." (17 U. S. C. 33)

[22] "During the existence of the American copyright in any book the importation into the United States of any piratical copies thereof or any copies thereof (although authorized by the author or proprietor) which have not been produced in accordance with the manufacturing provisions specified in section 15 of this title, or any plates of the same not made from type set within the limits of the United States, or any copies thereof produced by lithographic or photoengraving process not performed within the limits of the United States, in accordance with the provisions of section 15 is prohibited: *Provided, however,* That, except as regards piratical copies, such prohibition shall not apply:

"(a) To works in raised characters for the use of the blind;

"(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization.

"(c) To the authorized edition of a book in a foreign language or languages of which only a translation into English has been copyrighted in this country.

"(d) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four subdivisions following, that is to say:

"First. When imported, not more than one copy at one time, for individual use and not for sale; but such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States.

"Second. When imported by the authority or for the use of the United States.

"Third. When imported, for use and not for sale, not more than one copy of any such book in any one invoice, in good faith, by or for any society or institution incorporated for educational, literary, philosophical, scientific, or religious purposes or for the encour-

(c) If the collector is not satisfied that an imported article is a piratical copy, and the importer files an affidavit denying that it is in fact a piratical copy and alleging that the detention of the article will result in a material depreciation of its value or loss or damage to him, the article shall be admitted to entry, unless a written demand for its exclusion is filed by the copyright proprietor or other party in interest setting forth that the imported article is a piratical copy of an article legally copyrighted in the United States, and unless there is also filed with the collector a good and sufficient bond conditioned to hold the importer or owner of such article harmless from any loss or damage resulting from its detention in the event that it is held by the Bureau not to be prohibited from importation under section 30 of the copyright act.

(d) Upon the filing of such demand and bond, the collector shall detain the article and shall fix a time at which the parties in interest may submit evidence to substantiate their respective claims, which evidence shall be reduced to writing at the expense of the parties in interest. The burden of proof that any article is in fact a piratical copy shall be upon the party making such claim.

(e) If the article is held by the Bureau to be a piratical copy, its seizure and forfeiture will be directed in accordance with section 32 of the copyright act,[23] and the bond will be returned to the copyright proprietor; but if the article is not so held, the collector will be directed to release it and transmit the bond to the importer. (54 Stat. 106; 17 U. S. C. 33)

agement of the fine arts, or for any college, academy, school, or seminary of learning, or for any State, school, college, university, or free public library in the United States.

"Fourth. When such books form parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale: *Provided,* That copies imported as above may not lawfully be used in any way to violate the rights of the proprietor of the American copyright or annual or limit the copyright protection secured by this title, and such unlawful use shall be deemed an infringement of copyright." (17 U. S. C. 31)

[23] "Any and all articles prohibited importation by this title which are brought into the United States from any foreign country (except in the mails) shall be seized and forfeited by like proceedings as those provided by law for the seizure and condemnation of property imported into the United States in violation of the customs revenue laws. Such articles when forfeited shall be destroyed in such manner as the Secretary of the Treasury or the court, as the case may be, shall direct: *Provided, however,* That all copies of authorized editions of copyright books imported in the mails or otherwise in violation of the provisions of this title may be exported and returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve willful negligence or fraud." (17 U. S. C. 32)

PART 12—SPECIAL CLASSES OF MERCHANDISE

FOOD, DRUGS, AND COSMETICS, INSECTICIDES, AND CAUSTIC OR CORROSIVE SUBSTANCES

Sec.
12.1 Relations between the Customs Service and other agencies; joint regulations.
12.2 Shipper's declarations.
12.3 Release under bond.
12.4 Exportation.
12.5 Shipment to other ports.
12.6 Suspension of liquidation.

MILK AND CREAM

12.7 Permits from Federal Security Agency required for importation.

MEAT AND MEAT-FOOD PRODUCTS

12.8 Inspection; bond; release.
12.9 Release for final delivery to consignee.

PLANTS AND PLANT PRODUCTS

12.10 Regulations and orders of the Department of Agriculture.
12.11 Documents required on entry.
12.12 Release under bond.
12.13 Unclaimed shipments.
12.14 Detention.
12.15 Disposition; refund of duty.

AGRICULTURE AND VEGETABLE SEEDS

12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.

VIRUSES, SERUMS, AND TOXINS FOR TREATMENT OF DOMESTIC ANIMALS

12.17 Importation restricted.
12.18 Labels.
12.19 Detention; samples.
12.20 Disposition.

VIRUSES, SERUMS, TOXINS, ANTITOXINS, AND ANALOGOUS PRODUCTS FOR THE TREATMENT OF MAN

12.21 Licensed establishments.
12.22 Labels; samples.
12.23 Detention; examination; disposition.

DOMESTIC ANIMALS, ANIMAL PRODUCTS, AND ANIMAL FEEDING MATERIALS

12.24 Regulations of the Department of Agriculture.

RAGS

12.25 Regulations of Public Health Service; disinfection.

WILD ANIMALS, BIRDS, AND INSECTS

12.26 Importations of wild animals or birds; certain species prohibited; permits required.
12.27 Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.
12.28 Importation of wild mammals and birds in violation of foreign law.
12.29 Plumage and eggs of wild birds.
12.30 Whaling.
12.31 Injurious insects.
12.32 Honeybees.

TEA

12.33 Importation of tea; regulations of Federal Security Agency; entry; examination for customs purposes.

WHITE PHOSPHORUS MATCHES

12.34 Importation prohibited; certificate of inspection; importer's declaration.
12.35 Exportation.

NARCOTIC DRUGS

12.36 Regulations of Bureau of Narcotics.

LIQUORS

12.37 Restricted importations.
12.38 Labeling requirements; packages.

UNFAIR COMPETITION

Sec.
12.39 Exclusion from entry; entry under bond.

IMMORAL ARTICLES

12.40 Seizure; disposition of seized articles; reports to United States attorney.
12.41 Prohibited films.

MERCHANDISE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

12.42 Findings of Commissioner of Customs.
12.43 Bonding of merchandise covered by such findings.
12.44 Certificates of origin.
12.45 Investigation by ultimate consignee.
12.46 Decision of Commissioner of Customs; action of collector.
12.47 Transportation in interstate and foreign commerce.

COUNTERFEIT COINS, OBLIGATIONS, AND OTHER SECURITIES; ILLUSTRATIONS OR REPRODUCTIONS OF COINS OR STAMPS

12.48 Importation prohibited; exceptions to prohibition of importation; procedure.

MERCHANDISE SUBJECT TO QUOTA PROVISIONS

12.49 Proclamation, treaties, and agreements establishing import quotas.
12.50 Quota priority.
12.51 Mail importations of merchandise for which an absolute quota has been established.

FUR-SEAL AND SEA-OTTER SKINS

12.60 Importation prohibited.
12.61 Fur-seal or sea-otter skins permitted entry.
12.62 Enforcement; duties of customs officers.
12.63 Seal-skin or sea-otter-skin waste.

CROSS REFERENCE: For joint regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture, with respect to importations of economic poisons and devices under the regulations for the enforcement of section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act, see Title 7, Part 162, *supra.*

FOOD, DRUGS, AND COSMETICS, INSECTICIDES, AND CAUSTIC OR CORROSIVE SUBSTANCES

§ 12.1 *Relations between the Customs Service and other agencies; joint regulations.* (a) The importation into the United States of food, drugs, devices, and cosmetics, as defined in section 201 (f) (g), (h) and (i) of the Federal Food, Drug, and Cosmetic Act,[1] is governed by

[1] "(f) The term 'food' means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

"(g) The term 'drug' means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

"(h) The term 'device' (except when used in paragraph (n) of this section and in sections 331 (i), 343 (f), 352 (c), and 362 (c)) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or

section 801 of said act and by regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury and promulgated by the Secretary of Agriculture pursuant to section 701 (b) of said act. (21 CFR 2.300–2.312) The Food and Drug Administration and its functions (except those relating to the Insecticide Act of 1910 and the Naval Stores Act) were transferred by the President's Reorganization Plan No. IV (5 U. S. C. 133t note) from the Department of Agriculture to the Federal Security Agency and such functions are now performed by that agency.

(b) The importation of insecticides, Paris greens, lead arsenates, and fungicides, as defined in section 6 of the Insecticide Act,[2] is governed by section 11 of said act,[3] and by regulations prescribed jointly by the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce. (7 CFR 161.1–161.20)

(c) The importation of dangerous caustic or corrosive substances, as defined in section 2 (a) of the Federal Caustic Poison Act,[4] is governed by section 5 of said act[5] and by regulations prescribed by the Secretary of Agriculture. (21 CFR 175.20–175.32) Under the President's Reorganization Plan No. IV, referred to in paragraph (a) of this section, the functions formerly performed by the Department of Agriculture with respect to dangerous caustic or corrosive substances are now performed by the Federal Security Agency.

(d) Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out the regulations referred to in paragraphs (a) (b) and (c) of this section. (R. S. 161, 5 U. S. C. 22)

§ 12.2 *Shipper's declarations.* The joint regulations referred to in § 12.1 (a) require the shipper of any food, drug, device, or cosmetic to furnish a declaration on consular Form 198 (or 197 in cases where a certified invoice is not required) The joint regulations referred to in § 12.1 (b) require that all invoices of insecticides, Paris greens, lead arsenates, and fungicides shall be accompanied by a declaration of the shipper on consular Form 218. Declarations on consular Form 218 shall also be attached to all invoices of dangerous caustic or corrosive substances. In cases where consular invoices are not required, consular Form 217, containing a special form of invoice, may be used in lieu of consular Form 218. (R. S. 161, 5 U. S. C. 22)

§ 12.3 *Release under bond.* No food, drug, device, cosmetic, insecticide, Paris green, lead arsenate, fungicide, or dangerous caustic or corrosive substance shall be released to the consignee prior to the report of examination by the Federal Security Agency or the Department of Agriculture, as the case may be, or a determination by the representatives of such agency or department that such examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further* That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee." (7 U. S. C. 134)

[4] "The term 'dangerous caustic or corrosive substance' means:

"(1) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 per centum or more;

"(2) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of 10 per centum or more;

"(3) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 per centum or more;

"(4) Carbolic (C_6H_5OH), otherwise known as phenol, and any preparation containng carbolic acid in a concentration of 5 per centum or more;

"(5) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 per centum or more;

"(6) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

"(7) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 per centum or more;

"(8) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

"(9) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

"(10) Sodium hydroxide and any preparation containng free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

"(11) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of 5 per centum or more; and

"(12) Ammonia water and any preparation containng free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and 'hartshorn, in a concentration of 5 per centum or more." (15 U. S. C. 402 (a))

[5] "(a) Whenever in the case of any dangerous caustic or corrosive substance being offered for importation the Secretary of Agriculture has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 403 of this title, he shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded, for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

"(b) If, after proceeding in accordance with subdivision (a), the Secretary of Agriculture is satisfied that such substance being offered for importation was shipped in interstate or foreign commerce in violation of any provision of this chapter, he shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within three months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee." (15 U. S. C. 405)

prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

"(i) The term 'cosmetic' means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap." (21 U. S. C. 321 (f), (g), (h), and (i))

[2] "The term 'insecticide' as used in this chapter shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term 'Paris green' as used in this chapter shall include the product sold in commerce as Paris green and chemically known as the acetoarsenite of copper. The term 'lead arsenate' as used in this chapter shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead. The term 'fungicide' as used in this chapter shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever." (17 U. S. C. 122)

[3] "The Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, from time to time, samples of insecticides, Paris greens, lead arsenates, and fungicides which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony; and if it appear from the examination of such samples that any insecticide, or Paris green, or lead arsenate, or fungicide offered to be imported into the United States is adulterated or misbranded within the meaning of this chapter, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may de-

amination is not necessary, except upon the giving of a bond on customs Form 7551, 7553, or other appropriate form containing a condition for the return to customs custody of the merchandise or any part thereof upon demand of the collector of customs at any time. (R. S. 161, 5 U. S. C. 22)

§ 12.4 *Exportation.* Exportation of merchandise refused admission into the United States under the Federal Food, Drug, and Cosmetic Act, the Insecticide Act, or the Federal Caustic Poison Act shall be under customs supervision in accordance with the regulations set forth in §§ 18.25 and 18.26 of this chapter. (R. S. 161, 5 U. S. C. 22)

§ 12.5 *Shipment to other ports.* When imported merchandise subject to the provisions of the Federal Food, Drug, and Cosmetic Act, the Insecticide Act, or the Federal Caustic Poison Act is shipped to another port for reconditioning or exportation, such shipment shall be under a customs carrier's manifest, customs Form 7512, in the same manner as shipments in bond. (R. S. 161, 5 U. S. C. 22)

§ 12.6 *Suspension of liquidation.* (a) The liquidation of each entry covering foods, drugs, devices, cosmetics, insecticides, Paris greens, lead arsenates, fungicides, or dangerous caustic or corrosive substances shall be suspended until it is determined whether admission of the merchandise into the United States is permitted under the law.

(b) In any case where the admission of such merchandise into the United States is refused and the merchandise is actually exported or destroyed, the entry shall be liquidated free of duty as a "nonimportation," and any estimated duties deposited shall be refunded. (Sec. 558, 46 Stat. 744, sec. 24, 52 Stat. 1088, R. S. 161, 19 U. S. C. 1588, 5 U. S. C. 22)

MILK AND CREAM

§ 12.7 *Permits from Federal Security Agency required for importation.* (a) Under the act of February 15, 1927 (44 Stat. 1101; 21 U. S. C. 141–149) commonly known as the Federal Import Milk Act, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Federal Security Agency.[6] Such permits become invalid at the end of one year unless applications for renewal are filed prior to the date of expiration.

(b) The regulations of the Federal Security Agency (21 CFR 185.29) require that each container of milk or cream shipped or transported into the United States by a permittee shall have firmly attached thereto a tag showing in clear and legible type the product (raw milk, pasteurized milk, raw cream, or pasteurized cream) the permit number, and the name and address of the shipper; except that in case of unit shipments consisting of milk only or cream only under one permit number, each container need not be so marked if the vehicle of transportation is sealed and tagged with the above-mentioned tag. In such case the tag is required to show, in addition to the other required information, the number of containers and the contents of each. Customs officers shall not permit the importation of any milk or cream that is not tagged in accordance with such regulations. (R. S. 161; 5 U. S. C. 22)

MEAT AND MEAT-FOOD PRODUCTS

§ 12.8 *Inspection; bond; release.* All imported meat and meat-food products offered for entry into the United States[7] are subject to regulations prescribed by the Secretary of Agriculture under section 306, Tariff Act of 1930.[8] Such meat and meat-food products shall not be released from customs custody prior to inspection by an inspector of the Bureau of Animal Industry, except when authority is given by such inspector for inspection at the importer's premises or other place not under customs supervision. In such case a bond for the return to customs custody of the merchandise shall be given by the consignee or agent on customs Form 7551, 7553, or other appropriate form, and the conveyances or packages in which such merchandise is removed to the place of examination shall be sealed or corded and sealed by a customs officer or an inspector of the Bureau of Animal Industry with import-meat seals furnished by the Department of Agriculture, unless bearing United States customs seals. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Import-meat seals or cords and seals may be broken only by a customs officer or inspector of the Bureau of Animal Industry. (Sec. 624, 46 Stat. 759 R. S. 161, 19 U. S. C. 1624, 5 U. S. C. 22)

§ 12.9 *Release for final delivery to consignee.* No meat, meat-food products, or animal casings shall be released for final delivery to the consignee until the collector of customs is advised by the Department of Agriculture, or its representative, that the merchandise is admissible. (Sec. 624, 46 Stat. 759, R. S. 161, 19 U. S. C. 1624, 5 U. S. C. 22)

PLANTS AND PLANT PRODUCTS

§ 12.10 *Regulations and orders of the Department of Agriculture.* The importation into the United States of plants and plant products is subject to regulations and orders of the Department of Agriculture restricting or prohibiting the importation of such plants and plant products. Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations and orders of the Department of Agriculture and the provisions of law under which they are made. (Secs. 1–11, 37 Stat. 315–319, 37 Stat. 854, R. S. 161, 7 U. S. C. 151–162, 5 U. S. C. 22)

§ 12.11 *Documents required on entry.* (a) The following-described papers are required to be filed with each entry of plants and plant products imported under permits issued by the Department of Agriculture:

(1) The importer's permit to import, a signed copy of which will be furnished to the collector by the Bureau of Entomology and Plant Quarantine. Permits for shipments entered for immediate transportation to an interior port shall be filed only at the port of arrival. A permit shall be filed for shipments entered for direct exportation or transportation and exportation in bond to a foreign country.

(2) The importer or his representative shall submit to the collector at the port of first arrival a notice of arrival for any type of entry, except rewarehouse and informal mail entries. The collector at the port of arrival shall compare the notice which he receives from the importer or his representative with the shipping documents, certify to its agreement therewith or note any discrepancies, and

[6] The act referred to in this section is administered by the Food and Drug Administration, which was transferred to the Federal Security Agency from the Department of Agriculture by the President's Reorganization Plan No. IV. (5 U. S. C. 133t note)

[7] The term "meat and meat-food products," for the purpose of this section, shall include any imported article of food or any imported article which enters or may enter into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

[8] "(a) *Rinderpest and foot-and-mouth disease.* If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country the importation into the United States * * * of fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, from such foreign country, is prohibited.

"(b) *Meats unfit for human food.* No meat of any kind shall be imported into the United States unless such meat is healthful, wholesome, and fit for human food and contains no dye, chemical, preservative, or ingredient which renders such meat unhealthful, unwholesome, or unfit for human food, and unless such meat also complies with the rules and regulations made by the Secretary of Agriculture. All imported meats shall, after entry into the United States in compliance with such rules and regulations, be deemed and treated as domestic meats within the meaning of and subject to the provisions of the Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 674), commonly called the 'Meat Inspection Amendment,' and the Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 768) commonly called the 'Food and Drugs Act,' and acts amendatory of, supplementary to, or in substitution for such Acts.

"(c) *Regulations.* The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other domestic ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, domestic ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations." (Tariff Act of 1930, sec. 306; 19 U. S. C. 1306)

transmit it to the Secretary of Agriculture. The merchandise shall not be released until the notice has been submitted and release has been authorized by a representative of the Department of Agriculture

(3) The original foreign certificate of inspection.

(b) Further certificates relative to cottonseed products are required under regulations of the Department of Agriculture published in T. D. 37258.[9] (7 CFR 321.201–321.208)

(c) In the case of an importation intended to be shipped I. T., a quadruplicate of the consular invoice shall be filed at the port of first arrival. (Sec. 624, 46 Stat. 759, R. S. 161, 19 U. S. C. 66, 5 U. S. C. 22)

§ 12.12 *Release under bond.* (a) If the permit to import is not at hand at the time of arrival of nursery stock, plants, and seeds, other than those covered by special quarantine and other restrictive orders, from a country which maintains inspection, and such shipment meets the requirements of the Secretary of Agriculture, it may be released to the consignee upon the giving of a bond on customs Form 7551, 7553, or other appropriate form to insure the presentation of a permit to import from the Department of Agriculture or return of the merchandise to customs custody when demanded by the collector of customs.

(b) Plants and plant products arriving from countries without inspection service shall not be released under bond pending the production of a permit to import.

(c) Plants or plant products which require fumigation, disinfection, sterilization, or other treatment as a condition of entry may be released to the permittee for treatment at a plant approved by the Department of Agriculture upon the giving of a bond on customs Form 7551, 7553, or other appropriate form to insure that the merchandise is treated under the supervision and to the satisfaction of an inspector of the Department of Agriculture or returned to customs custody when demanded by the collector of customs. (R. S. 161, 5 U. S. C. 22)

§ 12.13 *Unclaimed shipments.* (a) If plants or plant products enterable into the United States under the rules and regulations promulgated by the Secretary of Agriculture are unclaimed, they may be sold to any person to whom a permit has been issued who can comply with the requirements of the regulations governing the material involved.

(b) Unclaimed plants and plant products not complying with the requirements mentioned in this section shall be destroyed, by burning or otherwise, under customs supervision. (R. S. 161, 5 U. S. C. 22)

§ 12.14 *Detention.* (a) Collectors of customs shall refuse release of all plants or plant products with respect to which a notice of prohibition has been promulgated by the Secretary of Agriculture under any of the various quarantines. If an importer refuses to export a prohibited shipment immediately, the collector shall report the facts to the Bureau of Entomology and Plant Quarantine and the United States attorney and withhold delivery pending advice from that Bureau.

(b) In case of doubt as to whether any plant or plant product is prohibited, the collector shall detain it pending advice from the Department of Agriculture. (R. S. 161, 5 U. S. C. 22)

§ 12.15 *Disposition; refund of duty.* Plants or plant products which have been found to be in violation of the Plant Quarantine Act of August 20, 1912, as amended, may be exported or destroyed under customs supervision, in which case they shall be treated as a "nonimportation" and the covering entry shall be liquidated free of duty. (Sec. 558, 46 Stat. 744, sec. 24, 52 Stat. 1088, R. S. 161, 19 U. S. C. 1558, 5 U. S. C. 22)

AGRICULTURAL AND VEGETABLE SEEDS

§ 12.16 *Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.* (a) The importation into the United States of agricultural and vegetable seeds and screenings thereof is governed by rules and regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture under section 402 (b) of the Federal Seed Act of August 9, 1939. (5 F. R. 38; 6 F. R. 3961, 7 CFR 201.201–201.231)

(b) Under the said joint rules and regulations, collectors of customs are required to draw samples of such seeds and screenings, forward them to the seed laboratories, and notify the owner or consignee that such samples have been drawn and that the shipment shall be held intact pending a decision of the War Food Administration in the matter.

(c) It is further provided in said joint rules and regulations that after samples have been drawn such seeds and screenings shall be admitted into the commerce of the United States only if they have been found to meet the requirements of the Federal Seed Act of August 9, 1939, and the said regulations, but if the containers bear sufficient marks of identification the collector of customs may release the shipment, pending examination and decision in the matter, upon the giving of a bond conditioned upon the return to customs custody of the seed or screenings or any part thereof upon demand of the collector of customs at any time. Such bond shall be on customs Form 7551, 7553, or other appropriate form, and shall be filed with the collector of customs who, in case of default, shall take appropriate action to effect the collection of the liquidated damages equal to the invoice value of the entire shipment plus the estimated duty thereof, if any. (Sec. 402 (b), 53 Stat. 1285; 7 U. S. C. 1592)

VIRUSES, SERUMS, AND TOXINS FOR TREATMENT OF DOMESTIC ANIMALS

§ 12.17 *Importation restricted.* The importation into the United States of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals is prohibited (37 Stat. 832; 21 U. S. C. 152) unless the importer holds a permit from the Department of Agriculture covering the specific product. The collector of customs shall notify the Bureau of Animal Industry, Department of Agriculture, Washington, D. C., of the arrival of any such product, and detain it until he shall receive notice from that Department that a permit to import the shipment has been issued. (37 Stat. 832, R. S. 161, 21 U. S. C. 151–158, 5 U. S. C. 22)

§ 12.18 *Labels.* Each separate container of virus, serum, toxin, or analogous product imported is required by the regulations of the Department of Agriculture to bear the true name of the product and the permit number assigned by the Department of Agriculture in the following form: "U. S. Veterinary Permit No. _____," or an abbreviation thereof authorized by the Bureau of Animal Industry. Each separate container also shall bear a serial number affixed by the manufacturer for identification of the product with the records of preparation thereof, together with a return date. (R. S. 161, 5 U. S. C. 22)

§ 12.19 *Detention; samples.* (a) The collector of customs shall detain all shipments of such products for which no permit to import has been issued pending instructions from the Department of Agriculture.

(b) Samples shall be furnished to the Department of Agriculture upon its request, and the collector shall immediately notify the consignee of any such request. (R. S. 161, 5 U. S. C. 22)

§ 12.20 *Disposition.* Viruses, serums, or toxins rejected by the Department of Agriculture shall be released by the collector to that Department for destruction, or exported under customs supervision at the expense of the importer if exportation is authorized by the Department of Agriculture. (R. S. 161, 5 U. S. C. 22)

VIRUSES, SERUMS, TOXINS, ANTITOXINS, AND ANALOGOUS PRODUCTS FOR THE TREATMENT OF MAN

§ 12.21 *Licensed establishments.* The bringing into the United States for sale, barter, or exchange of any virus, therapeutic serum, toxin, antitoxin, or analogous product applicable to the prevention and cure of diseases of man is prohibited (42 U. S. C. 141–148) unless such virus, serum, toxin, antitoxin, or product has been propagated and prepared at an establishment holding an unsuspended and unrevoked license for such propagation.[10] (Sec. 1, 32 Stat. 728; 42 U. S. C. 141)

§ 12.22 *Labels; samples.* Each package of such products imported for sale, barter, or exchange shall be labeled or plainly marked with the name of the article, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected to yield their specific results. Samples of the same lot or laboratory

[9] Blank forms will be furnished by the Department of Agriculture.

[10] Such licenses formerly were issued by the Secretary of the Treasury but this function is now vested in the Federal Security Administrator, under the President's Reorganization Plan No. II. (5 U. S. C. 133t note)

number shall accompany each importation for sale, barter, or exchange, and such samples shall be forwarded by the collector of customs to the National Institute of Health of the United States Public Health Service at Washington, D. C. (Sec. 1, 32 Stat. 728, R. S. 161; 42 U. S. C. 141, 5 U. S. C. 22)

§ 12.23 *Detention; examination; disposition.* (a) Collectors of customs shall detain all importations of viruses, serums, toxins, antitoxins, and analogous products for the treatment of the diseases of man pending examination by the National Institute of Health, unless satisfied from evidence furnished at the time of entry, in the form of an affidavit or otherwise, that the products are not intended for sale, barter, or exchange.

(b) If the shipment is imported for sale, barter, or exchange and is found by the National Institute of Health to be admissible, the collector shall release it upon receipt of a report from the Public Health Service that the article is admissible.

(c) If the Public Health Service reports that the article was found upon examination not to conform to the law and the regulations, the collector shall not release it and permit the exportation or destruction thereof under customs supervision at the option of the importer. (Sec. 1, 32 Stat. 728, R. S. 161, 42 U. S. C. 141, 5 U. S. C. 22)

DOMESTIC ANIMALS, ANIMAL PRODUCTS, AND ANIMAL FEEDING MATERIALS

§ 12.24 *Regulations of the Department of Agriculture.* (a) The importation into the United States of domestic animals, animal products, and animal feeding materials is subject to inspection and quarantine regulations of the Department of Agriculture. (9 CFR, Parts 92–96.)[11] Customs officers and employees are authorized and directed to perform such functions as are necessary or proper on their part to carry out such regulations of the Department of Agriculture.

(b) Inspection by an inspector of the Bureau of Animal Industry is required for all horses, cattle, sheep, other ruminants, and swine as a prerequisite to their entry from any foreign country. Orders listing the ports designated as quarantine stations for the inspection and quarantine of animals will be issued by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, whenever conditions warrant.

(c) The entry of domestic animals may be made, but shall not be required, before the expiration of the quarantine period. Such animals, if not entered at the time of arrival, shall be considered as under general order while under quarantine and shall not be released except upon notice from the collector of customs that the importer has complied with all the requirements for entry. (R. S. 161, 5 U. S. C. 22)

RAGS

§ 12.25 *Regulations of Public Health Service; disinfection.* Rags and similar material are subject to such quarantine regulations as may be prescribed by the United States Public Health Service. When a certificate of disinfection is required by such regulations and is not produced at the time of entry, the collector shall hold the merchandise for a reasonable time in a designated place separate from other merchandise pending the receipt of a certificate of disinfection, and in the event that such certificate is not received the merchandise shall be disinfected in a manner satisfactory to the Surgeon General at the expense of the importer, or shall be exported or disposed of as directed by the Public Health Service. (R. S. 161; 5 U. S. C. 22)

WILD ANIMALS, BIRDS, AND INSECTS

§ 12.26 *Importations of wild animals or birds; certain species prohibited; permits required.* (a) The importation into the United States or any territory or district thereof of the mongoose, the so-called "flying fox" or fruit bat, the English sparrow, the starling, and such other birds and animals as the Secretary of the Interior may from time to time declare to be injurious to the interest of agriculture or horticulture is prohibited.[12] If any such animals or birds are imported, release thereof to the importer shall be refused and immediate exportation or destruction shall be required. Lists of the species of birds and animals declared by the Secretary of the Interior to be injurious to agriculture or horticulture are published in the Treasury Decisions.

(b) Permits from the Secretary of the Interior shall be required for the release of any foreign wild animals or birds, except natural history specimens for museums or scientific collections and certain cage birds such as parrots and birds of the parrot family not exceeding three in number brought in by an owner or such other birds as the Secretary of the Interior may designate. Applications for permits shall be made to the Department of the Interior on the form prescribed by that Department.[13] Designations by the Secretary of the Interior of birds that may be imported without permits will be published in the Treasury Decisions.

(c) If the required permit is not at hand when the animals or birds arrive, an examination thereof shall be made at once by the examiner and duties, if any, estimated thereon and deposited. A stipulation shall be filed with the collector within 24 hours to produce the necessary permit within 30 days from the date of entry, whereupon final liquidation shall be suspended until the permit is produced or the 30-day period expires. Meanwhile the property may be released to the importer, consignee, or agent for proper care, feeding, etc., upon the giving of a bond conditioned upon the return to customs custody of the merchandise upon demand of the collector of customs at any time. Such bond shall be on customs Form 7551, 7553, or other appropriate form and shall be filed with the collector of customs who, in the case of default, shall take appropriate action to effect the collection of liquidated damages equal to the invoice value of the merchandise not returned plus the estimated duty thereon, if any; or if the importer, consignee, or agent shall so elect, the property may be retained in customs custody at the expense of the importer pending the issuance of the permit.

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[11] "(a) *Rinderpest and foot-and-mouth disease.* If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country, the importation into the United States of cattle, sheep, or other domestic ruminants, or swine, or fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, from such foreign country, is prohibited.

* * * * *

"(c) *Regulations.* The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other domestic ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, domestic ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations." (Tariff Act of 1930, section 306 (a) and (c), 19 U. S. C. 1306 (a) and (c))

"The Secretary of Agriculture shall have authority to make such regulations and take such measures as he may deem proper to prevent the introduction or dissemination of the contagion of any contagious, infectious, or communicable disease of animals and/or live poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another, and to seize, quarantine, and dispose of any hay, straw, forage, or similar material, or any meats, hides, or other animal products coming from an infected foreign country to the United States, or from one State or Territory or the District of Columbia in transit to another State or Territory or the District of Columbia whenever in his judgment such action is advisable in order to guard against the introduction or spread of such contagion." (21 U. S. C. 111)

[12] "The importation into the United States, or any Territory or District thereof, of the mongoose, the so-called 'flying foxes' or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of the Interior may from time to time declare to be injurious to the interest of agriculture or horticulture, is hereby prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner. No person shall import into the United States, or into any Territory or District thereof, any foreign wild animal or bird, except under special permit from the Secretary of the Interior. Nothing in this section shall restrict the importation of natural-history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the Secretary of the Interior may designate. The Secretary of the Treasury is hereby authorized to make regulations for carrying into effect the provisions of this section." (18 U. S. C. 331)

[13] No charge is made for the issuance of a permit.

Permits are not required for domesticated birds, such as chickens, ducks, geese, guinea fowls, turkeys, or the domesticated varieties of pigeons (such as carriers, fantails, homers, pouters, etc.); or for natural history specimens for museums or scientific collections.

(d) If a permit is refused by the Department of the Interior, or if the permit is not produced within the said 30 days, the collector shall promptly recall the property, if delivered under bond, and shall require its immediate exportation at the expense of the importer or consignee.

(e) In case of doubt as to whether the animals or birds belong to prohibited species, or of suspicion on the part of the officers of the customs that the species sought to be entered are prohibited animals or birds imported under other names, such animals or birds shall be retained in customs custody at the expense and risk of the importer pending receipt of advice from the Department of the Interior as to the true nature of the animals or birds or until they have been examined by a special inspector of the Department of the Interior and the identity established to the satisfaction of the collector. In case of refusal or neglect of the importer, consignee, or agent to have the identity so established, release of the importation shall be refused and immediate exportation required.

(f) All invoices of animals or birds shall specify the species covered thereby and the number of each species. In case of the return to the collector of any importation under the bond given under paragraph (c) of this section, if the number and species of animals or birds does not correspond with the description stated in the invoice and if no satisfactory explanation of any discrepancy is furnished, the bond shall be forfeited.

(g) The privilege of entry for immediate transportation granted by section 552, Tariff Act of 1930, is subordinate to the provisions of the Criminal Code. An examination shall be made at the port of first arrival and delivery delayed pending receipt of permits from the Department of the Interior, and in the case of prohibited animals and birds entry for transportation shall be refused.

(h) The importation of wild animals and birds through the ports of California shall be restricted to those ports at which an inspector of foreign animals and birds of the Department of the Interior is located.

(i) In addition to the foregoing provisions, the importation of birds of the parrot family is subject to regulations of the Public Health Service. (42 CFR 71.152, 71.153.)

(j) Bobwhite quail from Mexico shall not be admitted at any port of entry unless the importer produces to the collector of customs a special permit from the Secretary of the Interior as prescribed by section 241, Criminal Code (18 U. S. C. 391) and a permit from the Department of Forestry, Game, and Fish of Mexico authorizing export of the quail, nor shall they be admitted at any time of the year other than during the export season prescribed by the laws or regulations of Mexico. (Criminal Code, sec. 241, R. S. 161, 18 U. S. C. 391, 5 U. S. C. 22)

§ 12.27 *Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.* Certain statutory provisions prohibit or restrict the importation or exportation of wild animals or birds, or the dead bodies thereof, or the eggs of such birds, killed, captured, taken, transported, etc., contrary to law.[14] Customs officers shall perform all duties required of them under such laws. (R. S. 161, 5 U. S. C. 22)

§ 12.28 *Importation of wild mammals and birds in violation of foreign law.* (a) No imported wild mammal or bird, or part or product thereof, shall be released from customs custody under bond or otherwise if the collector has knowledge of a foreign law or regulation that brings the importation within the purview of section 527 (a), Tariff Act of 1930,[15] unless it is accompanied by the required consular certificate or entitled to entry under the provisions of section 527 (c) of the tariff act.

(b) When the collector seizes articles for violation of such section 527, he shall proceed under the provisions of the tariff

[14] "Whoever delivers or knowingly receives for shipment, transportation, or carriage in interstate or foreign commerce, any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country, or captured, killed, taken, purchased, sold, or possessed contrary to any Act of Congress, or the law of any State, Territory, Possession, or foreign country, or subdivision thereof; or

"Whoever transports, brings, or conveys from any foreign country into the United States any wild animal or bird, or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to the law of such foreign country or subdivision thereof; or

"Whoever knowingly purchases or receives any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, carried, brought, or conveyed in violation of this section; or

"Whoever, having purchased or received any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, or carried in interstate commerce, makes any false record or account thereof; or

"Whoever imports from or exports to Mexico any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of the Interior, in accordance with regulations issued by him and approved by the President—

"Shall be fined not more than $500 or imprisoned not more than six months, or both; and the wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, shall be forfeited." (18 U. S. C. 43)

"Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing wild animals or birds, or the dead bodies or parts thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind; or

"Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such conventions, or Act of Congress, or regulation thereunder; or

"Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

"Shall be fined not more than $500 or imprisoned not more than six months, or both; and the shipment shall be forfeited." (18 U. S. C. 44)

"Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, may arrest any person violating said sections in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections." (18 U. S. C. 3054)

"Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, shall have authority to execute any warrant to search for and seize any property used or possessed in violation of said sections and property so seized shall be held by him or by the United States marshal pending disposition thereof by the court." (18 U. S. C. 3112)

[15] "(a) *Importation prohibited.* If the laws or regulations of any country, dependency, province, or other subdivision of government restrict the taking, killing, possession, or exportation to the United States, of any wild mammal or bird, alive or dead, or restrict the exportation to the United States of any part or product of any wild mammal or bird, whether raw or manufactured, no such mammal or bird, or part or product thereof, shall, after the expiration of ninety days after the enactment of this Act, be imported into the United States from such country, dependency, province, or other subdivision of government, directly or indirectly, unless accompanied by a certification of the United States consul, for the consular district in which is located the port or place from which such mammal or bird, or part or product thereof, was exported from such country, dependency, province, or other subdivision of government, that such mammal or bird, or part or product thereof, has not been acquired or exported in violation of the laws or regulations of such country, dependency, province, or other subdivision of government.

"(b) *Forfeiture.* Any mammal or bird, alive or dead, or any part or product thereof, whether raw or manufactured, imported into the United States in violation of the provisions of the preceding subdivision shall be subject to seizure and forfeiture under the customs laws. Any such article so forfeited may, in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe, be placed with the departments or bureaus of the Federal or State Governments, or with societies or museums, for exhibition or scientific or educational purposes, or destroyed, or (except in the case of heads or horns of wild mammals) sold in the manner provided by law.

"(c) *Section not to apply in certain cases.* The provisions of this section shall not apply in the case of—

"(1) *Prohibited importations.* Articles, the importation of which is prohibited under the provisions of this Act, or of section 241 of the Criminal Code, or of any other law;

"(2) *Scientific or educational purposes.* Wild mammals or birds, alive or dead, or parts or products thereof, whether raw or manufactured, imported for scientific or educational purposes;

"(3) *Certain migratory game birds.* Migratory game birds (for which an open season is provided by the laws of the United States and any foreign country which is a party to a treaty with the United States, in effect on the date of importation, relating to the protection of such migratory game birds) brought into the United States by bona fide sportsmen returning from hunting trips in such country, if at the time of importation the possession of such birds is not prohibited by the laws of such country or of the United States." (Tariff Act of 1930, sec. 527; 19 U. S. C. 1527)

act applicable to seizure and forfeiture of merchandise valued at less than $1,000, except that perishable articles or canned-food articles shall be destroyed if the importer assents in writing to the forfeiture, or, if the importer does not assent to the forfeiture, such articles shall be sent to a cold-storage warehouse at the expense of the importer pending instructions from the Bureau of Customs as to their disposition. (Secs. 527, 624, 46 Stat. 741, 759; 19 U. S. C. 1527, 1624)

NOTE: T. D. 50950, Oct. 23, 1943, 8 F. R. 14603, provides in part as follows:

The Bureau has ascertained from reliable sources of information that South American alpacas are domesticated, and not wild animals.

Accordingly, since section 527 of the Tariff Act of 1930 refers only to wild mammals and birds, T. D. 50260, as amended by T. D. 50329, is hereby further amended so as to exclude from its operation live alpacas from Bolivia.

§ 12.29 *Plumage and eggs of wild birds.* (a) The provisions of paragraph 1518, Tariff Act of 1930,[16] relating to the importation of plumage of wild birds, apply to all such plumage, whether imported separately or upon the bird itself, except such plumage on game birds killed in foreign countries by residents of the United States and not imported for sale or other commercial purpose and on live wild birds. Such plumage of either American or foreign origin imported as merchandise or as passengers' baggage or worn on the person is prohibited, but such prohibition does not apply to baggage forwarded in transit for exportation nor to plumage taken out of the United States as personal effects for a temporary stay and returned. When plumage is taken out of the United States as personal effects for a temporary stay, it may be registered for identification on return in accordance with the provisions of § 10.28 of this chapter. Importers of unplucked game birds, except residents of the United States importing game birds killed in foreign countries and not imported for sale or other commercial purposes, shall post a bond in an amount equal to the value of the merchandise, plus the duty thereon, conditioned upon the production within 6 months from the date of entry or withdrawal from warehouse for consumption of a true statement, under oath, by the importer or his agent that the feathers of such game birds have been destroyed by him or under his personal supervision and indicating the place, date, and manner of such destruction.

(b) Upon entry of imported feathers to be used in the manufacture of artificial flies for fishing, the importer shall file an affidavit to the effect that the feathers are of such character as are ordinarily used for the manufacture of such articles; that they are imported for and will be used for that purpose, and that they will not be used for any other purpose unless specific authority for diversion to scientific or educational purposes is first obtained from the Commissioner of Customs. Dealers and others not engaged in the business of manufacturing and selling artificial flies for fishing purposes who import such feathers shall post a bond in an amount equal to the value of the merchandise, plus the duty thereon, conditioned upon the production within 3 years of evidence satisfactory to the collector that the feathers have been sold or otherwise disposed of to a person or persons engaged in the business of manufacturing and selling artificial flies for fishing purposes, accompanied by an affidavit or affidavits of such person or persons to the effect that such feathers have been or will be used solely in the manufacture of artificial flies for fishing purposes.

(c) As the plumage of certain species of birds, viz, the rhea, the ringnecked pheasant, the so-called Mongolian pheasant, the mallard duck, and the muscovy duck, may be obtained from either wild or domesticated birds, such plumage shall be admitted only upon the presentation of satisfactory evidence that it was in fact taken from domesticated birds. As the English pheasant and the Indian peacock are considered to be domesticated birds, the feathers of such birds shall not be deemed prohibited merchandise.

(d) Upon the attempted importation of eggs of wild birds, the importation of which is prohibited by paragraph 1671, Tariff Act of 1930,[17] the eggs shall be seized and the importer accorded an opportunity to assent to forfeiture. In the event the importer refuses or fails to assent to the forfeiture of the prohibited eggs, the collector shall proceed to forfeit them under the provisions of the tariff act applicable to seizure and forfeiture of merchandise valued at less than $1,000. (Pars. 1518, 1535, 1671, secs. 1, 201, 46 Stat. 661, 667, 677, 678, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1201, 1624)

§ 12.30 *Whaling.* The importation and exportation of whales and the parts and products thereof are subject to regulations prescribed jointly by the Secretary of Commerce and the Secretary of the Treasury and approved by the President under the Whaling Treaty Act of May 1, 1936. (50 CFR Part 251.) The functions of the Secretary of Commerce with reference to whaling were transferred to the Secretary of the Interior by the President's Reorganization Plan No. II (5 U. S. C. 133t note). Customs officers and employees shall perform all functions required of them by the Whaling Treaty Act of May 1, 1936, and the joint regulations issued thereunder. (R. S. 161, 5 U. S. C. 22)

§ 12.31 *Injurious insects.* The importation in a live state of insects which are injurious to cultivated crops, including vegetables, field crops, bush fruits, and orchard, forest or shade trees, and of the eggs, pupae, or larvae of such insects, except for scientific purposes under regulations prescribed by the Secretary of Agriculture, is prohibited.[18] All packages containing live insects or their eggs, pupae, or larvae arriving from abroad, unless accompanied by a permit issued by the Department of Agriculture, shall be detained and submitted to the Bureau of Entomology and Plant Quarantine of that Department for inspection and determination of their admissibility into the United States. (Sec. 1, 33 Stat. 1269, R. S. 161, 7 U. S. C. 141, 5 U. S C. 22)

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[16] "* * * *Provided*, That the importation of birds of paradise, aigrettes, egret plumes or so-called osprey plumes and the feathers, quills, heads, wings, tails, skins, or parts of skins, of wild birds, either raw or manufactured, and not for scientific or educational purposes, is hereby prohibited; but this provision shall not apply to the feathers or plumes of ostriches or to the feathers or plumes of domestic fowls of any kind: *Provided further*, That birds of paradise, and the feathers, quills, heads, wings, tails, skins, or parts thereof, and all aigrettes, egret plumes, or so-called osprey plumes, and the feathers, quills, heads, wings, tails, skins, or parts of skins, of wild birds, either raw or manufactured, of like kind to those the importation of which is prohibited by the foregoing provisions of this paragraph, which may be found in the United States, on and after the passage of this Act, except as to such plumage or parts of birds in actual use for personal adornment, and except such plumage, birds or parts thereof imported therein for scientific or educational purposes, shall be presumed for the purpose of seizure to have been imported unlawfully after October 3, 1913, and the collector of customs shall seize the same unless the possessor thereof shall establish, to the satisfaction of the collector that the same were imported into the United States prior to October 3, 1913, or as to such plumage or parts of birds that they were plucked or derived in the United States from birds lawfully therein; and in case of seizure by the collector, he shall proceed as in case of forfeiture for violation of the customs laws, and the same shall be forfeited, unless the claimant shall, in any legal proceeding to enforce such forfeiture, other than a criminal prosecution, overcome the presumption of illegal importation and establish that the birds or articles seized, of like kind to those mentioned the importation of which is prohibited as above, were imported into the United States prior to October 3, 1913, or were plucked in the United States from birds lawfully therein. * * *" (Tariff Act of 1930, par. 1518; 19 U. S. C. 1001)

[17] "* * * *Provided*, That the importation of eggs of wild birds is prohibited, except eggs of game birds imported for propagating purposes under regulations prescribed by the Secretary of Agriculture, and specimens imported for scientific collections." (Tariff Act of 1930, par. 1671 (free list); 19 U. S. C. 1201, par. 1671)

[18] "No railroad, steamboat, express, stage, or other transportation company shall knowingly transport from one State or Territory into any other State or Territory, or from the District of Columbia into a State or Territory, or from a State or Territory into the District of Columbia, or from a foreign country into the United States, the gypsy moth, brown-tail moth, leopard moth, plum curculio, hop plant louse, boll weevil, or any of them in a live state, or other insect in a live state which is notoriously injurious to cultivated crops, including vegetables, field crops, bush fruits, orchard trees, forest trees, or shade trees; or the eggs, pupae, or larvae of any insect injurious as aforesaid, except when shipped for scientific purposes under the regulations hereinafter provided for; nor shall any person remove from one State or Territory into another State or Territory, or from a foreign country into the United States, or from a State or Territory into the District of Columbia, or from the District of Columbia into any State or Territory, except for scientific purposes under the regulations hereinafter provided for, the gypsy moth, brown-tail moth, leopard moth, plum curculio, hop plant louse, boll weevil, or any of them in a live state, or other insects in a live state which is notoriously injurious to cultivated crops, including vegetables, field crops, bush fruits, orchard trees, forest trees, or shade trees; or the eggs, pupae, or larvae of any insect injurious as aforesaid." (7 U. S. C. 141)

§ 12.32 *Honeybees.* The importation into the United States of adult honeybees, except by the Department of Agriculture for experimental or scientific purposes, is prohibited,[19] unless such importation is from a country in respect of which the Secretary of Agriculture shall determine that no diseases dangerous to adult honeybees exist therein. The importation of adult honeybees that may be lawfully imported is governed by joint regulations of the Secretary of Agriculture and the Secretary of the Treasury published in T. D. 44908. (7 CFR Part 322.) (Sec. 1, 42 Stat. 833; 7 U. S. C. 281)

TEAS

§ 12.33 *Importation of tea; regulations of Federal Security Agency; entry; examination for customs purposes.* (a) The importation of any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards prescribed by the Act of March 2, 1897, as amended (21 U. S. C. 41–50), is prohibited.[20] The provisions of that act are now enforced by regulations of the Federal Security Agency (21 CFR Part 170) to which agency the Food and Drug Administration was transferred from the Department of Agriculture by the President's Reorganization Plan No. IV (5 U. S. C. 133t note) Customs officers and employees shall perform all duties required of them by the said act and regulations.

(b) The importation of tea is subject also to the provisions of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder.

(c) All entries of tea shall be on regular forms, and the regular serial numbers for both bonds and entries shall be used.

(d) The collector may order such an examination of packages containing tea as will satisfy him that no dutiable goods are packed therein. For this purpose the customary designation shall be made of packages for examination in public stores.

(e) If the consular invoice has not been received, the importer may use an additional copy of the chop list and release permit required by the regulations of the Federal Security Agency as a pro forma invoice, marking "Pro forma invoice" across the face thereof. (R. S. 161, 251, 5 U. S. C. 22, 19 U. S. C. 66)

WHITE PHOSPHORUS MATCHES

§ 12.34 *Importation prohibited; certificate of inspection; importer's declaration.* (a) The importation into the United States of white phosphorus matches is prohibited.[21]

(b) Invoices covering matches imported into the United States shall be accompanied by a certificate of official inspection of the Government of the country of manufacture in the following form:

CERTIFICATE OF OFFICIAL INSPECTION OF MATCHES

_____

I, _____, do hereby certify
(Name)
that I am the _____, that
(Official title)
according to the chemical analysis made by me the matches described below do not contain white or yellow phosphorus and that therefore they are not white phosphorus matches as defined in the Act of Congress of the United States of America approved April 9, 1912;

Number of case and mark	Description of matches	Name and address of manufacturer	Name of consignee and address, vessel, and date of shipment

_____
(Signature)

_____
(Official title)

CONSULATE OF THE UNITED STATES

_____,
_____, 19_____

I, _____, Consul of the United States of America at _____, do hereby certify that the foregoing is the signature of _____, and that he is the officer duly authorized by the Government of _____ to make such certificate.

[SEAL] _____
United States Consul.

(c) In the absence of such certificate, the matches shall be detained until a certificate is produced or the importer submits satisfactory evidence to show that the matches were not in fact manufactured with the use of poisonous white or yellow phosphorus.

(d) The production of the above certificate shall not be required on the entry of matches manufactured in countries which prohibit the use of white or yellow phosphorus in the manufacture of matches.

(e) At the time of filing an entry for imported matches, the importer shall make a declaration that to the best of his knowledge and belief no matches included in the invoice and entry are white phosphorus matches. (46 Stat. 661, 53 Stat. 284, 285; I. R. C. secs. 2650, 2654; 19 U. S. C. 1001, 26 U. S. C. 2650, 2654)

§ 12.35 *Exportation.* (a) The exportation from the United States of white phosphorus matches is unlawful.[22]

(b) The shipper, owner, or agent of matches intended for exportation from the United States shall file with the collector at least 6 hours before such matches are laden for exportation a manifest, in duplicate, signed by the

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[19] "In order to prevent the introduction and spread of diseases dangerous to the adult honeybee, the importation into the United States of the honeybee (Apis mellifica) in its adult stage is hereby prohibited, and all adult honeybees offered for import into the United States shall be destroyed if not immediately exported: *Provided,* That such adult honeybees may be imported into the United States for experimental or scientific purposes by the United States Department of Agriculture: *And provided further,* That such adult honeybees may be imported into the United States from countries in which the Secretary of Agriculture shall determine that no diseases dangerous to adult honeybees exist, under rules and regulations prescribed by the Secretary of the Treasury and the Secretary of Agriculture." (7 U. S. C. 281)

[20] "It shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 43 of this title, and the importation of all such merchandise is prohibited. Nothing in sections 41–46, 47–50 of this title shall affect or prevent the importation into the United States, under such regulations as the Federal Security Administrator may prescribe, of any merchandise as tea which may be inferior in purity, quality, and fitness for consumption to the standards established by the Federal Security Administrator, or of any tea waste, tea siftings, or tea sweepings, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed; importers and manufacturers who import or bring into the United States such tea, tea waste, tea siftings, or tea sweepings shall give suitable bond, to be subject to the approval only of the collector of customs at the port of entry, conditioned that said imported material shall be only used for the purposes provided in sections 41–46, 47–50 of this title, under such regulations as may be prescribed by the Federal Security Administrator." (21 U. S. C. 41)

"On and after July 1, 1940, no tea, or merchandise described as tea, shall be examined for importation into the United States, or released by the Collector, under sections 41–50 of this title unless the importer or consignee of such tea or merchandise, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred weight or fraction thereof of such tea and merchandise." (21 U. S. C. Sup. I, 46a)

[21] "White phosphorus matches, manufactured wholly or in part in any foreign country, shall not be entitled to entry at any of the ports of the United States, and the importation thereof is prohibited. All matches imported into the United States shall be accompanied by such certificate of official inspection by the government of the country in which such matches were manufactured as shall satisfy the Secretary [of the Treasury] that they are not white phosphorus matches. The Secretary [of the Treasury] is authorized and directed to prescribe such regulations as may be necessary for the enforcement of the provisions of this section." (26 U. S. C. 2654)

"For the purposes of this chapter the words 'white phosphorus' shall be understood to mean the common poisonous white or yellow phosphorus used in the manufacture of matches and not to include the nonpoisonous forms or the nonpoisonous compounds of white or yellow phosphorus." (26 U. S. C. 2650)

"* * * in accordance with section 10 of 'An Act to provide for a tax upon white phosphorus matches, and for other purposes,' approved April 9, 1912, white phosphorus matches manufactured wholly or in part in any foreign country shall not be entitled to enter at any of the ports of the United States, and the importation thereof is hereby prohibited: *Provided further,* That nothing in this Act contained shall be held to repeal or modify said Act to provide for a tax upon white phosphorus matches, and for other purposes, approved April 9, 1912." (Par. 1516; Tariff Act of 1930; 19 U. S. C. 1001)

[22] "It shall be unlawful to export from the United States any white phosphorus matches. The Secretary [of the Treasury] shall have power to issue such regulations to customs officers as are necessary to the enforcement of this section." (26 U. S. C. 2655)

shipper, which shall state the date of exportation, the name of the exporting vessel, the marks and numbers of the packages, and the specific descriptions of the matches. There shall be attached to the manifest an affidavit of the shipper that no white phosphorus matches are included in the shipment.

(c) The collector may cause any matches offered for exportation to be opened and inspected. If any such matches are found to be white phosphorus matches, the collector shall detain them and report the facts to the Bureau for instructions. (53 Stat. 286; I. R. C. sec. 2655; 26 U. S. C. 2655)

NARCOTIC DRUGS

§ 12.36 *Regulations of Bureau of Narcotics.* The importation and exportation of narcotic drugs are governed by regulations of the Bureau of Narcotics (21 CFR Part 202) [23] Customs officers and employees shall perform all duties imposed upon them by such regulations and the laws under which they are issued. Such regulations are in addition to, and not in lieu of, the customs, internal-revenue, and other pertinent laws and regulations. (R. S. 161, 5 U. S. C. 22)

LIQUORS

§ 12.37 *Restricted importations.* (a) The basic permit requirements prescribed by the act of August 29, 1935 (Sec. 3, 49 Stat. 978; 27 U. S. C. 203) [24] shall not be deemed applicable when the collector is satisfied that the liquor is for personal use or sample purposes only.

(b) The production of a basic permit shall not be required when spirits are withdrawn from warehouse under any form of withdrawal entry.

(c) Blending or rectifying of wines or distilled spirits in class 6 manufacturing warehouses, or the bottling of imported distilled spirits in class 8 manipulation warehouses, shall not be permitted unless the proprietor has obtained an appropriate permit from the Alcohol Tax Unit, Bureau of Internal Revenue. (Sec. 3, 49 Stat. 978, sec. 1, 49 Stat. 1152, R. S. 251, 161, 27 U. S. C. 203, 19 U. S. C. 66, 5 U. S. C. 22)

§ 12.38 *Labeling requirements; packages.* All packages of liquor not labeled as required by 18 U. S. C. 1263 [25] shall be seized and disposed of as provided for by law (18 U. S. C. 3615) (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

UNFAIR COMPETITION

§ 12.39 *Exclusion from entry; entry under bond.* (a) No entry of merchandise with respect to which the President, under section 337, Tariff Act of 1936,[26] has found unfair methods of competition or unfair acts in the importation to exist shall be accepted. No entry of merchandise of which the President has requested the Secretary to forbid entry pending the completion of an investiga-

[23] The importation of opium in any form shipped by or consigned to Chinese subjects is absolutely prohibited. (See art. 2, treaty with China, October 5, 1881, 21 U. S. C. 191.)

[24] "(a) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

* * * * *

"(1) to engage in the business of importing into the United States distilled spirits, wine, or malt beverages; * * *

"(b) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Secretary of the Treasury—

"(1) to engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; * * *

"* * * This section shall not apply to any agency of a State or political subdivision thereof or any officer or employee of any such agency, and no such agency or officer or employee shall be required to obtain a basic permit under this chapter." (27 U. S. C. 203)

[25] "Whoever knowingly ships into any place within the United States, any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such package is so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than $1,000 or imprisoned not more than one year, or both." (18 U. S. C. 1263)

"All liquor involved in any violation of sections 1261–1265 of this title, the containers of such liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited and such property or its proceeds disposed of in accordance with the laws relating to seizures, forfeitures, and dispositions of property or proceeds, for violation of the internal-revenue laws." (18 U. S. C. 3615)

[26] "(a) *Unfair methods of competition declared unlawful.* Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are hereby declared unlawful, and when found by the President to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.

* * * * *

"(e) *Exclusion of articles from entry.* Whenever the existence of any such unfair method or act shall be established to the satisfaction of the President he shall direct that the articles concerned in such unfair methods or acts, imported by any person violating the provisions of this Act, shall be excluded from entry into the United States, and upon information of such action by the President, the Secretary of the Treasury shall, through the proper officers, refuse such entry. The decision of the President shall be conclusive.

"(f) *Entry under bond.* Whenever the President has reason to believe that any article is offered or ought to be offered for entry into the United States in violation of this section but has not information sufficient to satisfy him thereof, the Secretary of the Treasury shall, upon his request in writing, forbid entry thereof until such investigation as the President may deem necessary shall be completed; except that such articles shall be entitled to entry under bond prescribed by the Secretary of the Treasury.

"(g) *Continuance of exclusion.* Any refusal of entry under this section shall continue in effect until the President shall find and instruct the Secretary of the Treasury that the conditions which led to such refusal of entry no longer exist. * * *" (Tariff Act of 1930, sec. 337; 19 U. S. C. 1337)

tion shall be accepted unless there is presented with such entry the special bond provided for in subdivision (f) of said section 337 or unless such other condition as the President may specify has been complied with.

(b) The bond to be used in connection with the release of merchandise pursuant to such section 337 (f) of the tariff act shall be in an amount equal to the domestic value defined in section 340, Tariff Act of 1930, as ascertained by the appraising officer, and shall be conditioned upon the exportation of the merchandise if it is finally determined that such merchandise should be excluded from entry into the United States.

(c) In the event the President directs the exclusion of merchandise which has been released under bond pursuant to the authority contained in section 337 (f), Tariff Act of 1930, the collector of customs shall notify each importer concerned to export the prohibited merchandise under customs supervision unless the entry of the merchandise is permitted under license and an appropriate license is presented. In lieu of exportation, the merchandise may be destroyed under customs supervision upon receipt of a written request of the importer. Unless any such prohibited merchandise which has been released under bond is exported or destroyed under customs supervision, or an appropriate license is presented within 30 days after notice is given the importer concerned, demand shall be made upon the principal and the sureties on the bond for payment of the penal sum thereof as liquidated damages. If the conditions of any bond taken in such a case have been met, or the President determines that the entry of the merchandise did not violate the provisions of section 337 of the tariff act, the bond shall be canceled. (Secs. 337, 624, 46 Stat. 703, 759; 19 U. S. C. 1337, 1624)

NOTE: Treasury Decision 51233, May 23, 1945, 10 F. R. 6253, provides that the date of the exclusion of certain cigar lighters from entry into the United States during the life of a patent issued to Art Metal Works, Inc., of Newark, New Jersey, is extended from June 11, 1945, to June 11, 1952.

IMMORAL ARTICLES

§ 12.40 *Seizure; disposition of seized articles; reports to United States attorney.* (a) Any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, seized under section 305, Tariff Act of 1930,[27] shall be transmitted to the United

[27] "(a) *Prohibition of importation.*—All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, ad-

States attorney for his consideration and action.

(b) Upon the seizure of articles or matter prohibited entry by section 305, Tariff Act of 1930 (with the exception of the matter included in paragraph (a) of this section), a notice of the seizure of such articles or matter shall be sent to the consignee or addressee.

(c) When articles of the class covered by paragraph (b) of this section are of small value and no criminal intent is apparent, a blank assent to forfeiture and destruction of the articles seized, customs Form 4609, shall be sent with the notice of seizure. Upon receipt of the assent to forfeiture and destruction duly executed, the articles shall be destroyed and the case closed.

(d) In the case of a repeated offender or when the facts indicate that the importation was made deliberately with intent to evade the law, the facts and evidence shall be submitted to the United States attorney for consideration of prosecution of the offender as well as an action in rem under section 305 for condemnation of the articles.

(e) If the importer declines to execute an assent to forfeiture of the articles other than those mentioned in paragraph (a) of this section and fails to submit, within 30 days after being notified of his privilege so to do, a petition under section 618, Tariff Act of 1930, for the remission of the forfeiture and permission to export the seized merchandise, information concerning the seizure shall be submitted to the United States attorney in accordance with the provisions of the second paragraph of section 305 (a) Tariff Act of 1930, for the institution of condemnation proceedings.

(f) If seizure is made of books or other articles which do not contain obscene matter but contain information or advertisements relative to the prevention of conception or to means of causing abortion, the procedure outlined in paragraphs (b) (c) (d) and (e) of this section shall be followed.[23]

(g) In any case when a book is seized as being obscene and the importer declines to execute an assent to forfeiture on the ground that the book is a classic, or of recognized and established literary or scientific merit, a petition addressed to the Secretary of the Treasury with evidence to support the claim may be filed by the importer for release of the book. Mere unsupported statements or allegations will not be considered. If the ruling is favorable, release of such book shall be made only to the ultimate consignee.

(h) Whenever it clearly appears from information, instructions, advertisements enclosed with or appearing on any drug or medicine or its immediate or other container, or otherwise that such drug or medicine is intended for preventing conception or inducing abortion, such drug or medicine shall be detained or seized. The mere fact that it may be capable of contraceptive use is not conclusive on the question of intent.

(i) Contraceptive devices imported by or for a particular physician shall not be detained under the provisions of section 305, Tariff Act of 1930, if the collector of customs concerned is satisfied that the ultimate consignee is a reputable physician, and if there is filed with such collector an affidavit of the ultimate consignee stating that the devices are to be used only to protect the health of his patients.

(j) When an importer contends that he may lawfully import contraceptive articles and the collector is not satisfied that the importation is within the purview of paragraph (i) of this section, he shall be advised to file with the collector a communication addressed to the Commissioner of Customs setting forth his claims in detail to be transmitted by the collector to the Bureau together with a full report of the facts. Pending the Bureau's decision in such cases, any article consigned to the claimant and believed by the collector to be prohibited from importation shall be detained but not seized. (Sec. 305, 624, 46 Stat. 688, 759; 19 U. S. C. 1305, 1624)

§ 12.41 *Prohibited films.* (a) Importers of films shall make affidavits on customs Form 3291 that the imported films contain no obscene or immoral matter, nor any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, nor any threat to take the life or inflict bodily harm upon any person in the United States.

(b) Films exposed abroad by a foreign concern or individual shall be previewed by a qualified employee of the Customs Service before release. In case such films are imported as undeveloped negatives exposed abroad, the approximate number of feet shall be ascertained by weighing before they are allowed to be developed and printed and such film shall be previewed by a qualified employee of the Customs Service after having been developed and printed.

(c) Any objectionable film shall be detained pending instructions from the Bureau or a decision of the court as to its final disposition. (Secs. 305, 624, 46 Stat. 688, 759; 19 U. S. C. 1305, 1624)

MERCHANDISE PRODUCED BY CONVICT, FORCED, OR INDENTURED LABOR

§ 12.42 *Findings of Commissioner of Customs.* If after investigation upon complaint of American manufacturers, producers, wholesalers, or importers, representatives of American labor organizations, or other interested persons, or upon his own initiative, the Commissioner of Customs is satisfied that convict labor, forced labor, or indentured labor under penal sanctions is used in any locality in a foreign country in the mining, production, or manufacture of any class of merchandise, and, in the case of forced labor or indentured labor under penal sanctions, that the merchandise is mined, produced, or manufactured in the United States in sufficient quantities to meet the consumptive demands of the United States, he will publish, with the approval of the Secretary of the Treasury, a finding to that effect. Any merchandise of that class imported after such publication directly

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vertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the collector that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided,* That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: *Provided further* That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes.

"Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the collector to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Customs Court from the decision of the collector. Upon the seizure of such book or matter the collector shall transmit information thereof to the district attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

"In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits. (Tariff Act of 1930, sec. 305; 19 U. S. C. 1305)

"Whoever, being an officer, agent, or employee of the United States, knowingly aids or abets any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writings, advertisements, circulars, prints, pictures, or drawings containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be fined not more than $5,000 or imprisoned not more than ten years, or both." (18 U. S. C. 552)

[23] Section 305, Tariff Act of 1930, prohibits the importation of articles for the prevention of conception or causing abortion but does not prohibit the importation of articles containing information or advertisements relative thereto. Sections 1461 and 1462, title 18, United States Code, contain provisions which apply to information and advertisements on these subjects.

or indirectly from that locality shall be held to be an importation prohibited by section 307, Tariff Act of 1930,[20] unless the importer establishes by satisfactory evidence that the merchandise was not mined produced, or manufactured wholly or in part by the class of labor specified in such finding. (Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.43 *Bonding of merchandise covered by such findings.* No merchandise of a class specified in a finding published by the Commissioner under § 12.42 and imported directly or indirectly from the locality specified therein after the publication of such finding shall be admitted to entry or released from customs custody (except for exportation) unless the importer files with the collector a bond with a condition that he shall return the merchandise to customs custody within 30 days after demand of the collector if (a) the importer fails to submit to the Commissioner within 3 months from the date of entry the certificate or certificates required by § 12.44, or (b) the Commissioner decides that the merchandise was mined, produced, or manufactured, wholly or in part, by the class of labor specified in such finding. There shall be a single bond for each importation and each bond shall be in an amount equal to the estimated domestic value (as defined in section 340, Tariff Act of 1930) of the merchandise, the full amount to be paid as liquidated damages. Such bonds shall be acceptable only with a qualified corporate surety or sureties. (Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.44 *Certificates of origin.* The importer of merchandise bonded under § 12.43, or held in customs custody because of failure to file a bond under that section, shall submit to the Commissioner of Customs within 3 months from the date of entry a certificate of origin in the form set forth below, signed by the foreign seller or owner of the merchandise under oath or affirmation before an American consular officer, or, if the place where the certificate is executed is so remote from an American consulate as to render impracticable its execution before an American consular officer, under an oath or affirmation for falsity of which he would be punishable under the laws of the jurisdiction where made. If the merchandise was mined, produced, or manufactured, wholly or in part, in a country other than that from which it was exported to the United States, an additional certificate in such form so signed by the last owner or seller in such other country, substituting the facts of transportation from such other country for the statements with respect to shipment from the country of exportation, shall be so submitted.

CERTIFICATE OF ORIGIN

I, _____, foreign seller or owner of the merchandise hereinafter described, do solemnly swear (affirm) that such merchandise consisting of _____ of
(Quantity)
_____ in
(Kind)
_____, bearing the
(Number and kind of packages)
following marks and numbers _____, was mined, produced, or manufactured by _____, at or near
(Name)
_____, and was
(Location of mine, mill, or factory)
laden on board _____
(Name of vessel or initials
_____
and number of car in which transported
_____
to the United States)
at _____,
(Places actually laden)
that such vessel or car departed from _____
(Port of
_____
such departure in the country of exportation)
_____
on _____, and that _____
(Date of departure)
_____
(Class of labor specified in the finding)
was not employed in any stage of the mining, producing, or manufacturing of the merchandise, including the raw materials therein.

_____

(Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.45 *Investigation by ultimate consignee.* The ultimate consignee of merchandise bonded under § 12.43, or held in customs custody because of failure to file a bond under that section, shall make every reasonable effort to determine the source of the merchandise, including the raw materials therein, and ascertain the character of labor used in its mining, production, or manufacture, and shall submit to the Commissioner of Customs, within 3 months from the date of entry, a statement under oath setting forth his efforts, the result thereof, and his belief with respect to the use of the class of labor specified in the finding in any of the processes of mining, production, or manufacture of the merchandise. (Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.46 *Decision of Commissioner of Customs; action of collector.* If the certificate or certificates required by § 12.44 are submitted within the time prescribed and the Commissioner's decision is in favor of the admissibility of the merchandise, the collector shall cancel the bond or release the merchandise. If such certificate or certificates are not submitted within the time prescribed, or if the Commissioner's decision is against the admissibility of the merchandise, the collector, in cases where the merchandise has been released under bond, shall make demand upon the importer for return of the merchandise to customs custody. If the merchandise is not exported within 60 days from the date of return, or within 60 days from notice of the Commissioner's decision if the merchandise was held in customs custody, it shall be treated as abandoned and shall be destroyed unless the importer files a protest against the decision. (Sec. 307, 46 Stat. 689; 19 U. S. C. 1307)

§ 12.47 *Transportation in interstate and foreign commerce.* All goods, wares, and merchandise imported into the United States which appear to have been transported in violation of section 1761 or 1762, title 18, United States Code,[21] shall be detained by the customs officer concerned and the facts shall be reported to the United States attorney. If the United States attorney determines that action should be taken against the merchandise and the person or persons interested therein and so advises the collector, the merchandise shall be seized and held pending the receipt of further instructions from the United States attorney or from the court. (R. S. 161, 5 U. S. C. 22)

COUNTERFEIT COINS, OBLIGATIONS, AND OTHER SECURITIES; ILLUSTRATIONS OR REPRODUCTIONS OF COINS OR STAMPS

§ 12.48 *Importation prohibited, exceptions to prohibition of importation; procedure.* (a) In accordance with Chapter 25, Title 18, United States Code, counterfeits of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of

[20] "All goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

" 'Forced labor,' as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily." (Tariff Act of 1930, sec. 307; 19 U. S. C. 1307)

[21] "(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State." (18 U. S. C. 1761)

"(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

"(b) Whoever violates this section shall be fined not more than $1,000, and any goods, wares, or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law." (18 U. S. C. 1762)

the United States or of any foreign government; or plates, dies, or other apparatus which may be used in making any of the foregoing, when brought into the United States, shall be seized.[81]

(b) In accordance with the regulations approved by the President on February 14, 1938, as amended by regulations approved by the President on November 26, 1938, the printing, publishing, and importation, and the making and importation of the necessary plates for such printing and publishing for philatelic purposes in articles, books, journals, newspapers, and albums (including the circulars and advertising literature of legitimate dealers in stamps and publishers of and dealers in philatelic and historical articles, books, journals, and albums) of black and white illustrations of canceled and uncanceled United States postage stamps (including postage stamps impressed upon stamped envelopes and postal cards) shall be permitted, provided such illustrations are of a size less than three-quarters or more than one and one-half, in linear dimension, of each part of such stamps.

(c) Printed matter of the character described in section 489 or 504, title 18, United States Code,[82] containing illustrations of coins or medals, or reproductions of postage or revenue stamps, executed in accordance with any exception stated in section 489 or 504, or the regulations referred to in paragraph (b) of this section, as the case may be, may be admitted to entry. Printed matter containing illustrations or reproductions not executed in accordance with such exceptions shall be treated as prohibited importations. If no application for exportation or assent to forfeiture and destruction is received by the collector within 30 days from the date of notification to the importer that the articles are prohibited, the articles shall be reported to the United States attorney for forfeiture. (R. S. 161, 5 U. S. C. 22)

(R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 18 U. S. C. 1, 19 U. S. C. 1624)

MERCHANDISE SUBJECT TO QUOTA PROVISIONS

§ 12.49 *Proclamations, treaties, and agreements establishing import quotas.* The provisions of Presidential proclamations, treaties, and trade agreements[83] establishing absolute import quotas or reduced rates of duty are published in the Treasury Decisions with a description of the class or kind of merchandise to which they apply. (R. S. 161, 251, 5 U. S. C. 22, 19 U. S. C. 66)

§ 12.50 *Quota priority.* (a) Merchandise shall not be regarded as entered for purposes of quota priority until an entry therefor has been filed in proper form. A quota status will not attach to merchandise in any quota period by reason of the presentation of an entry or withdrawal in any prior period.

(b) Merchandise covered by a mail entry or other informal entry shall be regarded as presented for purposes of quota priority when all requirements have been met for the preparation of such an entry.

(c) Merchandise entered for warehousing on which the duty has been paid under a withdrawal for consumption and for which a permit of delivery has been issued prior to the effective date of a trade agreement shall not be given the benefits of any tariff rate quota under such agreement, even though the permit of delivery is not presented to the storekeeper until after the effective date of such agreement.

(d) When it is anticipated that entries covering quantities sufficient to fill a quota will be presented at the opening of the quota period, no entry for consumption or warehouse withdrawal for consumption shall be accepted before 12 noon eastern standard time[84] at any port in the Eastern Standard Time belt, 11 a. m. central standard time in the Central Standard Time belt, 10 a. m. mountain standard time in the Mountain Standard Time belt, and 9 a. m. Pacific standard time in the Pacific Standard Time belt. All importers who are present to file entries or withdrawals when the quota opens shall be given equal opportunity to do so and, if necessary, special arrangements shall be made so that all such entries may be presented at the exact moment of the opening of the quota. Consumption entries and warehouse withdrawals covering quota commodities shall be accepted only during the official office hours when the customhouse is fully staffed and open for the transaction of all customs business. All entries and withdrawals so presented in proper form shall be considered to have been presented simultaneously even though some time may be required for checking purposes.

(e) When the quota of any commodity is nearing fulfillment, any entry for such a commodity shall show the exact

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[81] Under 18 U. S. C. 489, it is unlawful to import any "business or professional card, notice, placard, token, device, print, or impression, or any other thing whatsoever, in the likeness or similitude as to design, color, or the inscription thereon of any of the coins of the United States or of any foreign country issued as money, either under the authority of the United States or under the authority of any foreign government."

Under 18 U. S. C. 474 it is unlawful to bring into the United States any "plate, stone, or other thing, * * * from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States" or any "engraving, photograph, print, or impression" in the likeness of any "obligation or other security issued under the authority of the United States," except under the direction of some proper officer of the United States.

Under 18 U. S. C. 481 it is unlawful to bring into the United States any "counterfeit plate, stone, or other thing, engraving, photograph, print, or other impressions of the notes, bonds, obligations, or other securities of any foreign government, bank, or corporation."

Uncanceled foreign or domestic postage or revenue stamps are obligations of the Government which issues them, and facsimiles or imitations thereof are subject to forfeiture.

[82] "This section shall not forbid or prevent the printing and publishing of illustrations of coins and medals or the making of the necessary plates for the same to be used in illustrating numismatic and historical books and journals and school arithmetics and the circulars of legitimate publishers and dealers in the same." (18 U. S. C. 489)

"(a) Nothing in sections 481, 492 and 502 of this title, or in any other provision of law, shall forbid or prevent the printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, for philatelic purposes in articles, books, journals, newspapers, or albums (including the circulars or advertising literature of legitimate dealers in stamps or publishers of or dealers in philatelic or historical articles, books, journals, or albums), of black and white illustrations of—

"(1) foreign revenue stamps if from plates so defaced as to indicate that the illustrations are not adapted or intended for use as stamps;

"(2) foreign postage stamps; or

"(3) such portion of the border of a stamp of the United States as may be necessary to show minor distinctive features of the stamp so illustrated, but all such illustrations shall be at least four times as large as the portion of the original United States stamp so illustrated.

"(b) Notwithstanding any other provision of law, the Secretary of the Treasury, subject to the approval of the President, may, upon finding that no hindrance to the suppression of counterfeiting and no tendency to bring into disrepute any obligation or other security of the United States will result, by regulations, permit, to the extent and under such conditions as he may deem appropriate, the printing, publishing or importation or the making or importation of the necessary plates for such printing or publishing, for philatelic purposes in articles, books, journals, newspapers, or albums (including the circulars or advertising literature of legitimate dealers in stamps or publishers of or dealers in philatelic or historical articles, books, journals, or albums), of black and white illustrations of canceled or uncanceled United States postage stamps.

"The Secretary, subject to the approval of the President, may amend or repeal such regulations at any time. Such regulations, and any amendment or repeal thereof, shall become effective upon publication thereof in the FEDERAL REGISTER or upon such date as may be specified therein if later than the date of publication.

"All findings of fact made hereunder shall be final and conclusive and shall not be subject to review." (18 U. S. C. 504)

[83] Tariff rate quotas established pursuant to trade agreements do not apply to products of a country with respect to whose products the President, pursuant to the provisions of sec. 350, Tariff Act of 1930, has suspended the tariff changes proclaimed by him in connection with such trade agreements.

[84] "Beginning at 2 o'clock antemeridian of the twentieth day after the date of enactment of this Act, the standard time of each zone established pursuant to the Act entitled 'An Act to save daylight and to provide standard time for the United States,' approved March 19, 1918, as amended, shall be advanced one hour.

"SEC. 2. This Act shall cease to be in effect six months after the termination of the present war or at such earlier date as the Congress shall by concurrent resolution designate, and at 2 o'clock antemeridian of the last Sunday in the calendar month following the calendar month during which this Act ceases to be in effect the standard time of each zone shall be returned to the mean astronomical time of the degree of longitude governing the standard time for such zone as provided in such Act of March 19, 1918, as amended." (Public Law 403, 77th Cong., approved January 20, 1942)

day, hour, and minute of official acceptance.

(f) When it is necessary to secure Bureau authorization before acceptance of entries for quota commodities, and the merchandise is the subject of an application for release under an immediate delivery permit, the time of presentation of such entries as reported to the Bureau shall not precede the time at which the importing vessel reaches the limits of the port of entry with intent to unlade the merchandise, or the importing vehicle arrives within the limits of the United States, as the case may be. (R. S. 161, 251, 48 Stat. 943, 50 Stat. 24; 5 U. S. C. 22, 19 U. S. C. 66, 1351)

§ 12.51 *Mail importation of merchandise for which an absolute quota has been established.* The following procedure is prescribed for the handling of mail importations of any merchandise for which an absolute quota has been established:

(a) In the absence of other arrangements, when the addressee is located at another port of entry, the importation, regardless of the value, shall be returned to the postmaster for dispatch to the collector of customs in care of the postmaster at the port of destination with customs Form 3511. If the importation exceeds $100 in value, notice on customs Form 3509 to make formal entry shall be sent to the addressee.

(b) If, because of quota restrictions, an entire importation cannot be released at one time, the collector of customs at the port at which such merchandise is to be entered shall so inform the addressee. An Acknowledgment of Delivery by Post Office Department shall be sent to the addressee and he shall be advised that if he desires to secure release of a portion of the merchandise the acknowledgment must be signed by him and returned to the collector of customs. The remainder of the importation, or any portion thereof, shall be released from time to time as it becomes admissible under the quota. Such Acknowledgment of Delivery by Post Office shall be in the following form:

ACKNOWLEDGMENT OF DELIVERY BY POST OFFICE DEPARTMENT

In consideration of the fact that certain articles in a mail importation consisting of _____ (state number) parcels, mailed to me by _____ (name of sender) of _____ (address), on _____ (date of mailing), are subject to quota restrictions under which only a portion of such articles may be admitted to entry at one time, and that the Post Office Department permits no division of the importation before delivery thereof, and since I am desirous of receiving a portion of such articles as they become admissible to entry from time to time under the quota administered by the United States Customs, I hereby agree and acknowledge that delivery of the parcel or parcels to the United States Customs shall be regarded as delivery by the Post Office Department to me.

_____
(Signature of Addressee)

This form may be mimeographed in the quantities needed.

(c) If, in any case, the sender of a mail article has indicated his agreement to the delivery of less than the entire importation at one time, an Acknowledgment of Delivery by Post Office Department need not be secured from the addressee.

(d) The collector may require a deposit of an amount sufficient to defray the expenses of repacking each portion of the merchandise for shipment by mail to the addressee as it becomes admissible to entry under the quota. The shipment shall be under Government frank without new postage. Unless a formal entry or entry by appraisement is required, a mail entry on customs Form 3419 or 3420 shall be issued and forwarded with the parcel to the postmaster for delivery to the addressee and collection of any duties in the same manner as for any other mail article subject to customs treatment.

(e) If formal entry or entry by appraisement is required, and the addressee is not located in the city where such entry is to be filed, the notice to the addressee shall be accompanied by appropriate entry forms for execution and return to the collector of customs.

(f) If within a reasonable time, but not to exceed 30 days, the addressee fails to indicate to the collector of customs an intention to receive delivery of the articles or a portion thereof in accordance with the notice sent to him by the collector of customs, the importation shall be treated in the same manner as other undeliverable mail.

(g) When any such articles imported in the mails, subject to classification under paragraph 1798, Tariff Act of 1930, as amended, but subject to quota restrictions, are declared in writing by a resident of the United States upon his return to this country, and a certified copy of such declaration is on file or is presented, the same procedure shall be followed, except that the articles may be released for delivery by the postmaster without the requirement of any other entry under a quota allocation obtained from the Bureau, unless duty is assessable and is to be collected at the time of delivery by mail, in which case a mail entry shall be issued. (R. S. 161, 251; 5 U. S. C. 22, 19 U. S. C. 66)

FUR-SEAL AND SEA-OTTER SKINS

AUTHORITY: §§ 12.60 to 12.63, issued under R. S. 161, 58 Stat. 100–104, 46 Stat. 759; 5 U. S. C. 22, 16 U. S. C., Sup., 631a–631r, 19 U. S. C. 1624.

§ 12.60 *Importation prohibited.* The transportation, importation, sale, or possession of the skins of fur seals or sea otters is prohibited if such skins were taken contrary to the provisions of section 2 of the act of February 26, 1944 (58 Stat. 100–104) [12] or, in the case of such skins taken under the authority of the act or any fur-seal agreement, if the skins are not officially marked and certified as required by section 2 of the act. Section 16 [13] makes the act inapplicable to skins taken for scientific purposes under a special permit.

§ 12.61 *Fur-seal or sea-otter skins permitted entry.* (a) Fur-seal or sea-otter skins taken by Indians, Aleuts, or other aborigines under the authority of section 3 of the act,[14] fur-seal skins taken under the authority of the Canadian Government, and fur-seal skins taken on the Pribilof Islands and other specified areas under the authority of section 4 of the act [15] shall be admitted to entry if

[12] "It shall be unlawful, except as hereinafter provided, for any citizen or national of the United States, or person owing duty of obedience to the laws or treaties of the United States, or any vessel of the United States, or person belonging to or on such vessel, to engage in pelagic sealing or sea otter hunting in or on the waters of the North Pacific Ocean; or for any person or vessel to engage in sealing; or for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with the operation of pelagic sealing, sea otter hunting, or sealing; or for any person to transport, import, offer for sale, or have in possession at any port, place, or on any vessel subject to the jurisdiction of the United States, raw, dressed, or dyed skins of sea otters taken contrary to the provisions of this section or, where taken pursuant to section 3 of this Act, not officially marked and certified as having been so taken, or raw, dressed, or dyed skins of fur seals taken in or on the waters of the North Pacific Ocean or on lands subject to the jurisdiction of the United States, except seal skins which have been taken under the authority of this Act or under the authority of the respective parties to any fur-seal agreement and which have been officially marked and certified as having been so taken." (Sec. 2, 58 Stat. 101)

[13] "Nothing contained in this act shall apply to the killing, capturing, pursuing, transportation, importation, offering for sale, or possession of fur seals or sea otters, or the skins thereof, for scientific purposes under special permit issued therefor by the Secretary." (Sec. 16, 58 Stat. 104)

[14] "Indians, Aleuts, or other aborigines dwelling on the American coasts of the waters of the North Pacific Ocean shall be permitted to carry on pelagic sealing or sea otter hunting without the use of firearms from canoes or undecked boats, propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way heretofore practiced by said Indians, Aleuts, or other aborigines, and shall be permitted to dispose of the skins of fur seals or sea otters so taken as they see fit, but only after such skins have been officially marked and certified as provided in section 2 of this act. The exception made in this section shall not apply to Indians, Aleuts, or other aborigines in the employment of other persons or who shall engage in pelagic sealing or sea otter hunting under contract to deliver the skins to any person." (Sec. 3, 58 Stat. 101)

[15] In order to continue the proper utilization of the fur-seal herd of the North Pacific Ocean and to carry out the purposes of this Act, the Secretary is authorized to permit sealing on the Pribilof and other islands and on the shores of waters subject to the jurisdiction of the United States, by officers and employees of the Fish and Wildlife Service designated by him and by the natives of the Territory of Alaska, and to adopt suitable regulations governing the same whenever he shall determine that such sealing is necessary or desirable and not inconsistent with preservation of the fur seals of the North Pacific Ocean. The Secretary is also authorized to permit pelagic sealing in the event of emergency circumstances by officers, employees and agents of the United States and by the natives of the Territory of Alaska under such conditions and for such periods as may be agreed upon by consultation between the Government of the United States and the Government of Canada in accordance with the provisions of article II of the Provisional Fur Seal Agreement of 1942. (Sec. 4, 58 Stat. 101)

officially marked and certified as having been lawfully taken and if accompanied by an affidavit of the shipper identifying the skins by marks and numbers as those covered by the official certificate.

(b) Fur-seal or sea-otter skins taken in waters or on land not specified in the act or in the fur-seal agreement with Canada [40] or other fur-seal agreement shall be admitted to entry upon the production of evidence satisfactory to the collector that they have been so taken.

§ 12.62 *Enforcement; duties of customs officers.* (a) In accordance with the authority contained in sections 10 and 12 [41] of the act, customs officers shall arrest or cause to be arrested persons violating the provisions of the act or of any regulation made pursuant thereto; shall search vessels when there is reasonable cause to believe that such vessels are subject to seizure under the act; shall seize any vessel used or employed or which it appears has been or is about to be used or employed in violation of the act or any regulation made pursuant thereto; and shall seize fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed by any person contrary to the provisions of the act or of any regulation made pursuant thereto.

(b) All articles, including vessels and equipment, seized by customs officers for violation of the act shall be turned over to the nearest officer or agent of the Fish and Wildlife Service, Department of the Interior, for appropriate disposition under the act, receipts to be taken in duplicate therefor. One copy of each such receipt shall be transmitted to the Bureau with a detailed report of the facts in the particular case involved.

§ 12.63 *Seal-skin or sea-otter-skin waste.* Seal-skin or sea-otter-skin waste composed of small pieces not large enough to be sewed together and utilized as dressed fur shall not be subject to the requirements of the regulations in this part.

[40] "The provisions of this Agreement shall apply to all waters of the Bering Sea and the Pacific Ocean, north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian." Art. I, Provisional Fur Seal Agreement of 1942 between the United States and Canada, E. A. S. 415, 58 Stat. 1379)

[41] "Any officer or employee of the Department of the Interior authorized by the Secretary, any naval or other officer designated by the President, any marshal or deputy marshal, any collector or deputy collector of customs, and any other person authorized by law to enforce the provisions of this act shall have power, without warrant, to arrest any person committing a violation of this act or any regulation made pursuant thereto in his presence or view, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; and shall have power, without warrant, to search any vessel within any of the territorial waters of the United States, or any vessel of the United States on the high seas, when he has reasonable cause to believe that such vessel is subject to seizure under this section. Any officer, employee, or other person authorized to enforce the provisions of this act shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this act; and shall have power with a search warrant to search any person, vessel, or place at any time. The judges of the courts established under the laws of the United States, and the United States commissioners, may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to the provisions of this act or of any regulation made pursuant thereto, and any vessel used or employed contrary to the provisions of this act or of any regulation made pursuant thereto, or which it reasonably appears has been or is about to be used or employed in or in aid of the performance of any act forbidden by the provisions of this act or of any regulation made pursuant thereto, together with its tackle, apparel, furniture, appurtenances, and cargo, may, whenever and wherever lawfully found, be seized by any such officer, employee, or other person." (Sec. 10, 58 Stat. 102)

* * * * *

"It shall be the duty of all collectors of customs to enforce the provisions of this act with respect to the importation of the skins of fur seal and sea otter." (Sec. 12, 58 Stat. 103)

PART 13—SUGARS, SIRUPS, AND MOLASSES; PETROLEUM PRODUCTS; WOOL AND HAIR

SUGARS, SIRUPS, AND MOLASSES

Sec.
13.1 Raw sugar; estimated duties; allowance for moisture.
13.2 Weighing, gauging, and sampling.
13.3 Molasses in tank cars.
13.4 Molasses not for extraction of sugar nor for human consumption.
13.5 Gauging of molasses and sirups; storage tanks.
13.6 Taring of sugar containers.
13.7 Sugar closets.
13.8 Retests of sugar, molasses, and sirup.
13.9 Mixing classes of sugar.

PETROLEUM PRODUCTS

13.10 Importation of petroleum products in bulk.

WOOL AND HAIR

13.11 Definitions.
13.12 Invoices.
13.13 Entry; affidavit of clean content; duties; sampling by importer.
13.14 Weighing, sampling, and laboratory testing for clean content.
13.15 Examination for clean content by non-laboratory method.
13.16 Grades of wool, standards, reconsideration of.

SUGARS, SIRUPS, AND MOLASSES

AUTHORITY: §§ 13.1 to 13.9, issued under R. S. 251, 46 Stat. 759; 19 U. S. C. 66, 1624.

§ 13.1 *Raw sugar; estimated duties; allowance for moisture.* (a) Estimated duties shall be taken on raw sugar on the basis of not less than 96% polariscopic test,[1] unless the invoice shows that the sugar is of a lower grade than that of the ordinary commercial shipment.

(b) Inasmuch as the absorption of sea water or moisture reduces the polariscopic test of sugar, there shall be no allowance on account of increased weight of sugar importations due to unusual absorption of sea water or other moisture while on the voyage of importation. Any portion of the cargo claimed by the importer to have absorbed sea water or moisture on the voyage of importation shall be weighed, sampled, and tested separately. No such claim shall be considered if made after the sugar claimed to have been damaged has been weighed.

§ 13.2 *Weighing, gauging, and sampling.* (a) Sugar and sugar products requiring either weighing or sampling shall be weighed or sampled at the time of unlading. When such merchandise requires both weighing and sampling, these operations shall be performed simultaneously. When dutiable sugar is to be imported in bulk, a full description of the facilities to be used in unlading the sugar shall be submitted to the Bureau as far as possible in advance of the date of importation, and special instructions will be issued as to the methods to be applied in weighing and sampling such sugar.

(b) All dutiable raw sugar shall be weighed without regard to mark. All such sugar in bags shall be conveyed to scales in drafts of uniform size or of a uniform number of bags. Trucks and slings, if weighed, shall be maintained at a uniform weight so that the tare may be accurately established.

(c) In order to permit the taking of a representative general sample, the packages shall be so placed in unlading that the sampler can readily obtain a sample from any package.

(d) No expense incidental to the unlading, transporting, handling, sorting, or arranging of sugar or molasses for convenient weighing, gauging, measuring, sampling, or marking shall be borne by the Government.

(e) Sugar transported from the place of original discharge before samples have been taken shall not be removed from the transporting conveyance until notice of the time of the proposed removal has been given by the inspector to the examiner or sampler in charge.

§ 13.3 *Molasses in tank cars.* When molasses is imported in tank cars, the importer shall file with the collector an affidavit showing whether there is any substantial difference either in the total sugars [2] or the character of the molasses in the different cars.

§ 13.4 *Molasses not for extraction of sugar nor for human consumption.* Pursuant to paragraph 502, Tariff Act of 1930,[3] molasses not imported to be commercially used for the extraction of sugar or for human consumption may be released upon the deposit of estimated duties at the rate specified therefor, upon compliance with the following conditions:

(a) There shall be filed in connection with the entry an affidavit of the importer that the molasses is not to be used

[1] The expression "testing by the polariscope * * * sugar degrees" occurring in the tariff act is construed to mean the percentage of sucrose contained in the sugar as shown by direct polarimetric estimation.

[2] The expression "total sugars," occurring in the tariff act, is construed to mean the sum of the sucrose (clerget), the raffinose, and the reducing sugars.

[3] "* * * Molasses not imported to be commercially used for the extraction of sugar or for human consumption, three one-hundredths of 1 cent per pound of total sugars." (Tariff Act of 1930, par. 502; 19 U. S. C. 1001.)

commercially for the extraction of sugar or for human consumption.[4]

(b) If the molasses is entered for consumption, there shall also be filed in connection with the entry a bond on customs Form 7551 or 7553, with an added condition for the payment of the increased duty in the event the molasses is used contrary to the statements made in the above-mentioned affidavit. Liquidation of the entry shall be suspended pending proof of use or other disposition of the merchandise.

(c) If the molasses is entered for warehouse, the regular warehouse entry bond, customs Form 7555, shall be given and withdrawals shall be made on customs Form 7505. Estimated duty shall be deposited at the time of withdrawal and the liquidation of the warehouse entry shall be suspended pending proof of use or other disposition of the merchandise.

(d) Within 3 years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit an affidavit of the superintendent or manager of the manufacturing plant stating the use to which the molasses has been put. If the collector is satisfied that the molasses has not been used in a manufacturing plant but was sold as molasses to the ultimate user, he may accept as proof of the nature of such use an affidavit of the wholesaler or other person making the final sale of the product. Such affidavit shall state the quantity sold and the purpose for which the seller understood the purchase to be made. All affidavits as to use provided for in this paragraph shall identify the molasses with the related customs entry, shall show the number of gallons and the sugar content of the molasses used, and shall state affirmatively the particular use, or alternative uses, each of which is a use other than for human consumption or for the extraction of sugar. If the molasses has not been used in the United States, evidence of exportation or destruction satisfactory to the collector shall be furnished. Affidavits as to use and affidavits or other documents showing exportation or destruction shall be filed in duplicate and one copy shall be forwarded to the comptroller of customs.

(e) Upon satisfactory proof of use of the molasses for purposes other than for the extraction of sugar or for human consumption or of the exportation or destruction thereof, the entry may be liquidated at the rate of three one-hundredths of 1 cent per pound of total sugars. When such proof of use or other disposition of the molasses is not made within 3 years from the date of the entry, or the use shown does not warrant the classification claimed, the entry shall be liquidated at the higher rate applicable under the first clause of paragraph 502 Tariff Act of 1930.

(f) Entries covering blackstrap molasses, as hereinafter defined, may be accepted and liquidated with duty at the rate of three one-hundredths of 1 cent per pound of total sugars after the filing of the affidavit prescribed in paragraph (a) of this section without compliance with the special requirements of paragraph (b), (c) (d), or (e) of this section. For the purposes of the regulations in this part, blackstrap molasses is defined as "final" molasses practically free from sugar crystals, containing not over 58 percent total sugars and having a ratio of

$$\frac{\text{total sugars} \times 100}{\text{Brix}}$$

not in excess of 71. In the event of doubt, an ash determination may be made. An ash content of not less than 7 percent indicates a blackstrap molasses within the meaning of the regulations in this part.

§ 13.5 *Gauging of molasses and sirups; storage tanks.* (a) When molasses or sirup is imported in bulk in tank vessels and is to be pumped or discharged into storage tanks, before the discharging is permitted there shall be filed in the customhouse a certified copy of the plans and gauge table of the storage tank showing all inlets and outlets and stating accurately the capacity in United States gallons per inch of height of the tank from an indicated starting point.

(b) After the discharge is completed, all inlets to the tank shall be carefully sealed and the molasses or sirups left undisturbed for a period not to exceed 20 days to allow for settling before being gauged. When a request for immediate gauging is made in writing by the importer, it shall be allowed by the collector.

§ 13.6 *Taring of sugar containers.* (a) In general, there shall be allowed a schedule tare of 2½ pounds per bag for sugar imported in standard bags. When sugar is in other containers, actual tare should be taken. When the collector has reason to doubt the applicability of the schedule tare, he shall verify such schedule tare by taking actual tare. A sugar bag having an area of 1,392 square inches when laid flat (29 inches in width by 48 inches in length) shall be the standard sugar bag for tare purposes. When the area of sugar bags varies by more than 2 percent from the standard area of 1,392 square inches, or the bag is not of the usual textile, the schedule tare shall be increased or diminished in proportion to the amount the area or the weight of the bag varies from that of the standard bag. When the bags bearing any mark differ in size, the tare allowed shall be based upon the average dimensions of the entire number of bags bearing such mark.

(b) If the importer files a written application representing that there is an excessive number of damaged bags in a given importation, giving the approximate percentage of the damaged and sound bags and requesting that actual tare be taken, the collector, if satisfied that the facts are as stated, shall determine the actual tare on the importation. Whenever the actual tare determined on any importation differs from the schedule tare by not more than 5 percent, the schedule tare shall be allowed on such importation. In the event that the actual tare differs from the schedule tare by more than 5 percent, the actual tare shall be the accepted tare.

§ 13.7 *Sugar closets.* Sugar closets for samples shall be substantially built and secured by locks furnished by the Bureau. They shall be conveniently located as near as possible to the points of discharge they are intended to serve. They shall be provided by the owner of the premises on which they are located and shall be so situated that sugar, sirup, and molasses stored therein shall not be subjected to extremes of temperature or humidity.

§ 13.8 *Retests of sugar, molasses, and sirup.* (a) When the test of the sugar has been determined, the appraiser shall immediately notify the importer on customs Form 6463 of the average test of the importation and also the quantity and test of each lot from which such average test is obtained. If the importer, within 2 official days after such notice has been sent to him by the appraiser, claims an error in the test so reported and requests a retest, such retest may be granted if, on evidence furnished, such claim shall appear to the appraiser to be well founded. Before granting a retest, the appraiser shall require the importer to furnish the settlement tests of the sugar in question, together with any information the appraiser may deem desirable relating to the samples and polarizations used in the settlement tests. In no instance shall a retest be granted when the difference between the appraiser's average test and the settlement test is less than 0.4° S.

(b) In case of retest, the polariscopic test shall be reported on the basis of the average of the test and the retest, unless it can be shown to the satisfaction of the appraiser that either the test or the retest is in error, in which event the test not in error shall be taken as the basis of the report.

(c) In the case of molasses and sirup, a retest shall be granted by the appraiser only when the information in his possession indicates a strong probability of an error. In general, the rules governing the granting of a retest shall be those given above, with the exception that the difference between the appraiser's test and the settlement test shall be shown to be not less than 2 percent total sugars.

§ 13.9 *Mixing classes of sugar.* No regulations relative to the weighing, taring, sampling, classifying, and testing of imported sugar shall be so construed as to permit mixing together sugar of different classes, such as centrifugal, beet, molasses, or any sugar different in character from those mentioned, for the pur-

[4] For the purpose of the regulations in this part, the phrase "molasses not imported to be commercially used for the extraction of sugar, or for human consumption" is construed to include, in addition to molasses used in animal feed and other products not for human consumption, molasses utilized in the production of articles such as yeast, vinegar, alcohol, rum gin, or whisky, in such manner that fermentation or other chemical change alters its character and chemical composition so that molasses or sugar does not appear in the final product. The phrase does not include molasses used for the extraction of sugar or used either in its condition as imported or after undergoing purifying or blending processes, or both, for table purposes or as a sweetening, coloring, or flavoring agent in the production of articles for human consumption.

pose of weighing, taring, sampling, or testing.

PETROLEUM PRODUCTS

§ 13.10 *Importation of petroleum products in bulk.* (a) When petroleum products taxable under I. R. C. section 3422, are imported in bulk in tank vessels and are to be pumped or discharged into storage tanks, the plans of each tank showing all outlets and inlets and the gauge table for each tank showing its capacity in United States gallons per inch or fraction of an inch of height shall be filed at the customhouse. Such plans and tables shall be certified as correct by the proprietor of the tank. An inspector gauger shall verify the measurements and calibrations shown on the gauge table. One set of such plans and gauge tables thus certified and verified shall be kept on file at the plant of the oil company and shall be available at all times to customs officers. Another verified and certified set shall be filed in the customhouse for use in verifying the inspector's reports. The collector may require such additional sets of plans and gauge tables as he may deem necessary.

(b) On entry for a petroleum product in bulk, the importer shall show the specific gravity at 60°/60° Fahrenheit, or the group to which the product belongs, in accordance with National Bureau of Standards Circular C 410, as amended. This information shall also be shown on the permit and summary sheet. If the exact quantity cannot be determined in advance, entry may be made for "_____ United States gallons, more or less."

(c) Tanks for the storage of imported petroleum products in bulk may be bonded as warehouses of class 2 if to be used exclusively for the storage of petroleum products belonging or consigned to the proprietor or lessee of the tank. In addition to the documents and bonds required to be filed with the application, the certified plans and gauge tables mentioned above shall be filed.

(d) If a bonded tank is not empty at the time the first importation of bonded petroleum products is to be stored therein, the amount of "free" petroleum products in the tank shall be withdrawn by the proprietor as soon as possible. The request to withdraw shall be in the form of a letter and no formal withdrawal need be filed. "Free" or duty-paid petroleum products shall not thereafter be stored in the tank as long as the tank remains bonded.

(e) Warehouse withdrawals of petroleum products from bonded tanks shall show the specific gravity at 60°/60° Fahrenheit, or the group to which the product belongs, and the designation of the tank from which it is to be withdrawn. Such withdrawals may be made for "_____ United States gallons, more or less."

(f) Allowance for excessive moisture, or other impurities may be made in accordance with § 15.7 of this chapter, if it be established that the quantity of water in the importation is excessive and that the noncombustible elements are impurities not usually found in such merchandise. (53 Stat. 414, 416; I. R. C. 3420, 3422, 3431, R. S. 251, 19 U. S. C. 66, 26 U. S. C. 3420, 3422, 3431)

WOOL AND HAIR

AUTHORITY: §§ 13.11 to 13.16 issued under pars. 1101–1104: sec. 1, 46 Stat. 646, 647, sec. 33 (a), 52 Stat. 1090; 19 U. S. C. 1001.

§ 13.11 *Definitions.* (a) For the purposes of §§ 13.11 to 13.16:

(1) The words "clean content" shall mean all that portion of the wool or hair which consists exclusively of wool or hair free of all vegetable and other foreign material, containing 12 percent by weight of moisture and 1½ percent by weight of material removable from the wool or hair by extraction with alcohol, and having an ash content not exceeding one-half of 1 percent by weight.

(2) The words "percentage clean content" shall mean the clean content, as defined above, expressed as a percentage of the net weight of the wool.

(3) The word "owner" means an actual owner whose declaration has been filed as provided for in section 485 (d) Tariff Act of 1930.

(4) The word "transferee" means a person who has acquired the right to withdraw merchandise in accordance with section 557 (b) Tariff Act of 1930, as amended.

(b) The words "clean yield" in paragraph 1101 (c) (2) Tariff Act of 1930, as amended, shall mean the clean content of the wool or hair.[5]

§ 13.12 *Invoices.* Invoices of wool or hair provided for in paragraph 1101 or 1102 of the Tariff Act of 1930, as amended, shall show the following detailed information in addition to other information required:

(a) Condition, that is, whether in the grease, washed, pulled, on the skin, scoured, carbonized, burr-picked, willowed, handshaken, or beaten;

(b) Whether free of vegetable matter, practically free, slightly burry, medium burry, heavy burry;

(c) Whether in the fleece, skirted, matchings, or sorted;

(d) Length, that is, whether super combing, ordinary combing, clothing, or filling;

(e) Country of origin, and, if possible, the province, section, or locality of production;

(f) If wool, the type symbol by which it is bought and sold in the country of origin and the grade of each lot covered by the invoice, specifying the standard or basis used, that is, whether United States Official Standards or the commercial term to designate grade in the country of shipment;

(g) Net weight of each lot of wool or hair covered by the invoice in the condition in which it is shipped, and the shipper's estimate of the clean content of each such lot by weight or by percentage.

§ 13.13 *Entry; affidavit of clean content; duties; sampling by importer* (a) Each entry covering wool or hair subject to duty under paragraph 1101 or 1102, Tariff Act of 1930, as amended,[6] shall show as to each lot of wool or hair cov-

[5] "For the purpose of this schedule:

"(1) Wools and hair in the grease shall be considered such as are in their natural condition as shorn from the animal, and not cleansed otherwise than by shaking, willowing, or burr-picking;

"(2) Washed wools and hair shall be considered such as have been washed, with water only, on the animal's back or on the skin, and all wool and hair, not scoured, with a higher clean yield than 77 per centum shall be considered as washed;

"(3) Scoured wools and hair shall be considered such as have been otherwise cleansed (not including shaking, willowing, burr-picking, or carbonizing);

"(4) Sorted wools or hair, or matchings, shall be wools and hair (other than skirtings) wherein the identity of individual fleeces has been destroyed, except that skirted fleeces shall not be considered sorted wools or hair, or matchings, unless the backs have been removed; * * *" (Tariff Act of 1930, par. 1101 (c), as amended; 19 U. S. C. 1001, par. 1101 (c))

[6] "(a) Wools: Donskoi, Smyrna, Cordova, Valparaiso, Ecuadorean, Syrian, Aleppo, Georgian, Turkestan, Arabian, Bagdad, Persian, Sistan, East Indian, Thibetan, Chinese, Manchurian, Mongolian, Egyptian, Sudan, Cyprus, Sardinian, Pyrenean, Oporto, Iceland, Scotch Blackface, Black Spanish, Kerry, Haslock, and Welsh Mountain; similar wools without merino or English blood; all other wools of whatever blood or origin not finer than 40s; and hair of the camel; all the foregoing, in the grease or washed, 24 cents per pound of clean content; scoured, 27 cents per pound of clean content; on the skin, 22 cents per pound of clean content; sorted, or matchings, if not scoured, 25 cents per pound of clean content: *Provided*, That a tolerance of not more than 10 per centum of wools not finer than 44s may be allowed in each bale or package of wools imported as not finer than 40s. * * *" (Tariff Act of 1930, par. 1101 (a), as amended; 19 U. S. C. 1001, par. 1101 (a))

"(a) Wools, not specially provided for, not finer than 44s, in the grease or washed, 29 cents per pound of clean content; scoured, 32 cents per pound of clean content; on the skin, 27 cents per pound of clean content; sorted, or matchings, if not scoured, 30 cents per pound of clean content: *Provided*, That a tolerance of not more than 10 per centum of wools not finer than 46s may be allowed in each bale or package of wools imported as not finer than 44s.

"(b) Wools, not specially provided for, and hair of the Angora goat, Cashmere goat, alpaca, and other like animals, in the grease or washed, 34 cents per pound of clean content; scoured, 37 cents per pound of clean content; on the skin, 32 cents per pound of clean content; sorted, or matchings, if not scoured, 35 cents per pound of clean content." (Tariff Act of 1930, par. 1102; 19 U. S. C. 1001, par. 1102)

"If any bale or package contains wools, hairs, wool wastes, or wool waste material, subject to different rates of duty, the highest rate applicable to any part shall apply to the entire contents of such bale or package, except as provided in paragraphs 1101 and 1102." (Tariff Act of 1930, par. 1103; 19 U. S. C. 1001, par. 1103)

"The Secretary of the Treasury is hereby authorized and directed to prescribe methods and regulations for carrying out the provisions of this schedule relating to the duties on wool and hair. The Secretary of the Treasury is further authorized and directed to procure from the Secretary of Agriculture, and deposit in such customhouses and other places in the United States or elsewhere, as he may designate, sets of the Official Standards of the United States for grades of wool. He is further authorized to display, in the customhouses of the United States, or elsewhere, numbered, but not otherwise identifiable, samples of imported wool and hair, to which are attached data as to clean content and other pertinent facts, for the information of the trade and of customs officers." (Tariff Act of 1930, par. 1104; 19 U. S. C. 1001, par. 1104)

ered thereby, in addition to other information required, the total estimated or actual net weight of the wool or hair in its condition as imported, its total estimated clean content in pounds, and the estimated percentage clean content. Two copies of each entry covering wool or hair classifiable under paragraph 1101, as amended, or paragraph 1102 shall be filed in addition to the copies otherwise required.

(b) Duties on wool or hair classifiable under paragraph 1101, as amended, or paragraph 1102 may be estimated at the time of entry on the basis of the clean content shown on the entry if the collector is satisfied that the revenue will be properly protected. Liquidated duties shall be determined on the basis of the appraiser's final report of clean content. Estimated and liquidated duties on wool or hair tested for clean content pursuant to the provisions of § 13.14, and withdrawn for consumption without a change in condition which affects the duties and in a quantity less than an entire sampling unit as defined in § 13.14 (a) (1) shall be determined on the basis of an appropriate adjustment of the estimated percentage clean content shown on the entry for the wool or hair included in each of the lots covered by the withdrawal. This adjustment shall be made by increasing or decreasing such estimated percentage clean content of each lot by the difference between the percentage clean content of the related sampling unit, as reported by the appraiser, and the weighted average percentage clean content for the sampling unit, as computed from the estimated percentages clean content and net weights shown on the entry for the lots included in the sampling unit.

(c) Pursuant to the authority vested in the collector and the appraiser by sections 509 and 510, Tariff Act of 1930, either officer may require, in connection with any or all lots of wool or hair included in the importation, that the owner or his representative file in duplicate a properly and fully executed affidavit on customs Form 6449 after opportunity is given to inspect the importation. If in his judgment it will aid in a more accurate determination of the amount of duty, the appraiser or the collector shall direct the importer to furnish such additional information and documents pertaining to the lot or lots as may be necessary. The release of the wool or hair may be withheld until the affidavit and any other required information are received by the officer who directed its production.

(d) The importer of record, the owner, or the transferee, as the case may be, may be permitted after entry to draw samples under customs supervision in reasonable quantities from the packages of wool or hair designated for examination, provided the bales or bags are properly repacked and repaired by such person. Any samples so withdrawn shall be weighed and a record showing the quantities thereof shall be made and filed with the related entry.

(e) Duty shall be assessed and collected on samples taken pursuant to the provisions of paragraph (d) of this section or §§ 13.14, 13.15, or 13.16, unless an exemption or remission is obtained by compliance with an applicable provision of the law or regulations. The duty shall be assessed upon the samples in accordance with their condition at the time of importation, except as provided for in section 562, Tariff Act of 1930, as amended. The collection of duty on the samples may be postponed when the importation concerned is not entered for consumption until the withdrawal of the merchandise from which the samples are taken, or until an application for the destruction or abandonment of such merchandise has been accepted pursuant to an appropriate provision of the law or regulations.

§ 13.14 *Weighing, sampling, and laboratory testing for clean content.* (a) When used in this section, the terms:

(1) "Sampling unit" means all the similar packages covered by one entry or withdrawal containing wool or hair of the same kind or same general condition and character, produced in the same country, packed in substantially the same manner, and entered as or found to be subject to the same rate of duty.

(2) "General sample" means the composite of the individual portions of wool or hair drawn from a sampling unit.

(b) The following shall be weighed, sampled, and tested for clean content, as prescribed in this section, unless such sampling or testing is not feasible: (1) All importations of wool or hair classifiable under the provisions of paragraph 1102, Tariff Act of 1930, except importations entered directly for manipulation under the provisions of section 562, Tariff Act of 1930, as amended, or for manufacture under the provisions of section 311, Tariff Act of 1930; (2) all imported wool or hair manipulated under the provisions of such section 562 and classifiable after manipulation under the provisions of such paragraph 1102; and (3) such other imported wool or hair as the collector may designate. When an original sampling unit has been weighed, sampled, and tested in accordance with this section and a part of such unit is covered by a transfer made pursuant to section 557 (b), Tariff Act of 1930, as amended, the percentages clean content of the part covered by the transfer and of the part not so covered shall be computed on the basis of the original customs weights and test, and the invoice data related to the respective parts. When part of such an original sampling unit is exported from continuous customs custody without having been manipulated as provided for in section 562, Tariff Act of 1930, as amended, the percentage clean content of the part not exported shall be determined, in the discretion of the collector of customs, either on the basis of a new determination by reweighing, resampling, and retesting, or by a computation as described in the preceding sentence, for either the exported or the remaining part.

(c) A general sample shall be taken from each sampling unit, unless it is not feasible to obtain a representative general sample of the wool or hair in a sampling unit or to test such a sample in accordance with the provisions of this section, in which case the clean content of the wool or hair in such sampling unit shall be estimated as provided for in § 13.15. At the request of the importer of record, the owner, or the transferee, as the case may be, two general samples may be taken from a sampling unit if the taking and testing of a second general sample is feasible. If two general samples are taken, one general sample shall be held for use in making a second test to determine the clean content of the wool or hair if such a test is requested in accordance with the provisions of paragraph (e) of this section, or if a second test is found desirable by the appraiser or the chief chemist.

(d) The clean content of all general samples taken in accordance with this section shall be determined by test in a customs laboratory, unless it is found that it is not feasible to test such a sample and obtain a proper finding of percentage clean content. A report of the percentage clean content of each general sample as established by the test or a statement of the reason for not testing a general sample shall be forwarded to the appraiser. If the report is not received by the appraiser within 1 month after the date of entry, the clean content of the wool or hair shall be estimated as provided for in § 13.15 except that in the case of wool or hair received under an entry for immediate transportation, an estimate of clean content, as provided for in § 13.15 shall be made if the laboratory report of clean content is not received by the appraiser within 1 month from the date on which the last of the merchandise is received. However, the appraiser may withhold his finding of clean content until the laboratory report is received and predicate his finding on that report if so requested in writing by the importer of record, the owner, or the transferee, as the case may be. An estimate of clean content shall be made pursuant to the provisions of this paragraph only when an adequate quantity of the wool or hair is available for examination.

(e) The appraiser shall promptly notify the importer of record, the owner, or the transferee, as the case may be, by mail of the percentage clean content found by him. If such person is dissatisfied with the appraiser's finding, he may file with the appraiser a written request in duplicate for another laboratory test for percentage clean content. Such request shall be filed within 14 calendar days after the date of mailing of the notice of the appraiser's finding of clean content and shall be supported by an affidavit in duplicate on customs Form 6449 when such an affidavit has not been filed previously. The request shall be granted if it appears to the appraiser to be made in good faith and if a second general sample, as provided for in paragraph (c) of this section is available for testing, or if all packages, or, in the opinion of the Bureau, an adequate number of the packages, represented by the general sample are available and in their original imported condition. The second test shall be made upon the second general sample, if such a sample is available. If the second general sample

is not available, the packages shall be reweighed, resampled, and tested in accordance with the provisions of this section. All costs and expenses of such operations, exclusive of the compensation of customs officers, shall be borne by the person who requested the further test. Such person may be present during such resampling and testing. If he is dissatisfied with the results of the second laboratory test, or if a second laboratory test is not feasible, the wool or hair may be retested subject to the conditions and in the manner provided for in § 13.15 (c)

§ 13.15 *Examination for clean content by nonlaboratory method.* (a) Importations of wool or hair classified under the provisions of paragraph 1101 or 1102, Tariff Act of 1930, as amended, including all imported wool or hair withdrawn for consumption after being manipulated under the provisions of section 562, Tariff Act of 1930, as amended, and classified under the provisions of paragraph 1101, as amended, or paragraph 1102 after such manipulation, when not tested under the provisions of § 13.14, shall be examined by the appropriate customs officer, who shall estimate and report the percentage clean content of each lot.

(b) The appraiser shall promptly notify the importer of record, the owner, or the transferee, as the case may be, by mail of the percentage clean content estimated by the appropriate customs officer. If such person is dissatisfied with the estimate and, within the time and under the conditions prescribed in § 13.14 (e) files a request for a new examination of the wool or hair and a reestimation of its percentage clean content, such request shall be granted, provided the request appears to the appraiser to be made in good faith. The aforementioned importer, owner, or transferee shall be given an opportunity to inspect those of the packages which are in dispute.

(c) If the person who requested reestimation of the percentage clean content is dissatisfied with such reestimation, he may, within 14 calendar days after the date of mailing of the notice of the appraiser's findings upon reexamination, file a written request that a test be made to determine the percentage clean content of the wool or hair. The appraiser shall then cause a representative quantity of the wool or hair in dispute to be selected and tested by a commercial method approved by the Bureau. The yield, as determined by such commercial test, shall be suitably adjusted to coincide with the definition of clean content in § 13.11 (a) Such test shall be made under the supervision and direction of the appraiser at an establishment approved by him, and the expense thereof, including the actual expense of travel and subsistence of customs officers but not their compensation, shall be paid by the person who requested the test.

(d) If the appraiser is not satisfied with the resuults of any test provided for in § 13.14 (e) or in paragraph (c) of this section, he may, within 14 calendar days after receiving the report of the results of such test, proceed to have another test made upon a suitable sample of the wool or hair at the expense of the Government. When the appraiser is proceeding to have another test made, he shall, within the 14-day period provided for in this paragraph, notify the importer of record, owner, or transferee, as the case may be, by mail of that fact. The appraiser shall base his final report of clean content upon a consideration of all of the test and examinations made in connection with the wool or hair concerned.

§ 13.16 *Grades of wool, standards, reconsideration of* The appraiser shall cause wool provided for in paragraph 1101 or 1102 of the Tariff Act of 1930, as amended, to be examined for grade.[1] If classification of the wool at the grade or grades determined on the basis of this examination will result in the assessment of duty at a rate higher than the rate provided for wool of the grade or grades stated in the entry, the appraiser shall promptly notify, by mail, the importer of record, the owner, or the transferee, as the case may be. If such importer of record, owner, or transferee is dissatisfied with the appraiser's findings as to the grade or grades of the wool, he may, within 14 calendar days after the date of mailing of the notice of the appraiser's findings, file in duplicate a written request for another determination of grade or grades, stating the reason for the request. Notice of the appraiser's findings on the basis of the reexamination of the wool shall be mailed to the person who requested the reexamination.

PART 14—APPRAISEMENT

Sec.

14.1 Order of appraisement; designation of packages for examination.
14.2 Examination of merchandise; procedure.
14.3 Appraisement of merchandise; determination of value.
14.4 Furnishing information as to values.
14.5 Coal-tar products.
14.6 Marking of containers and coverings of coal-tar products.

PROCEDURE UNDER ANTIDUMPING ACT

14.7 Findings of dumping by the Secretary.
14.8 Action by appraiser; appearance of importer; affidavits and bond required.
14.15 Conversion of currencies.
14.16 Release of merchandise of which appraisement is withheld.
14.17 Investigation by Commissioner as to injury to domestic industry.

§ 14.1 *Order of appraisement; designation of packages for examination.* (a) Customs Form 6417 with the invoice attached shall be deemed the order of appraisement required by section 488, Tariff Act of 1930.[2]

(b) Not less than 1 package of every 10 packages of merchandise shall be designated by the collector to be examined for the purpose of appraisement, unless a special regulation permits a less number of packages to be examined.[3] In the case of merchandise hereinafter named or described, collectors are hereby specially authorized to designate for examination a less number of packages than 1 package of every 10 packages, but not less than 1 packages of every invoice, if such merchandise is (1) imported in packages the contents and values of which are uniform, or (2) imported in packages the contents of which are identical as to character although differing as to quantity and value per package:

Abrasives, natural and artificial, in grains, or ground, pulverized, refined, or manufactured.
Acids of all kinds.
Acorns, crude, or ground or otherwise prepared.
Agar-agar (Japanese isinglass).
Agate, crude.
Albumen of all kinds.
Alloys containing lead.
Almond meal and flour.
Aluminum, and aluminum alloys in the forms provided for in paragraph 374, Tariff Act of 1930.
Anchors of iron or steel.
Antimonial lead.
Anvils, iron or steel, of all kinds.
Argols.
Arrowroot, crude or manufactured, and arrowroot starch and flour.
Artificial flowers.
Asbestos provided for in paragraph 1616, Tariff Act of 1930.
Ashes, wood or beet-root.
Asphaltum.
Automobiles.
Bagging for cotton.
Bags, jute burlap.
Ball bearings.
Balls (except billiard, pool, and tennis), used in exercise, sports, or for the amusement of children.
Balsams, natural and uncompounded.
Bamboo blinds.
Bamboo hats.
Bamboo screens.
Barrels, beer, wooden.
Barrels, steel.
Baskets provided for in paragraph 411, Tariff Act of 1930.
Bauxite.
Beans, cocoa or cacao.
Beans, tonka.
Beans, vanilla.
Bentonite, unwrought and unmanufactured.
Beverages, malt, bottled.

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[1] "The Official Standards of the United States for grades of wool as established by the Secretary of Agriculture on June 18, 1926, pursuant to law, shall be the standards for determining the grade of wools." (Tariff Act of 1930, par. 1101 (c) (5), as amended, 19 U. S. C. 1001, par. 1101 (c) (5))

[2] "The collector within whose district any merchandise is entered shall cause such merchandise to be appraised." Tariff Act of 1930, sec. 488; 19 U. S. C. 1488)

[3] "* * * The collector shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise and shall order such packages or quantities to be sent to the public stores or other places for such purpose. Not less than one package of every ten packages of merchandise shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise, permit a less number of packages to be examined. All such special regulations or instructions shall be published in the weekly Treasury Decisions within fifteen days after issuance and before the liquidation of any entries affected thereby. The collector or the appraiser may require such additional packages or quantities as either of them may deem necessary. * * *" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

Bicycles.
Bitters.
Bitumen.
Blades, saw.
Blocks, cork for life preservers.
Blocks, wood, suitable for the articles into which they are intended to be converted.
Board or mat, stereotype matrix.
Books, slate.
Bottle caps.
Bottles, glass siphon.
Bottles and vials provided for in paragraph 217, Tariff Act of 1930.
Boxes, tin, common.
Boxes, wooden.
Braids, straw.
Briarwood, in blocks suitable for the articles into which they are intended to be converted.
Bricks of all kinds.
Bristle, crude, not sorted, bunched, or prepared.
Bristles, sorted, bunched or prepared.
Brooms.
Brushes, toilet and tooth.
Brushes, wholly or partly manufactured for any electrical machine or appliances.
Bulbs, electric-light, incandescent, without filament, or with filaments of any kind.
Bulbs of all kinds for horticultural purposes.
Butter and butter substitutes.
Butter, cacao.
Cable, Manila, provided for in paragraph 1005, Tariff Act of 1930.
Camphor, natural and synthetic.
Candles.
Capers.
Carbons for producing electric arc light.
Carboys, glass.
Cardboard provided for in paragraph 1402, Tariff Act of 1930.
Casein.
Cash registers.
Casings sausage.
Cassia, unground buds and nuts.
Castings, iron.
Cellophane in sheets.
Celluloid in sheets.
Cement, hydraulic, gypsum, and cement clinker.
Cement, linoleum.
Cement, Portland, Calderwood's, and Roman.
Cereal breakfast foods.
Chairs.
Chalk or whiting, in the forms provided for in paragraph 20, Tariff Act of 1930.
Cheese and substitutes therefor.
Chemical compounds.
Chicory, crude, or ground or otherwise prepared.
Chinaware.
Chocolate, in bars.
Christmas trees, artificial.
Christmas tree decorations of all kinds.
Chrom-X.
Cigars, Philippine.
Cigarettes, Philippine.
Clays.
Cloth, cotton.
Cloth, Hessian.
Cloth, tracing.
Clothespins.
Coal-tar products, creosotes.
Coal-tar products, creosols.
Coal-tar products, cresylic acids.
Coal-tar products, distillates.
Coal-tar products, dyes.
Coal-tar products, intermediates.
Cocoa, prepared.
Coconut meat, shredded and desiccated.
Coffee, coffee essences, and coffee substitutes.
Confectionery provided for in paragraph 506, Tariff Act of 1930.
Containers, candy, of all kinds.
Copper, bars.
Copper, rolls.
Copper, sheets.
Copper, tubes.
Coral, marine, uncut or unmanufactured.
Cord, seagrass.
Cordage provided for in paragraph 1005, Tariff Act of 1930.
Cork, ground or waste.
Cork stoppers.
Cork wood or cork bark, unmanufactured.
Cotton linters.
Cotton, raw.
Covers, bottle, straw.
Cracklings.
Crystal, rock, rough or uncut.
Currants.
Cuttlefish bone.
Cyanides, and cyanide salts and mixtures, provided for in paragraph 1607, Tariff Act of 1930.
Dextrine.
Dolls.
Drums, iron or steel, empty.
Earthenware.
Earths.
Eggs, poultry, in the shell, or dried, frozen, or prepared or preserved.
Electrodes, carbon.
Embroidered articles from the Philippine Islands for which a certificate of Philippine origin has been furnished.
Enameled ware.
Envelopes.
Erasers, rubber and soap.
Excelsior.
Fans, common palm leaf, plain and not ornamented in any manner.
Fasteners, snap, whether or not mounted on tape.
Fats, animal and fish.
Favors, party.
Feathers, otherwise than on the skin, suitable for use in bedding.
Feeds, byproducts, obtained in milling cereal grains.
Feldspar, crude.
Felt bodies, hoods, forms and shapes, black, for wool felt hats, bonnets, caps, berets, and similar articles.
Felt, deadening.
Felt, roofing.
Felt, sheathing.
Fertilizers.
Fibers, vegetable (except cotton).
Files, metal.
Filter masse or filter stock, provided for in paragraph 1403, Tariff Act of 1930.
Filter paper.
Fish, fresh or frozen, dried, in brine, or prepared or preserved in any manner.
Flax, hackled and unhackled.
Flax noils, straw, tow and waste.
Floor coverings (including carpets, carpeting, mats, matting and rugs)
Cocoa fiber.
Cotton or other vegetable fiber.
Felt-base, provided for in paragraph 1021, Tariff Act of 1930.
Straw.
Flour, tapioca.
Flour, wheat.
Flour, wood.
Flowers, Pyrethrum.
Fluorspar.
Flycatcher ribbons, paper.
Footwear, rubber-soled.
Footwear, sisal.
Fruits in their natural state, or in brine, dried, pickled, desiccated, evaporated, or otherwise prepared or preserved.
Furniture, rattan and seagrass.
Games, checkers or draughts.
Games, chess.
Games, dice.
Gelatine, edible and inedible.
Ginger root, preserved.
Glass, crown.
Glass, cylinder.
Glass, laminated.
Glass, plate.
Glass, rolled.
Glass, sheet.
Glassware.
Gloves, leather.
Glue and glue stock.
Glycerine, crude or refined.
Grains, cereal.
Graphite, crude or refined.
Grasses, textile, provided for in paragraph 1634, Tariff Act of 1930.
Greases, animal and fish.
Gums and resins, natural and synthetic.
Gum, chewing.
Gut, cat, whip and oriental.
Gypsum, crude, ground or calcined.
Hair, animal, whether or not cleaned or drawn, unmanufactured.
Hair, horse, for violin bows.
Harmonicas.
Hatbraids of all kinds.
Hat (harvest) bodies.
Hats, harvest.
Hats, rayon.
Hats, straw.
Hemp, hackled and waste.
Hides not specially provided for in Tariff Act of 1930.
Honey.
Hoods, racelle.
Hops.
Horseshoes.
Hose and half hose, of cotton or other vegetable fiber, rayon or other synthetic textile, silk, or wool.
Hose, flexible, metal.
Hose, suitable for conducting liquids, or gases wholly or in chief value of vegetable fiber.
Iodine, crude or resublimed.
Iridium.
Iron, bars.
Iron, pig.
Iron, rods.
Iron, sand.
Iron, sheets.
Iron, sponge.
Jellies, jams, and marmalades.
Juices, fruit.
Jute burlap fabrics from Scotland.
Jute, butts.
Jute, cuttings.
Jute, rope.
Jute, waste.
Kapok, not dressed or manufactured.
Lactarene.
Lard and lard substitutes.
Laths, wood.
Leather articles provided for in paragraph 1531, Tariff Act of 1930.
Leeches.
Life preservers.
Lime (mineral).
Linoleum.
Lodestones.
Macaroni.
Machines, sewing.
Matches of all kinds.
Mats of chip.
Meal, fish.
Meatchoppers.
Meat extracts.
Meats of all kinds, fresh, frozen, dried, prepared or preserved in any manner.
Menthol.
Metal, scrap.
Mica splittings.
Mica, waste and scrap.
Milk, condensed.
Milk, dried, whole.
Milk, evaporated.
Milk, skimmed, dried.
Milk, skimmed, fresh or sour.
Milk, whole, fresh or sour.
Moss, peat.
Motorcycles.
Mushrooms, fresh or dried, or otherwise prepared or preserved.
Nails, iron or steel, of all kinds.
Naphthalene.
Netting, wire, poultry.
Nickel in any of the forms provided for in paragraph 389, Tariff Act of 1930.
Nolls, vegetable fiber.
Noodles.
Nutgalls or gall nuts.
Nuts, edible of all kinds.
Nuts, ivory.
Oakum.
Oil cake and oil-cake meal, vegetable.
Oilcloth, floor.
Oils, distilled or essential.

Oils, mineral, vegetable, animal, or fish.
Oleo stearine.
Olives of all kinds.
Pads, beer.
Paints of all kinds.
Paper board.
Paper, cigarette, in all forms.
Paper, drawing.
Paper, kraft wrapping.
Paper, printing.
Paper, roofing and sheathing.
Paper, sensitized or unsensitized, for use in photography.
Paper, standard newsprint.
Paper stock.
Parasols.
Parchment.
Pastes, alimentary, similar to macaroni, vermicelli, or noodles.
Peat.
Pebble, Brazilian, unwrought or unmanufactured.
Peel, fruit, crude, or prepared in any manner.
Pencils, slate, not in wood.
Perfumery.
Petroleum and distillates thereof.
Pickets, wood.
Pigments of all kinds.
Pipe, cast iron.
Plants of all kinds for horticultural purposes.
Plumbago, crude or refined.
Poles, bamboo, in rough.
Poles, wood.
Posts, wood.
Poultry, prepared or preserved.
Plywood.
Products, laminated, of which any synthetic resin or resinlike substance is the chief binding agent, in sheets.
Pulp board.
Pulp, wood.
Pulpwood.
Pumice stone, unmanufactured.
Pyrites in their natural state.
Quicksilver.
Quinine sulphate.
Rags of all kinds, except wiping rags.
Rakes, bamboo.
Rattan in the rough.
Rayon yarn and fibers.
Reeds wrought or manufactured from rattan or reeds, in whatever form.
Rennet, raw or prepared.
Ribbons, fly-catcher.
Rice, provided for in paragraphs 727 and 1752, Tariff Act of 1930.
Riser-X.
Rope, hard fiber.
Rottenstone, crude or manufactured.
Rubber, India, crude, refuse or scrap.
Saddlery and harnessware.
Saffron, not specially provided for in Tariff Act of 1930.
Salt (sodium chloride).
Sauces of all kinds.
Saws, except jewelers'
Sawdust.
Scales, fish.
Scoops, metal.
Seaweed, including kelp.
Seeds of all kinds (except flax and castor).
Separators, cream.
Settees.
Sheets, willow, provided for in paragraph 1504, Tariff Act of 1930.
Shellac.
Shellfish, fresh or frozen, dried, in brine, or preserved in any manner.
Shells, sea, in their natural state.
Shells, tortoise.
Shingles, of wood.
Shoes, leather, of all kinds.
Shooks.
Silk, raw, and waste.
Sil-X.
Sirup, flavoring (at the ports of Laredo, Texas, and Brownsville, Texas, only).
Skins, calf, rough-tanned.
Skins, fish, raw or salted.
Skins, fur, undressed, except silver fox, black fox, and fur sealskins, beaver.
Skins, goat and sheep, India-tanned.
Skins, sheep.
Slate and slates.
Snails, live.
Soap of all kinds.
Sounds, fish.
Spaghetti.
Spices and herbs, not drugs.
Spikes, of iron or steel.
Sponges, loofah.
Sponges, marine.
Staples, provided for in paragraph 331, Tariff Act of 1930.
Starches, provided for in paragraph 83 or 84, Tariff Act of 1930.
Staves, wood, and stave bolts.
Steel, bands.
Steel, bars.
Steel, hoops.
Steel ingots.
Steel, railway.
Steel, rods.
Steel, sashes.
Steel, scrap.
Steel, sheets.
Steel, structural.
Steel, tires.
Steel, tubes.
Sticks, bamboo, in the rough.
Sticks, dyers'
Stoneware, chemical.
Strawboard.
Straws, drinking.
Sirup, maple.
Sugar, maple.
Tables.
Talc in any of the forms provided for in paragraph 209, Tariff Act of 1930.
Tallow, vegetable.
Tankage.
Tapioca.
Tara (dyeing and tanning material).
Tea (in packages of 5 pounds or more, each).
Ties, railroad.
Tiles and tiling, provided for in paragraph 202 (a), Tariff Act of 1930.
Tin alloy.
Tin, blocks.
Tin, plates.
Tin, scrap.
Tinplate.
Tires, automobile, motorcycle, and bicycle.
Tobacco, filler, stemmed.
Tobacco, scrap.
Tobacco, stemmed leaf.
Tobacco, unstemmed leaf.
Tools, garden and agricultural hand, provided for in paragraph 373, Tariff Act of 1930.
Toys.
Truffles, fresh or dried, or otherwise prepared or preserved.
Turpentine, spirits of.
Twine, binding.
Typewriters.
Valves, automobile engine.
Vegetables in their natural state, or dried, canned, or otherwise prepared or preserved (except mushrooms).
Vegetable substances, crude, not specially provided for in the Tariff Act of 1930.
Vellum.
Veneers, wood.
Vermicelli.
Vinegar.
Wall paper.
Waste, cotton, not manufactured or otherwise advanced in value.
Waste, fur.
Waste, ramie.
Waste, rope.
Waste, thread, of vegetable fiber.
Water, mineral.
Wax, animal, vegetable, or mineral.
Whalebone, unmanufactured.
Wheels, automobile.
Whetstones.
Willow, prepared for basketmakers' use.
Wines and liquors.
Wire, metal (except gold, platinum, silver or tinsel).
Wool, in the grease or washed or scoured, including wool on skins.
Wool, mineral.
Wool, rock.
Wool, tops, noils, flocks and waste.
Yarn, coir.
Yeast.
Yolks, egg, dried, frozen, or prepared or preserved.
Zinc, in sheets.

NOTE: Treasury Decision 51544, Commissioner, approved by the Acting Secretary of the Treasury, Oct. 1, 1946, 11 F. R. 11355, permits and authorizes the examination of a less number of packages than 1 package of every 10 packages, but not less than 1 package of every invoice, of merchandise covered by entries filed at the port of New York, New York, on or before September 30, 1946, but not released from customs custody before the close of business on that date. This special instruction shall not be construed to preclude the examination of packages in addition to the minimum number hereby permitted to be examined if the collector or the appraiser shall deem it necessary that a greater number of packages be examined.

The provisions of Treasury Decision 51544 were extended to apply to merchandise covered by entries filed at the port of New York between October 1, 1946, and October 14, 1946, both inclusive, but not released from customs custody before the close of business on the latter date, by Treasury Decision 51558, Acting Commissioner, approved by the Acting Secretary of the Treasury, Nov. 5, 1946, 11 F. R. 13208.

Treasury Decision 51578, Acting Commissioner, approved by the Acting Secretary of the Treasury, Dec. 3, 1946, 11 F. R. 14177, permits and authorizes the examination of a less number of packages than 1 package of every 10 packages, but not less than 1 package of every invoice, of merchandise covered by entries filed at the port of San Francisco, California, between October 1, 1946, and November 12, 1946, both inclusive, but not released from customs custody before the close of business on the latter date. This special instruction shall not be construed to preclude the examination of packages in addition to the minimum number hereby permitted to be examined if the collector or the appraiser shall deem it necessary that a greater number of packages be examined.

(c) This section shall not be construed to preclude the examination of packages in addition to the minimum number hereby permitted to be examined if the collector or the appraiser shall deem it necessary that a greater number of packages be examined. (Sec. 488, 46 Stat. 725, sec. 499, 46 Stat. 728, secs. 15, 16 (a) 52 Stat. 1084, sec. 624, 46 Stat. 759; 19 U. S. C. 1488, 1499, 1624)

§ 14.2 *Examination of merchandise; procedure.* (a) The appraiser shall cause to be examined all merchandise designated by the collector and such additional quantities, packages, or parts thereof as he may deem necessary.[3]

[3] "It shall be the duty of the appraiser under such rules and regulations as the Secretary of the Treasury may prescribe—

"(1) To appraise the merchandise in the unit of quantity in which the merchandise is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement of cost or cost of production in

Such merchandise shall be examined at the public stores, except as hereinafter provided for. With the consent of the appraiser, merchandise which cannot conveniently be examined at the public stores may be examined on the wharf, at the importer's premises, or at any other suitable place. Matches and other inflammable, explosive, or dangerous articles shall be examined at the importer's premises or other suitable place, but not at the public stores.

(b) When, upon the request of the importer, merchandise is examined elsewhere than at the public stores, or at a place other than a port of entry or a customs station at which a customs officer is permanently located, any additional expense, including actual expenses of travel and subsistence but not the salary of the examining officer, shall be paid by the importer, except that no collection need be made if the total amount chargeable against one importer for one day amounts to 30 cents or less.

(c) Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place in charge of a customs officer, the collector shall require the importer to execute a bond on customs Form 7551, 7553, or other appropriate form, containing a condition for the return of the merchandise if demand for return is made after its release from customs custody upon the completion of final examination for purposes of appraisement. The bond shall contain added conditions that the importer shall hold the merchandise at the place to which it has been removed for examination until it has been released from customs custody that, if such merchandise has been corded and sealed, the cords and seals shall be kept intact until removed by customs officers; and that the importer shall transfer the merchandise at any time before such release to such place as the collector may direct.

(d) Except as prescribed in paragraph (f) of this section, the packages shall be corded and sealed by a customs officer before being removed from the place of unlading and a caution notice, customs Form 6037, shall be securely affixed thereto. The transfer to the place of examination shall be by a bonded cartman. The packages shall be opened only in the presence of a customs officer authorized to examine their contents, and the opening and closing of the packages shall be done by labor furnished by the importer.

(e) Merchandise entered free of duty and found to be dutiable on examination elsewhere than at the public stores shall be immediately recorded and resealed by a customs officer and, unless the estimated duties are promptly deposited, the collector may order the merchandise transferred to such place as he may direct, there to be held in the same manner as other dutiable merchandise pending final action.

(f) Upon application by the importer or owner, machinery, altars, shrines, and other articles which must be set up or assembled prior to examination may be examined and appraised at the mill, factory, or other suitable place after being set up or assembled. In such cases the filing of a bond on customs Form 7551, 7553, or other appropriate form and the deposit of the estimated additional expense shall be required. The packages need not be corded and sealed, but the appraiser shall make such preliminary examination as may be necessary to identify the merchandise with the invoice. After the bond has been filed and the preliminary examination has been made, the collector may permit the merchandise to be removed to the place at which it is to be set up or assembled for examination. Within 90 days after such removal, unless an extension has been applied for and granted by the collector or appraiser, the importer shall notify the collector or appraiser that the machinery or other articles have been set up or assembled and are ready for examination, whereupon final examination shall be made and the appraisement completed.

(g) Samples of merchandise may be used for purposes of examination and appraisement when such merchandise is commonly bought and sold by sample. Representative samples shall be selected by a customs sampler or other authorized customs officer from the merchandise or packages designated by the collector for examination, and shall be properly marked to insure identification and retained as long as the appraiser shall deem necessary.

(h) If the appraiser requires samples from packages not designated for examination, he shall request the importer, on customs Form 6525, to submit them and execute the oath on the reverse side of customs Form 6525.

(i) Tobacco examination districts and, in the case of each district, the tobacco examiner who shall have general supervision of the examination of all Cuban leaf tobacco imported in such district, are hereby designated as follows:

District No. 1. To include all the ports in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, and South Carolina, the District of Columbia, and the Island of Puerto Rico. The tobacco examiner stationed at the port of New York.

District No. 2. To include all the ports in the States of Florida, Georgia, Alabama, Mississippi, Louisiana, and Texas. The tobacco examiner stationed at the port of Tampa.

District No. 3. To include all the ports in the States of Ohio, Kentucky, Tennessee, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, and Colorado. The tobacco examiner stationed at the port of Chicago.

District No. 4. To include all the ports in the States of Washington, Oregon, California, Idaho, Nevada, Arizona, New Mexico, and Utah. The tobacco examiner stationed at the port of San Francisco.

(Sec. 488, 46 Stat. 725, sec. 499, 46 Stat. 728, secs. 15, 16 (a) 52 Stat. 1084, sec. 624, 46 Stat. 759; 19 U. S. C. 1488, 1499, 1624)

§ 14.3 *Appraisement of merchandise; determination of value.* (a) The value of imported merchandise for appraisement purposes shall be determined in accordance with the provisions of section 402, Tariff Act of 1930, as amended.[4]

any invoice, affidavit, declaration, or other document to the contrary notwithstanding;

"(2) To ascertain the number of yards, parcels, or quantities of the merchandise ordered or designated for examination;

"(3) To ascertain whether the merchandise has been truly and correctly invoiced;

"(4) To describe the merchandise in order that the collector may determine the dutiable classification thereof; and

"(5) To report his decisions to the collector." (Tariff Act of 1930, sec. 500 (a); 19 U. S. C. 1500 (a))

"* * * If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the collector, * * *" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[4] "(a) BASIS. For the purposes of this Act the value of imported merchandise shall be—

"(1) The foreign value or the export value, whichever is higher;

"(2) If the appraiser determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value;

"(3) If the appraiser determines that neither the foreign value, the export value, nor the United States value can be satisfactorily ascertained, then the cost of production;

"(4) In the case of an article with respect to which there is in effect under section 336 a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article.

* * * * *

"(c) *Foreign value.* The foreign value of imported merchandise shall be the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale for home consumption to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, including the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

"(d) *Export value.* The export value of imported merchandise shall be the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

"(e) *United States value.* The United States value of imported merchandise shall be the price at which such or similar imported merchandise is freely offered for sale, for domestic consumption packed ready for delivery, in the principal market of the United States to all purchasers, at the time of ex-

(b) The time of exportation referred to in section 402 of the tariff act is the date on which the merchandise actually leaves the country of exportation for the United States.[5] However, if the merchandise is not exported directly by water and no positive evidence is at hand as to the date of exportation, the date of the invoice certification shall be considered the date of exportation, unless the invoice appears to have been certified after the date the merchandise actually left the country of exportation, in which case the date shown as the date the invoice was prepared shall be taken, unless it also appears to be later than the actual date of exportation. In the absence of a certified invoice, or if the date of exportation cannot be ascertained from the certified invoice, the date of the commercial invoice shall be taken unless it appears to be dated after the actual date of exportation. If a commercial invoice covers several individual bills of different dates, the latest of such dates, unless it appears to be later than the actual date of export, shall be taken. In the case of indirect shipments exported from one country through another, if the invoice is post certified and post dated, the date of the bill of lading may be used in the absence of other evidence if the bill of lading was issued in the country of exportation. A bill of lading showing the date of shipment shall be accepted as evidence of the date of exportation, if such bill of lading has been certified in accordance with the provisions of section 2904, Revised Statutes. (19 U. S. C. 240)

(c) The appraiser shall determine the amount and dutiability of any costs, charges, and expenses which are incident to making the merchandise ready for shipment to this country within the meaning of section 402, Tariff Act of 1930, as amended.[6]

(d) Merchandise imported from one country,[7] being the growth, production, or manufacture of another country, shall be appraised at its value in the principal markets of the country from which it is immediately imported unless it appears by the invoice, bill of lading, or other evidence that the merchandise was destined for the United States at the time of original shipment, in which case it shall be appraised at its value in the principal markets of the country from which it was originally exported.

(e) When merchandise subject to an ad valorem rate of duty has decreased in weight by reason of evaporation or otherwise, and the value of the unit of quantity has correspondingly increased, such advance shall not be deemed an advance in value for the purpose of assessing additional duty.

(f) The report of the appraiser as to value shall not be reconsidered or modified by him after the appraised invoice and report of appraisement has been lodged with the collector, but within 60 days thereafter an appeal for reappraisement may be filed by the collector if he believes the appraisement is incorrect.[8]

(g) If an importer is dissatisfied with the value which an examiner contemplates reporting for merchandise imported by him, and one of more appeals for reappraisement shall be promptly filed by him or by another importer which will present all the issues in controversy for judicial determination, the appraisement of other merchandise in which the same issues are involved may be withheld at the request of the importer if all the following conditions are satisfied:

(1) The entered value, or amended entered value, shall not be less than the value which the examiner believes to be correct.

(2) In the case of merchandise which has been entered or withdrawn for consumption, the full amount of duty estimated to be due on the basis of the value believed by the examiner to be correct shall be deposited.

(3) All the issues in controversy in connection with each withheld appraisement shall be such as are likely to be disposed of by the test case or cases.

(4) All the merchandise subject to withheld appraisement shall be entered before a reference to the related test case or cases is available for citation in a duress certificate which may be filed under section 503 (b) Tariff Act of 1930.

(h) The withholding of appraisement shall not be continued if at any time there is any lack of diligence in preparing and prosecuting the related test case or cases, or if the proposal to prosecute a test case is abandoned.

(i) If the final decision of the court does not sustain the views of the examiner, the importer shall be permitted to amend the entered values to agree with the final appraised values in the test case or cases, provided such amendment can be accepted under the provisions of section 487, Tariff Act of 1930. (See § 8.16 of this chapter) (Sec. 402, 46 Stat. 708, sec. 8, 52 Stat. 1081, secs. 488, 500, 624, 46 Stat. 725, 729, 759; 19 U. S. C. 1402, 1488, 1500, 1624)

(j) Instructions for appraisement of merchandise in cases involving the con-

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portation of the imported merchandise, in the usual wholesale quantities and in the ordinary course of trade, with allowance made for duty, cost of transportation and insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission not exceeding 6 per centum, if any had been paid or contracted to be paid on goods secured otherwise than by purchase, or profits not to exceed 8 per centum and a reasonable allowance for general expenses, not to exceed 8 per centum on purchased goods.

"(f) *Cost of production.* For the purpose of this title the cost of production of imported merchandise shall be the sum of—

"(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing such or similar merchandise, at a time preceding the date of exportation of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

"(2) The usual general expenses (not less than 10 per centum of such cost) in the case of such or similar merchandise;

"(3) The cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

"(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2) of this subdivision) equal to the profit which ordinarily is added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the production or manufacture of merchandise of the same class or kind.

"(g) *American selling price.* The American selling price of any article manufactured or produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for delivery, at which such article is freely offered for sale for domestic consumption to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities in such market, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article." (Tariff Act of 1930, sec. 402, as amended; 19 U. S. C. 1402)

[5] If the merchandise is shipped directly by water from the country of export, the date of the sailing of the vessel is the date of exportation. Since the act of exportation is not complete until the merchandise finally leaves the jurisdiction of the exporting country, if a vessel with merchandise on board sails from two or more ports, or more than once from the same port, of the exporting country, whether or not stopping on the intervening voyage at a port of another jurisdiction, or if the merchandise is transshipped in another jurisdiction and subsequently reenters the jurisdiction of the exporting country on another vessel, or if the merchandise is transshipped to another vessel in the same jurisdiction, the date the vessel on which the merchandise finally leaves the exporting country sails from the last port thereof is the date of exportation. When the merchandise is shipped from an interior country through the ports of another country or from a country contiguous to the United States, the date of exportation is the date on which the merchandise crosses the border of the country of exportation and passes beyond the control of the government of such country. These provisions apply also to merchandise shipped directly by air.

[6] Dutiable charges are such costs and other expenses as are incidental to placing the merchandise in condition, packed ready for shipment to the United States. Such charges must represent the actual cost and be confined solely to merchandise exported to the United States. Any expenses which enter into the value of the merchandise when sold in the ordinary course of trade for domestic consumption in the country of exportation are not charges but become a part of the value of the merchandise.

Nondutiable charges are such items of cost and expense as constitute no part of the value of the merchandise when sold in the ordinary course of trade in the country of exportation, and are no part of the expense of placing it in condition, packed ready for shipment to the United States.

[7] The term "country" is to be regarded for the purposes of this section as embracing all the possessions of a nation, however widely separated, which are subject to the same supreme executive and legislative authority and control.

[8] See Tariff Act of 1930, sec. 501, as amended (19 U. S. C. 1501), relating to appeals for reappraisement by collector or importer.

version of foreign currencies for which two or more rates of exchange have been certified by the Federal Reserve Bank of New York are contained in the Treasury decisions listed in § 16.4 (c) of this chapter.

§ 14.4 *Furnishing information as to values.* The appraiser, in his discretion, may furnish to importers the latest information as to values in his possession, subject to the following conditions:

(a) Information shall be given only in response to a specific request therefor by an importer, and in no circumstances shall be volunteered by a customs employee.

(b) Information shall be given only in regard to merchandise to be entered at his port, and after its arrival, or upon satisfactory evidence that it has been exported and is en route to the United States.

(c) The request for information shall be in writing, in duplicate, and in such form as the appraiser may prescribe. The information shall be given only if the appraiser is satisfied that the importer is unable to obtain proper information as to market value on the date of exportation due to unusual conditions, and shall be given with the understanding and agreement that the information is in no sense an appraisement or binding upon the appraiser's action on appraisement. Information will be supplied by appraising officers only when the importer presents the invoices and all papers, documents, or other information in his possession or available to him relative to the value of the merchandise. In addition to such other information as the appraiser may ask for, the importer shall specifically state in his request whether new orders have been placed or new quotations received and, if so, the price of the merchandise and the dates of the orders shall be given or the quotations cited, as the case may be.

(d) The privilege of securing information from the appraiser before the invoice or the merchandise has come under his observation for the purpose of appraisement is predicated on cooperation by the importer. When the appraiser suspects that the importer is withholding information in his possession, or that the importer has not exercised due diligence to obtain the information requested, or otherwise questions the importer's good faith, he shall, prior to furnishing any information, request the importer to call at his office for questioning. If, after such questioning and such other investigation as he deems necessary, the appraiser is still not satisfied as to the importer's good faith, he shall refuse to give any information to such importer.

(e) Upon receipt of a request for information, the examiner shall give the latest information in his possession effective on the date of exportation or, in the absence of information as to values on or about the date of exportation of the shipment, shall advise the importer to that effect. The original of the request, showing the information furnished and bearing the approval of the appraiser or such other officer as he may designate for that purpose, shall be retained in the appraiser's files for consideration by the examiner when examining the merchandise. The duplicate shall be given to the importer.

(f) When the appraiser does not have the information requested and the importer so desires, the appraiser may refer the request to the Customs Information Exchange for advice.

(g) When an applicant has made a request for information as to the value of certain merchandise and the appraiser has been unable to furnish such information at the time of the request and is withholding appraisement on such merchandise, it shall not be necessary for the applicant to present requests for the same information in connection with subsequent entries. However, the applicant shall furnish the appraiser with all information respecting the value of such merchandise which he may receive subsequent to the filing of the application.

(h) A separate notice of withheld appraisement on customs Form 6523 shall be issued for each invoice as soon as it is determined that appraisement will not be made within the usual period by reason of a pending or proposed investigation relating to value, except that no notice of withheld appraisement shall be issued if:

(1) The entered value, or the amended entered value, is high enough to cover the estimated maximum value that may be reported by the appraiser;

(2) The merchandise is unconditionally free of duty or subject only to a specific rate of duty not depending on value; or

(3) The merchandise has been entered under a warehouse entry.

A copy of the notice shall be sent to the importer who shall present it to the entry division of the collector's office for release of the merchandise. If proper, the entry division shall execute the release on the form and return it to the importer as his authority for release of the merchandise from the appraiser's stores. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

§ 14.5 *Coal-tar products.* (a) Prior to entry an importer shall be permitted to take samples under proper supervision from his own importation of articles dutiable under paragraph 27 or 28, Tariff Act of 1930.

(b) When an importer seeks information from the appraising officer prior to entry or formal entry is withheld for the importer's convenience as provided for in paragraph (e) of this section, the importer shall furnish to the appraising officer such relevant information as he may request.

(c) Importers may be furnished information as to the American selling price or United States value of coal-tar products upon compliance with the provisions of § 14.4.

(d) The appraiser at New York shall from time to time issue lists of coal-tar products which he believes to be competitive and noncompetitive within the contemplation of subparagraphs (c) and (d) of paragraph 27 or 28 of the tariff act,[9] and add articles thereto or remove articles therefrom as investigation shall justify. This list is advisory only and in no manner relieves appraising officers from the duty of independent appraisement required by law. The appraiser shall furnish copies of such lists and amendments thereof to the Customs Information Exchange for circulation among other appraising officers and the public upon request.

(e) The appraiser at New York, upon application of an importer having an invoice of an article not named on either the competitive or the noncompetitive list, shall proceed immediately to ascertain to which list the article belongs and, upon such ascertainment shall add the article to such list. The importer may withhold formal entry pending addition of the article to either list. The appraiser shall inform the importer of his action.

(f) When an imported article is of different strength from a similar competitive article manufactured or produced in the United States, the value of the imported article shall be adjusted in relation to the selling price of the domestic article in the proportion which the strength of the imported article bears to that of the domestic article.[10]

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[9] "(c) The ad valorem rates provided in this paragraph shall be based upon the American selling price (as defined in subdivision (g) of section 402, Title IV), of any similar competitive article manufactured or produced in the United States. If there is no similar competitive article manufactured or produced in the United States then the ad valorem shall be based upon the United States value, as defined in subdivision (e) of section 402, Title IV.

"(d) For the purposes of this paragraph any coal-tar product provided for in this Act shall be considered similar to or competitive with any imported coal-tar product which accomplishes results substantially equal to those accomplished by the domestic product when used in substantially the same manner." (Tariff Act of 1930, par. 27 (c), (d) and par. 28 (c), (d); 19 U. S. C. 1001, par 27 (c), (d) and par. 28 (c), (d))

[10] "(e) The specific duties provided for in this paragraph on colors, dyes, or strain, whether soluble or not in water, color acids, color bases, color lakes, lacus compounds, indoxyl, and indoxyl compounds, shall be based on standards of strength which shall be established by the Secretary of the Treasury, and upon all importations of such articles which exceed such standards of strength the specific duty shall be computed on the weight which the article would have if it were diluted to the standard strength, but in no case shall any such articles of whatever strength be subject to a less specific duty than that provided in subparagraph (a) or (b), as the case may be. * * *

"(h) In the enforcement of the foregoing provisions of this paragraph the Secretary of the Treasury shall adopt a standard of strength for each dye or other article which shall conform as nearly as practicable to the commercial strength in ordinary use in the United States prior to July 1, 1914. If a dye or other article has been introduced into commercial use since said date then the standard of strength for such dye or other article shall conform as nearly as practicable to the commercial strength in ordinary use. If a dye or other article was or is ordinarily used in more than one commercial strength, then the lowest commercial strength

(g) When an article is a similar competitive article,[11] the value of such article shall be that portion of the American selling price of the domestic article freely offered for sale which bears the same ratio to such price as the value of the domestic article not freely offered for sale has to the value of the article in the manufacture of which it is used.

(h) When the appraising officer shall be satisfied after investigation that a similar competitive domestic article is offered for sale at an arbitrary and unreasonable price not intended to secure bona fide sales and which does not secure bona fide sales, such price shall not be considered as the American selling price, and such officer shall use all reasonable ways and means to ascertain the price that the manufacturer, producer, or owner would have received, within the meaning of section 402 (g) Tariff Act of 1930, as amended.

(i) Where two or more domestic articles are considered similar to and competitive with an imported article, the American selling price of the domestic article which accomplishes results most nearly equal to those of the imported article shall be taken as the basis for the assessment of the ad valorem rate.[12]

(j) In the ascertainment of United States value, the allowances permitted under section 402 (e) Tariff Act of 1930, as amended, shall be made on the basis of the amounts of the factors enumerated therein which actually entered into the price at which such or similar imported merchandise was being sold in the principal market of the United States at the time of exportation, subject to the limitations as to profits, general expenses, or commission.

(k) Tests which are necessary in the appraisement of an imported coal-tar product shall be made under conditions approximating as closely as practicable the conditions in which the articles will be actually used in trade or manufacture.

(l) When a coal-tar product not previously imported is found to be noncompetitive and no United States value can be ascertained, the article shall be appraised in accordance with section 402 (a), Tariff Act of 1930.

(m) Standards of strength for coal-tar products adopted by the Secretary of the Treasury will be published from time to time and such standards heretofore adopted and published shall continue in force until changed or revoked.[13]

(Pars. 27, 28: sec. 1, 46 Stat. 592, 594, sec. 402, 46 Stat. 708, sec. 8, 52 Stat. 1081, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1402, 1624)

§ 14.6 *Marking of containers and coverings of coal-tar products.* Containers of coal-tar products enumerated in paragraph 28 (f) and (g) Tariff Act of 1930,[14] shall be marked plainly and conspicuously with a descriptive statement which discloses the following particulars:

(a) Trade name of the article and manufacturer's name.

(b) Percentage of color, dye, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound contained therein, exclusive of diluents.

(c) Schultz number, Color Index number, or U. S. Standard number, if any. If none, the chemical classification of the dye (whether azo, anthraquinone, sulphur, etc.) and the method of application (whether acid, basic, direct, etc., with after treatment, if any) together with a statement of the chemical composition of the intermediates from which the finished dye is made.

(d) In the absence of a Schultz number, Color Index number, or U. S. Standard number of a dye consisting of a mixture of two or more dyes, the information required by paragraphs (a) (b) and (c) of this paragraph (except the method of application) for each component dye in the mixture shall be given, together with the method of application of the mixture. (Par. 28: sec. 1, 46 Stat. 594, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1624)

PROCEDURE UNDER ANTIDUMPING ACT

§ 14.7 *Findings of dumping by the Secretary.* (a) Findings of the Secretary of the Treasury made in accordance with the provisions of section 201 (a) Antidumping Act, 1921,[15] will be published in the weekly Treasury Decisions.

(b) The following findings made by the Secretary pursuant to the provisions of the said section 201 (a) are currently in effect.

Merchandise	Country	T. D. No.	Date
Berets, wool knitted	France	40034	12-12-39
Fencing and netting	Germany	46826	1-11-34
Fly catchers, ribbon	United Kingdom.	40035	12-12-39
Fly catchers, ribbon	Japan	40036	12-12-39
Fly catchers, ribbon	Belgium	40037	12-12-39
Fly catchers, ribbon	Germany	40038	12-12-39
Footwear, rubber-soled, fabric-topped.	Japan	46018	9-12-33
Glass frostings	Germany	50233 50694	9-20-40 8-1-42
Lamps and bulbs, electric-light.	Japan	46017	9-12-33

(R.S. 161, 251, sec. 201, 42 Stat. 11, sec. 651 (d) 46 Stat. 762; 5 U. S. C. 22, 19 U. S. C. 66, 160 (a))

§ 14.8 *Action by appraiser; appearance of importer; affidavits and bond required.* (a) When the appraiser has reason to believe or suspect that merchandise is imported in violation of the antidumping act, whether or not the Secretary has made public a finding concerning such merchandise, the appraiser shall request the importer or his duly authorized agent to appear before him[16] in order to ascertain:

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shall be adopted as the standard of strength for such dye or other article." (Tariff Act of 1930 par. 28 (e), (h); 19 U. S. C. 1001, par. 28 (e), (h))

[11] An imported article which is or may be used for the same purpose as a domestic article not freely offered for sale, but used in the manufacture of another domestic article freely offered for sale, shall be considered a similar competitive article.

[12] In determining the value of imported articles classifiable under par. 27 or 28 of the tariff act, the words "similar competitive articles" in subpar. (c) of such paragraphs shall not be construed as relating exclusively to domestic articles actually derived or obtained from coal tar. No domestic article otherwise within the scope of the quoted words shall be excluded therefrom because not derived from coal tar if such an article, if imported, would be subject to classification as a "coal-tar product" under par. 27, 28, or 1651 of the tariff act.

[13] The following Treasury Decisions contain standards of strength for coal-tar products to which U. S. Standard numbers have been assigned and which have been adopted by the Secretary of the Treasury, under par. 28, Tariff Act of 1922, and par. 28, Tariff Act of 1930:

39765	40596	41932	47836
40192	40623	42147	48361
40257	40653	42420	48541
40278	40922	42687	48814
40293	40947	42942	49137
40298	41017	43255	49353
40329	41061	43704	49371
40340	41089	44231	49790
40361	41139	44924	50001
40371	41162	45319	50094
40396	41224	45758	50199
40420	41313	46012	50333
40450	41380	46487	50431
40472	41513	46793	50556
40525	41656	47186	50691
40563	41756	47544	50806

[14] "(f) It shall be unlawful to import or bring into the United States any such color, dye, stain, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound unless the immediate container and the invoice shall bear a plain, conspicuous, and truly descriptive statement of the identity and percentage, exclusive of diluents, of such color, dye, stain, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound contained therein.

"(g) On and after the passage of this Act it shall be unlawful to import or bring into the United States any such color, dye, stain, color acid, color base, color lake, leuco-compound, indoxyl, or indoxyl compound, if the immediate container or the invoice bears any statement, design, or device regarding the article or the ingredients or substances contained therein which is false, fraudulent, or misleading in any particular." (Tariff Act of 1930, par. 28 (f), (g); 19 U. S. C. 1001, par. 28 (f), (g))

[15] "That whenever the Secretary of the Treasury (hereinafter in this act called the 'Secretary'), after such investigation as he deems necessary, finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than its fair value, then he shall make such finding public to the extent he deems necessary, together with a description of the class or kind of merchandise to which it applies in such detail as may be necessary for the guidance of the appraising officers." (Antidumping Act, 1921, sec. 201 (a); 19 U. S. C. 160 (a))

For regulations regarding assessment of dumping duty, see §§ 16.21, 16.22 of this chapter.

Merchandise is sold at less than its fair value within the meaning of section 201 (a) if the purchase price or exporter's sales price of such merchandise is less than its foreign-market value (or in the absence of such value, than the cost of production).

[16] "That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the

(1) The person by whom or for whose account the merchandise is imported.

(2) Whether or not the importer is the exporter within the meaning of section 207 of the antidumping act.[17]

(3) The nature and amount of each item to be added to or deducted from the basic price in accordance with section 203 or section 204 of said act[18] in order to determine the purchase price or the exporter's sales price, as the case may be.

(4) The importer's knowledge, if any, of the foreign-market value or the cost of production, as these values are defined in sections 205 and 206 of the antidumping act.[19]

(5) The reason for any difference between the purchase price or exporter's sales price and the statutory foreign-market value or cost of production.[20]

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absence of such value, than the cost of production) there shall be levied, collected, and paid, in addition to the duties imposed thereon by law, a special dumping duty in an amount equal to such difference." (Antidumping Act, 1921, sec. 202 (a); 19 U. S. C. 161)

"Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the appraiser or person acting as appraiser has reason to believe or suspect, from the invoice or other papers or from information presented to him, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the cost of production) he shall forthwith, under regulations prescribed by the Secretary, notify the Secretary of such fact and withhold his appraisement report to the collector as to such merchandise until the further order of the Secretary, or until the Secretary has made public a finding as provided in subdivision (a) in regard to such merchandise." (Antidumping Act, 1921, sec. 201 (b); 19 U. S. C. 160 (b))

[17] "That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States;

"(1) If such person is the agent or principal of the exporter, manufacturer, or producer; or

"(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

"(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person; or

"(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per cent or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per cent or more of such power or control in the business of the exporter, manufacturer, or producer." (Antidumping Act, 1921, sec. 207; 19 U. S. C. 166)

[18] "That for the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attribute to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, taxes imposed in the country of exportation or sale of the merchandise, which have been revealed, or which have not been collected, by reason of the exportation of the merchandise to the United States." (Antidumping Act, 1921, sec. 203; 19 U. S. C. 162)

"That for the purpose of this title the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States." (Antidumping Act, 1921, sec. 204; 19 U. S. C. 163)

[19] "That for the purposes of this title the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account." (Antidumping Act, 1921, sec. 205; 19 U. S. C. 164)

"That for the purposes of this title the cost of production of imported merchandise shall be the sum of—

"(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing, identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

"(2) The usual general expenses (not less than 10 per cent of such cost) in the case of identical or substantially identical merchandise;

"(3) The cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

"(4) An addition for profit (not less than 8 per cent of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration." (Antidumping Act, 1921, sec. 206; 19 U. S. C. 165)

[20] "(a) That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the cost of production) there shall be levied, collected, and paid, in addition to the duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

"(b) If it is established to the satisfaction of the appraising officers that the amount of such difference between the purchase price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale, to all purchasers for exportation to the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign market value for the purposes of this section.

"(c) If it is established to the satisfaction of the appraising officers that the amount of such difference between the exporter's sales price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is

(6) The relative wholesale quantities, if the difference in such quantities is claimed in whole or in part as the reason for the price differential.

(7) Any other pertinent information.

(b) If the appraising officer is then satisfied that there is no reasonable ground for his belief or suspicion or, in the case of merchandise covered by a finding, that the purchase price or exporter's sales price is not less than the foreign-market value or cost of production, as the case may be, he shall appraise the merchandise in the usual manner.

(c) If the appraiser is not satisfied, he shall withhold appraisement, notify the importer on customs Form 6459, and require the importer or his agent to file an affidavit on one of the following forms, according to the circumstances of the case:

Form 1

NONEXPORTER'S AFFIDAVIT

ANTIDUMPING ACT, 1921

Re: Entry No. _____
Consular Invoice No. _____
Certified at _____
on _____
Import vessel or carrier _____
Arrived _____, 19____.

I, _____, do solemnly swear that I am not the exporter as defined in section 207, Act of May 27, 1921, of the merchandise covered by the aforesaid entry. I further declare that the merchandise was purchased on _____ and that the purchase price is _____

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
_____

Form 2

EXPORTER'S AFFIDAVIT WHERE SALES PRICE IS KNOWN

ANTIDUMPING ACT, 1921

Re: Entry No. _____
Consular Invoice No. _____
Certified at _____
on _____
_____
Import vessel or carrier _____
Arrived _____, 19____.

I, _____, do solemnly swear that I am the exporter as defined in section 207, Act of May 27, 1921, of the merchandise covered by the aforesaid entry; that the merchandise is sold or agreed to be sold at the prices stated in the attached statement; that, if any or all of the aforesaid items are actually sold at prices different from those set forth in the attached statement, I will immediately notify the appraiser in detail.

The merchandise was acquired by me in the following manner: _____
_____
and has been sold or agreed to be sold to at _____.

(State price)

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
_____

Form 3

EXPORTER'S AFFIDAVIT WHERE SALES PRICE ... NOT KNOWN

ANTIDUMPING ACT, 1921

Re: Entry No. _____
Consular Invoice No. _____
Certified at _____
on _____
Import vessel or carrier _____
Arrived _____, 19____.
_____

I, _____, do solemnly swear that I am the exporter as defined in section 207, Act of May 27, 1921, of the merchandise covered by the aforesaid entry, and that the prices at which the various items will be sold in the United States are not known. I hereby stipulate that I will keep a record of the sales and furnish the appraiser with a sworn statement showing the detailed prices of the various items within 30 days after the sale thereof. I further stipulate that at the end of 6 months from the date of entry if the merchandise has not been sold or agreed to be sold, in whole or in part, I will so report to the appraiser.

This merchandise was acquired by me in the following manner: _____
_____
_____
_____

(Signed _____

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
_____

Form 4

EXPORTER'S AFFIDAVIT WHERE MERCHANDISE IS NOT SOLD AND WILL NOT BE SOLD

ANTIDUMPING ACT, 1921

Re: Entry No. _____
Consular Invoice No. _____
Certified at _____
on _____
Vessel or carrier _____
Arrived _____, 19____.
_____
_____

I, _____, do hereby solemnly swear that I am the exporter as defined in section 207, Act of May 27, 1921, of the merchandise covered by the aforesaid entry, and that such merchandise will not be sold in the United States for the following reasons: _____
_____
_____
_____

(Signed _____

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
_____

(d) Whenever an affidavit on Form 4 has been filed by an exporter showing that merchandise of a class or kind under investigation will not be sold in the United States, the appraiser may appraise the merchandise in the usual manner without giving notice of suspected dumping if he is satisfied that no evidence to the contrary can be obtained.

(e) On all subsequent importations by the same person of merchandise covered by a finding of dumping or of the same class or kind as that under investigation, the importer or his agent shall attach to the invoice at the time of entry the necessary affidavit and the appraiser may waive any further appearance by the importer.

(f) The bond required by section 208 of the antidumping act [21] shall be on customs Form 7591. A separate bond shall be given for each importation or withdrawal and such bond shall be in addition to any other bond required by law or regulations. When the collector has received a notice of withheld appraisement under the Antidumping Act, 1921, no merchandise of the class or kind covered by the notice, whether in examination packages, nonexamination packages, in bulk, or otherwise, shall be released from the warehouse, appraiser's stores, or any other place until a single consumption entry bond covering each shipment is executed by the importer of record, unless the collector is satisfied that the bond filed at the time of entry is sufficient. The penalty of the bond required by section 208 of the antidumping act or of the single consumption entry bond in such cases shall be in an amount equal to the value of the articles described on the entry, except that, in the case of merchandise which appears to the satisfaction of the collector to be otherwise unconditionally free of duty and not prohibited from admission into the commerce of the United States, the penalty may be in such lesser amount (disregarding the value of the articles) as in the opinion of the collector will be sufficient to accomplish the purpose for which the bond is given, but in no case less than $100.

(g) The records of sales required under the conditions of the bond prescribed by section 208 of the antidumping act shall show the entry number of the merchandise, the importing vessel or vehicle, to whom sold, the date of arrival, the sale price or prices of the merchandise, and the date or dates of sale thereof.

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sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign market value for the purposes of this section." (Anti-dumping Act, 1921, sec. 202; 10 U. S. C. 161)

[21] "That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person has made oath before the collector, under regulations prescribed by the Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector, in an amount equal to the estimated value of the merchandise, conditioned (1) That he will report to the collector the exporter's sales price of the merchandise within 30 days after such merchandise has been sold or agreed to be sold in the United States, (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by this title upon such merchandise, and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe." Antidumping Act, 1921, sec. 208; 19 U. S. C. 167)

(h) The oaths and affidavits required or authorized under the antidumping act or regulations thereunder may be executed before any customs officer designated to administer oaths under the provisions of section 486 (a) Tariff Act of 1930. (R. S. 161, 251, secs. 201, 202, 208, 42 Stat. 10, 11, 14; 5 U. S. C. 22, 19 U. S. C. 66, 160, 161, 167)

§ 14.15 *Conversion of currencies.* For the purpose of comparison to determine the difference between the purchase price or the exporter's sales price and the foreign-market value (or in the absence of such value, the cost of production) as outlined in sections 201 (b) and 202 (a) Antidumping Act, 1921, the factors to be compared, if in a foreign currency, shall be converted into United States currency. Such conversion shall be made in accordance with the provisions of section 522, Tariff Act of 1930, as of the date of purchase or agreement to purchase whenever purchase price is the determining factor, and as of the date of exportation of the merchandise whenever an exporter's sales price obtains. (R. S. 161, 251, secs. 201, 202, 42 Stat. 10, 11, 5 U. S. C. 22, 19 U. S. C. 66, 160, 161)

§ 14.16 *Release of merchandise of which appraisement is withheld.* When appraisement reports are withheld pursuant to section 201 (b) Antidumping Act, 1921, no merchandise shall be released from the public stores until the signed release on customs Form 6459 has been received from the collector, unless the collector signifies on customs Form 6417 that the bonding provisions of § 14.8 (f) have been complied with. (R. S. 161, 251, sec. 201, 42 Stat. 11, sec. 651 (d) 46 Stat. 762; 5 U. S. C. 22, 19 U. S. C. 66, 160 (b))

§ 14.17 *Investigation by Commissioner as to injury to domestic industry.* If the Commissioner of Customs concurs in the belief or suspicion of the appraising officer or if such appraising officer issues a notice of suspected dumping after completion of any additional investigations directed by the Commissioner, the Commissioner will order or conduct such investigation as he may deem necessary for the purpose of collecting such information as may be obtainable bearing on the question of whether an industry in the United States is being injured or is likely to be injured or is being prevented from being established by reason of the importation of merchandise of the class or kind involved. Upon completion of such investigation, the Commissioner will submit the matter to the Secretary of the Treasury for decision. (R. S. 161, 251, sec. 201, 42 Stat. 11, sec. 651 (d) 46 Stat. 762; 5 U. S. C. 22, 19 U. S. C. 66, 160 (b))

PART 15—RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPPED

Sec.

15.1 Casualty, loss or theft, abatement or refund of duty for; application; evidence; allowance.
15.2 Perishable merchandise condemned; allowance.
15.3 Abandonment of merchandise under section 506 (1), Tariff Act of 1930.
15.4 Abandonment or destruction of merchandise in bond.
15.5 Destruction of prohibited articles.
15.6 Disposition of abandoned merchandise and proceeds of sale.
15.7 Excessive moisture and other impurities; application for allowance; procedure.
15.8 Shortages; lost packages; deficiencies in contents of packages.
15.10 Articles damaged and worthless at the time of importation.

§ 15.1 *Casualty, loss or theft, abatement or refund of duty for; application; evidence; allowance.*[1] (a) No abatement or refund will be made under section 563 (a) Tariff Act of 1930, as amended,[2] unless the importer or his agent shall file within 30 days from the date of his discovery of the loss, theft, injury, or destruction an application in duplicate on customs Form 4315, and within 90 days from the said date the evidence of such loss, theft, injury, or destruction hereinafter required is submitted.

(b) The application and evidence shall be filed with the collector of customs at the port where the loss, theft, injury, or destruction occurred. In the case of total loss by fire or other casualty of merchandise while in transportation under bond, the application and evidence shall be filed at the port at which the transportation entry was made. In the case of partial destruction of or injury to such merchandise, the application and evidence shall be filed with the collector at the port of destination, unless the merchandise is returned to the port at which the transportation entry was made, in which case the application shall be filed at that port. In the case of partial destruction or injury, no application shall be entertained unless the appraiser shall have had an opportunity to examine the merchandise or the remainder thereof for the purpose of fixing the percentage of injury or destruction. Whether the duty involved is ad valorem, specific, or compound, the percentage of injury for the purpose of the allowance shall be determined by comparing the market value of comparable sound merchandise with the net salvage value of the injured merchandise computed on the basis of the market value of comparable injured merchandise, such comparison to be made as of the time and place of examination.

(c) In the case of alleged loss or theft while the merchandise is in the appraiser's stores, there shall be filed an affidavit of the importer, owner, or ultimate consignee that he did not receive the merchandise and that to the best of his knowledge and belief it was lost or stolen as alleged in the application. In case the alleged loss or theft consisted of only a part of an examination package and was discovered after the release of the package from customers custody, the following evidence shall be submitted:

(1) An affidavit of each cartman, lighterman, or other carrier handling the package between the appraiser's stores and the place of delivery, setting forth the condition of the package at the time of receipt and delivery by him and whether or not there was any abstraction of the merchandise while the package was in his possession.

(2) An affidavit of the person who first received the package for the importer, owner, or consignee as to whether or not he examined the package at the time of receipt, and, if so, as to its condition at that time.

(3) An affidavit of the person who opened the package after release from customs custody that the alleged missing merchandise was not found by him in the said package or elsewhere.

(d) In the case of injury or destruction by accidental fire or other casualty, the following evidence shall be submitted by the applicant:

(1) An affidavit of the master of the vessel, the conductor or driver of the vehicle, the proprietor of the warehouse, or other person (except a customs officer) having charge of the merchandise at the time of the casualty, stating the time, place, and nature of such casualty; that the merchandise was on board

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[1] This procedure is not applicable in the case of merchandise missing or found worthless by the appraiser and so reported in his appraisement report. See §§ 15.8, 15.10, and 18.6 of this chapter.

[2] "In no case shall there be any abatement or allowance made in the duties for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in customs custody, except that the Secretary of the Treasury is authorized, upon production of proof satisfactory to him of the loss or theft of any merchandise while in the appraiser's stores, or of the actual injury or destruction, in whole or in part, of any merchandise by accidental fire or other casualty, while in bonded warehouse, or in the appraiser's stores, or while in transportation under bond, or while in the custody of the officers of the customs, although not in bond, or while within the limits of any port of entry and before having been landed under the supervision of the officers of the customs, to abate or refund, as the case may be, the duties upon such merchandise, in whole or in part, and to pay any such refund out of any moneys in the Treasury not otherwise appropriated, and to cancel any warehouse bond or bonds, or enter satisfaction thereon in whole or in part, as the case may be, but no abatement or refund shall be made in respect of injury or destruction of any merchandise in bonded warehouse occuring after the expiration of three years from the date of importation. The decision of the Secretary of the Treasury as to the abatement or refund of the duties on any such merchandise shall be final and conclusive upon all persons.

"The Secretary of the Treasury is authorized to prescribe such regulations as he may deem necessary to carry out the provisions of this subdivision and he may by such regulations limit the time within which proof of loss, theft, injury, or destruction shall be submitted, and may provide for the abatement or refund of duties, as authorized herein, by collectors of customs in cases in which the amount of the abatement or refund claimed is less than $25 and in which the importer has agreed to abide by the decision of the collector. The decision of the collector in any such case shall be final and conclusive upon all persons.

"Any case pending before the United States Customs Court upon the effective date of this Act, under the provisions of section 563 of the Tariff Act of 1922, may, with the consent of the parties and the permission of the court, be transferred to the Secretary of the Treasury, or to the collector, for consideration and final determination in accordance with the provisions of this subdivision." (Tariff Act of 1930, sec. 563 (a) as amended; 19 U. S. C. 1563 (a))

the vessel or vehicle, in the warehouse, or otherwise in his charge, as the case may be, at the time of the casualty and that it was totally destroyed and there is no probability of recovering or saving any part thereof, or that it was injured as the result of the casualty.

(2) The bill of lading, the entry, and the invoice covering the merchandise, or certified copies of the foregoing, unless such documents are already in the possession of the collector at the port where the claim is filed.

(3) A sworn copy of the insurance appraiser's report, if any.

(e) When the amount of the abatement or refund found due by the collector is less than $25, the abatement or refund may be made by the collector without submitting the claim to the Bureau of Customs, if the claimant shall have agreed in writing to abide by the collector's decision.

(f) In such cases the collector may waive the production of any of the evidence above required if the validity of the claim is otherwise established to his satisfaction. (Sec. 563, 46 Stat. 746, sec. 23 (a), 52 Stat. 1088; 19 U. S. C. 1563)

§ 15.2 *Perishable merchandise condemned, allowance.* When fruit or other perishable merchandise has been condemned within 10 days after landing,[3] and the notice has been filed pursuant to section 506 (2) Tariff Act of 1930,[4] an investigation shall be conducted before an allowance may be made in the liquidation of the entry in order to determine whether the conditions of the statute have been satisfied. Such allowance shall be limited to perishable goods condemned by the health officers or authorities in the original package, unless segregation of the goods was under constant customs supervision at the importer's expense. (Sec. 506 (2) 46 Stat. 732; 19 U. S. C. 1506 (2))

§ 15.3 *Abandonment of merchandise under section 506 (1) Tariff Act of 1930.* (a) A written notice of any abandonment under section 506 (1) Tariff Act of 1930,[5] shall be filed with the collector of customs at the port where the entry is filed within 30 days after the date of entry[6] or, in the case of examination packages, within 30 days after release, whether or not delivery is taken by the importer immediately after entry or release as the case may be.

(b) The party abandoning the merchandise shall identify it with that described in the invoice used in making entry to the satisfaction of the collector, who shall cause such examination thereof to be made as may be necessary to verify such identification. When repacking is necessary to segregate the abandoned merchandise from the remainder of the shipment, such repacking shall be done at the expense of the party in interest and under customs supervision. (Sec. 506, 46 Stat. 732; 19 U. S. C. 1506)

§ 15.4 *Abandonment or destruction of merchandise in bond.* (a) Applications for the abandonment or destruction of merchandise in bond pursuant to section 563 (b) or 557 (c) Tariff Act of 1930, as amended,[7] shall be filed with the collector by the consignee or his duly qualified representative on customs Form 3499, in duplicate, with the title modified to read "Application and Permit to Abandon (or Destroy) Goods in Bond." When an application is for permission to destroy, the proposed method of destruction shall be stated in the application and be subject to the approval of the collector. No application to abandon or destroy warehoused merchandise shall be approved unless concurred in by the warehouse proprietor.

(b) Any person who has acquired the right to withdraw merchandise in bonded warehouse by transfer made by endorsement of the warehouse withdrawal in accordance with § 8.39 of this chapter, and has lodged the endorsed withdrawal in the customhouse in accordance with § 8.39 (c) of this chapter, is entitled to the rights and privileges theretofore held by the consignee in respect of abandonment or destruction of such merchandise so long as the transfer remains unrevoked. While such transfer remains unrevoked, the consignee has no right to abandon the merchandise or have it destroyed.

(c) When in the opinion of the collector the abandonment of merchandise under section 563 (b) Tariff Act of 1930, as amended, will involve any expense or cost to the Government, or the merchandise is worthless or unsalable, or cannot be sold for a sum sufficient to pay the expenses of sale, abandonment under such section 563 (b) shall not be permitted unless the applicant deposits a sum which in the opinion of the collector will be sufficient to save the Government harmless from any expense or cost resulting from such abandonment. The sum so advanced shall be placed in a special deposit account and expended to cover the cost of destruction or to meet any deficit should the merchandise be sold and the proceeds of sale be less than the expenses of such sale. After meeting such expenses or deficit, any balance remaining shall be refunded to the applicant. However, the applicant may elect to destroy such merchandise under customs supervision, pursuant to the provisions of section 557, Tariff Act of 1930, as amended.

(d) Where the conditions specified in paragraphs (a)–(c) of this section are met, collectors of customs may grant applications, but in any case where doubt exists the case shall be referred to the Bureau. (Sec. 557 (c) 46 Stat. 744, secs. 2, 22 (a) 52 Stat. 1077, 1087, secs. 563 (b), 624, 46 Stat. 746, 759; 19 U. S. C. 1557 (c), 1563 (b), 1624)

§ 15.5 *Destruction of prohibited articles.* Merchandise regularly entered in good faith and denied admission into the United States by any Government agency after its release from customs custody, pursuant to a law or regulation in force on the date of entry or withdrawal, may be destroyed under government supervision. In such cases any duty which shall have accrued on the merchandise or which shall have been collected shall be remitted or refunded as the case may be.[8] (See §§ 8.49 (e)

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[3] The date of landing in the case of merchandise forwarded in bond without appraisement is the date of arrival at the port of destination.

[4] Allowance shall be made in the estimation and liquidation of duties under regulations prescribed by the Secretary of the Treasury in the following cases:

* * * * *

"(2) *Perishable merchandise, condemned.*—Where fruit or other perishable merchandise has been condemned at the port of entry, within ten days after landing, by the health officers or other legally constituted authorities, and the consignee, within five days after such condemnation, files with the collector written notice thereof, an invoiced description and the location thereof and the name of the vessel or vehicle in which imported." (Tariff Act of 1930, sec. 506 (2); 19 U. S. C. 1506 (2))

[5] "Allowance shall be made in the estimation and liquidation of duties under regulations prescribed by the Secretary of the Treasury in the following cases:

"(1) *Abandonment within thirty days.*—Where the importer abandons to the United States, within thirty days after entry in the case of merchandise not sent to the appraiser's stores for examination, or within thirty days after the release of the examination packages or quantities of merchandise in the case of merchandise sent to the appraiser's stores for examination, any imported merchandise representing 5 per centum or more of the total value of all the merchandise of the same class or kind entered in the invoice in which the item appears, and delivers, within the applicable thirty-day period, the portion so abandoned to such place as the collector directs unless the collector is satisfied that the merchandise is so far destroyed as to be nondeliverable," (Tariff Act of 1930, sec. 506 (1); 19 U. S. C. 1506 (1))

[6] The date of a consumption or warehouse entry is defined in § 8.4 (b). The date of a mail entry is defined in § 9.3 (c).

[7] "Under such regulations as the Secretary of the Treasury may prescribe and subject to any conditions imposed thereby the consignee may at any time within three years from the date of original importation, abandon to the Government any merchandise in bonded warehouse, whereupon any duties on such merchandise may be remitted or refunded as the case may be, but any merchandise so abandoned shall not be less than an entire package and shall be abandoned in the original package without having been repacked while in a bonded warehouse (other than a bonded manipulating warehouse)." (Tariff Act of 1930, sec. 563 (b), as amended; 19 U. S. C. 1563 (b))

"Merchandise entered under bond, under any provision of law, may, upon payment of all charges other than duty on the merchandise, be destroyed, at the request and at the expense of the consignee, within the bonded period under customs supervision, in lieu of exportation, and upon such destruction the entry of such merchandise shall be liquidated without payment of duty and any duties collected shall be refunded." (Tariff Act of 1930, sec. 557 (c), as amended; 19 U. S. C. 1557 (c))

[8] "No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

* * * * *

"(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe; * * *" (Tariff Act of 1930, sec. 558 (a), as amended; 19 U. S. C. 1558 (a))

and 12.4 of this chapter) (Sec. 558 (a) 46 Stat. 744, sec. 24, 52 Stat. 1088; 19 U. S. C. 1558 (a))

§ 15.6 *Disposition of abandoned merchandise and proceeds of sale.* (a) The disposition of merchandise abandoned pursuant to section 506 (1) or 563 (b), Tariff Act of 1930, as amended, and not retained for official use, shall be governed by T. D. 48105, as amended. If the merchandise is cleared for sale, it shall be sold in accordance with the applicable provisions of Part 20 of this chapter, unless it is worthless or it shall appear probable that the expenses of sale will exceed the proceeds. If the merchandise is sold, no part of the proceeds shall be returned to the importer.

(b) If the merchandise or any part thereof is worthless or it appears probable that the expenses of its sale would exceed the proceeds, it shall be destroyed or otherwise disposed of as the collector may direct. No credit for abandonment of such merchandise shall be given unless a customs officer, who has satisfied himself as to the quantity of the abandoned portion of the shipment and as to the destruction or removal from the control of the applicant of the entire quantity of the goods covered by the collector's instructions as to disposition, shall certify on customs Form 4613 to those facts to avoid the possibility of any part of the same goods being made the subject of another application. (Secs. 506 (a) 563 (b) 624, 46 Stat. 732, 746, 759; 19 U. S. C. 1506 (a) 1563 (b) 1624)

§ 15.7 *Excessive moisture and other impurities; application for allowance; procedure.* (a) Application for an allowance for excessive moisture or other impurities under section 507, Tariff Act of 1930,[9] shall be made on customs Form 4317 and filed with the collector of customs within 10 days after the return of weight has been received by him.

(b) The collector shall cause such investigation to be made as may be necessary to determine whether or not the merchandise contains excessive moisture or other impurities not usually found in or upon such or similar merchandise, together with the amount thereof, and, if necessary, may refer the application to the appraiser for such determination.

(c) If the collector is satisfied from the reports received that the claim is valid, due allowance shall be made in the liquidation of the entry. (Sec. 507, 46 Stat. 732; 19 U. S. C. 1507)

§ 15.8 *Shortages; lost packages; deficiencies in contents of packages.* (a) No allowance shall be made in the assessment of duties for lost or missing packages appearing on the entry unless shown by the report of the discharging officer not to have been landed, and unless the importer shall make an affidavit on customs Form 4311 and file it with the collector within 30 days after the date of written notice of shortage, customs Form 4311, which the collector shall mail to the importer immediately upon report of the shortage to him. The foregoing shall not apply in the case of merchandise arriving under an I. T. entry.[10]

(b) When a deficiency in any package designated for examination is reported to the collector by the appraiser or other customs officer concerned with the examination contemplated by section 499, Tariff Act of 1930, as amended, allowance shall be made in accordance with the last sentence of the first paragraph of that section,[11] unless it appears upon inquiry by the collector that the missing merchandise was actually received by the importer, and subject in appropriate cases to the limitations of paragraph 813 and sections 315 and 563 (a) of the tariff act as amended, and the regulations thereunder.

(c) There shall be no allowance for shortage in an unexamined package unless claim of shortage is filed with the collector within 10 days from its discovery and evidence satisfactory to the collector is produced that the missing articles were not landed within the United States. Such evidence shall consist of:

(1) An affidavit of the cartman, lighterman, or other carrier handling the shipment between the place of landing and the place of delivery that the packages were in good order at the time of receipt and delivery by him and there was no abstraction of the merchandise while the packages were in his possession.

(2) An affidavit of the person who opened the package for the importer that the shortage was found by him, the date of its discovery, and that he did not find the missing articles in any other package or elsewhere.

(3) An affidavit of the importer, owner, or ultimate consignee that the goods claimed short were not received by him or for his account and that he believes that they were not imported.

(4) A copy of the claim, if any, made upon the shipper for credit on account of the shortage, and the reply thereto, if any has been received. (R. S. 251, sec. 499, 46 Stat. 728, sec. 624, 46 Stat. 759, secs. 15, 16 (a) 52 Stat. 1084; 19 U. S. C. 66, 1499, 1624)

§ 15.10 *Articles damaged and worthless at the time of importation.* (a) When a shipment of nonperishable merchandise, or any portion thereof which shall have been segregated from the remainder of the shipment under customs supervision at the expense of the importer, is found by the appraising officer to be entirely without commercial value by reason of damage or deterioration and is so reported to the collector by the appraiser, an allowance in duties on such merchandise on the ground of nonimportation shall be made in the liquidation of the entry.

(b) A similar allowance may be made in the case of perishable merchandise in accordance with the following procedure and subject to the conditions set forth therein:

(1) An application for such allowance shall be filed with the collector on customs Form 4373, in duplicate, within 96 hours after the unlading of the merchandise and before any of the shipment involved has been removed from the pier pursuant to the entry permit.

(2) Should an application filed in accordance with the above paragraph be withdrawn, the merchandise involved shall thereafter be released only after a permit on customs Form 4381 has been issued by the collector.

(3) Allowance in duty shall be made in the liquidation of the entry on such of the merchandise covered by the application as is reported by the appraiser to be entirely without commercial value by reason of damage or deterioration. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. and Sup., 66, 1624)

PART 16—LIQUIDATION OF DUTIES

Sec.
16.1 Liquidation required.
16.2 Procedure; notice of liquidation.
16.3 Suspension of liquidation.
16.4 Conversion of currency.
16.5 Weight, gauge, or measure.
16.6 Tare.
16.7 Articles in examination packages not specified in the invoice.
16.8 Excess of merchandise.
16.9 Commingling of goods.
16.10 Change in classification or value; higher or lower rate; effective date; duress entries.
16.11 Warehouse entries.
16.12 Appraisement, baggage, informal, and mail entries.
16.13 Errors; correction of.
16.14 Limitation upon reliquidation.
16.15 Taxes; applicability of laws relating to customs duties.
16.16 Taxes on imported oils and other products.
16.17 Additional duty arising from undervaluations.
16.18 Additional duties on articles not legally marked.
16.19 Discriminating duties.
16.20 Duties contingent upon foreign export duties, charges, or restrictions.
16.21 Dumping duty; notice to importer.
16.22 Method of computing dumping duty.
16.23 Cuban preference.
16.24 Countervailing duties.
16.25 Special duties on articles imported under agreements in restraint of trade.
16.26 Philippine trade.

§ 16.1 *Liquidation required.*[1] All entries covering imported merchandise, ex-

[9] "The Secretary of the Treasury is hereby authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but in no case shall there by any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise." (Tariff Act of 1930, sec. 507; 19 U. S. C. 1507)

[10] See § 16.6 of this chapter.

[11] "* * * If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the collector, who shall make allowance therefor in the liquidation of duties." (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[1] "The consignee shall deposit with the collector, at the time of making entry, unless the merchandise is entered for warehouse or transportation, or under bond, the amount of duty estimated ot be payable thereon. Upon receipt of the appraiser's report and of the various reports of landing, weight, gauge, or measurement the collector shall ascertain, fix, and liquidate the rate and amount of duties to be paid on such merchandise as provided by law and shall give notice of such liquidation in the form and manner prescribed by the Secretary of the Treasury, and collect any increased or additional duties due

cept those for transportation in bond or for immediate exportation, shall be liquidated.[2] (Secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1505, 1624)

§ 16.2 *Procedure; notice of liquidation.* (a) In the computation of duty on entries, ad valorem rates shall be applied to the values in even dollars, fractional parts of a dollar less than 50 cents being disregarded and 50 cents or more being considered as $1, all merchandise in the same invoice subject to the same rate of duty to be treated as a unit. When necessary, fractional parts of a dollar, whether more or less than 50 cents, shall be dropped or taken up as whole dollars in order not to increase or decrease the total dutiable value of the invoice. If in such cases it is necessary to drop fractional parts of a dollar amounting to 50 cents or more, the lower fractions shall be dropped, and if it is necessary to take up as whole dollars fractional parts less than 50 cents, the larger fractions shall be taken. In the case of two equal fractions, the one subject to the lower rate of duty shall be dropped or taken up, as the case may be. In determining a rate of duty dependent upon value, fractional parts of a dollar shall be considered. Except as specified in paragraph (b) of this section, if a rate of duty is specific and $1 or less per unit, fractional quantities, if less than one-half, shall be disregarded, and if one-half or more shall be treated as a whole unit. Subject to the same exception, if a specific rate is more than $1 per unit, duty shall be assessed upon the exact quantity with any fraction part expressed in the form of a decimal extended to two places. In the computation of duty on mail and baggage entries, ad valorem rates shall be applied on the basis of the equivalent in United States money of any foreign currency involved without balancing the fractional amounts to even dollars.

(b) In the computation of internal-revenue taxes on distilled spirits imported in barrels, kegs, or similar containers, the quantity shall be ascertained in accordance with the internal-revenue regulations; that is, the hundredths of a gallon less than one-tenth, or the second decimal figure, shall be excluded for each package in determining the amount of tax due. Where distilled spirits are imported in bottles, jugs, or similar containers, the internal-revenue taxes shall be collected on the exact quantity contained in each case or other outer container, fractional parts of a gallon being carried to three decimal places. The procedure for collecting internal-revenue taxes on still wines shall be the same, except that fractional parts of a gallon shall be carried to two decimal places for each package or other outer container. Internal-revenue taxes on beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half of 1 per centum, or more, of alcohol shall be collected in accordance with I. R. C. section 3150 (a) In the computation of duties on alcoholic beverages provided for in Schedule 8, Tariff Act of 1930, which are also subject to internal-revenue taxes, the methods prescribed for the computation of internal-revenue taxes on such beverages shall be followed.

(c) When the amount of duty assessed by the collector in a tentative liquidation of an entry, other than a mail entry on which exact assessment is requested by the importer, does not differ by so much as $1 from the total estimated duties (including any supplemental estimated duties deposited) the liquidator shall endorse the entry "as entered"[3] over his initials in red ink. If there is a difference of $1 or more between the duties so assessed and the total estimated duties, the liquidator shall make a new statement of duties over his initials in red ink. The same procedure shall be followed with respect to internal-revenue taxes, but the assessment of duties and internal-revenue taxes shall be separately stated when both accrue on the same importation. In the case of mail entries, duty and internal-revenue taxes shall be exactly assessed when the importer so requests, even though the change between the estimated and liquidated amounts is less than $1.

(d) Upon the return of entries to the collector after the assessment of duties and internal-revenue taxes has been verified by the comptroller,[4] formal entries shall be immediately scheduled on a bulletin notice of liquidation, customs Form 4333. When free consumption entries in an unbroken series of numbers are liquidated free on the same day, only the first and last entry numbers are required to be shown on the bulletin notice, e. g., 567/863. As to such entries, the names of the importers of record and the importing vessels are not required to be shown on the bulletin notice, although the proper notation shall appear in the column headed "Remarks." For the notice of liquidations of appraisement, baggage, informal, and mail entries, see § 16.12 (b) The bulletin notice of liquidation shall be posted as soon as possible in a conspicuous place in the customhouse for the information of importers or lodged at some other suitable place in the customhouse in such a manner that it can readily be located and consulted by all interested persons, who shall be directed to that place by a notice maintained in a conspicuous place in the customhouse stating where notices of liquidations of entries are to be found. The bulletin notice of liquidation shall be dated with the date of posting or, if not posted, with the date it is lodged in the above-described place for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated," with the date of liquidation, which shall be the same as the date of the bulletin notice of liquidation. Such stamping shall be deemed the legal evidence of liquidation.

(e) Warehouse withdrawals for consumption covering merchandise manipulated under section 562, Tariff Act of 1930, as amended, after liquidation of the warehouse entry, or byproducts and wastes withdrawn from class 6 warehouses, shall be liquidated and the notice thereof posted or lodged as specified in paragraph (d) of this section.

(f) Notices of all liquidations of drawback entries or refusals to pay drawback claims shall be posted or lodged in the same manner as the notices of liquidation of import entries.

(g) The bulletin notice of liquidations, customs Form 4333, shall be posted or lodged at the port of entry, though it may have been prepared at the headquarters port. (Sec. 7, 52 Stat. 1081, secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1321, 1505, 1624)

§ 16.3 *Suspension of liquidation.* (a) The liquidation of entries involved in reappraisement or on which bonds are open for the production of documents affecting the rate of duty shall be suspended pending a final decision on the reappraisement or a performance or nonperformance under the bond.

(b) The liquidation of entries covering articles entered at a conditionally reduced rate under paragraph 502, 1530, or 1551, Tariff Act of 1930, or conditionally free of duty under paragraph 1691, or 1752, shall be suspended pending the production of the proof of use required by §§ 10.84 to 10.89 and 13.4 of this chapter. Upon the production of such proof, or upon failure to produce the proof within the required time, the entries shall be liquidated accordingly.

(c) Liquidation of each warehouse or rewarehouse entry covering any tariff-rate quota commodity shall be suspended until all such merchandise covered by the entry has been accounted for within the bonded period by withdrawal, abandonment, or destruction, or until the bonded period has expired if the merchandise has not been so accounted for before that time. When the entry is liquidated, such of the merchandise as has been withdrawn for transportation to another port shall be excluded from the liquidation. (See § 16.10 (h).) This same procedure shall be followed in the case of alcoholic beverages provided for in Schedule 8, Tariff Act of 1930, and subject to internal-revenue taxes. (Secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1505, 1624)

§ 16.4 *Conversion of currency.* (a) In determining the percentage of variation between the rate proclaimed by the Secretary of the Treasury and the Fed-

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or refund any excess of duties deposited as determined on such liquidation." (Tariff Act of 1930, sec. 505; 19 U. S. C. 1505)

[2] The liquidation of an entry is the final computation or ascertainment of the duties accruing thereon. (See T. D.'s 31032, 35123, and 42313)

[3] "Collectors of customs are hereby authorized, under such regulations as the Secretary of the Treasury may prescribe, to disregard a difference of less than $1 between the total estimated duties or taxes deposited, or the total duties or taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties or taxes actually accruing thereon, * * *" Tariff Act of 1930, sec. 321, as amended; 19 U. S. C. 1321)

[4] "* * * Comptrollers of Customs shall verify all assessments of duties and allowances of drawbacks made by collectors in connection with the liquidation thereof. In cases of disagreement between a collector and a Comptroller of Customs, the latter shall report the facts to the Secretary of the Treasury for instructions. * * *" (Tariff Act of 1930, sec. 523; 19 U. S. C. 1523)

eral reserve rate,[5] the difference between the two rates shall be divided by the Federal reserve rate.

(b) The date of exportation for currency conversion shall be fixed in accordance with § 14.3 of this chapter. (Secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1505, 1624)

(c) Instructions for the conversion of foreign currencies for which two or more rates have been certified by the Federal Reserve Bank of New York are contained in the following Treasury decisions:

Currency and Treasury Decisions

Brazilian cruzeiro: 51283, July 24, 1945, 10 F. R. 9339; 51310, Sept. 12, 1945, 10 F. R. 11815; 51341, Nov. 6, 1945, 10 F. R. 13757; 51500, July 26, 1945, 11 F. R. 8232.

Swiss franc: 51398, Jan. 28, 1946, 11 F. R. 1499; 51514, Aug. 14, 1946, 11 F. R. 8870.

Iranian rials: 51892, Apr. 14, 1948, 13 F. R. 2133.

Argentine pesos: 51914, May 6, 1948, 13 F. R. 2618; 52010, Aug. 18, 1948, 13 F. R. 5000.

Italian lire: 51921, May 17, 1948, 13 F. R. 2771.

French francs: 51989, July 30, 1948, 13 F. R. 4591.

Canadian dollars: 52051, Sept. 22, 1948, 13 F. R. 5630.

Newfoundland dollars: 52051, Sept. 22, 1948, 13 F. R. 5630.

Chilean pesos: 52052, Sept. 27, 1948, 13 F. R. 5678.

§ 16.5 *Weight, gauge, or measure.* (a) If any merchandise covered by a warehouse entry has been cleaned, sorted, repacked, or otherwise changed in condition under section 562, Tariff Act of 1930, as amended, before liquidation of the warehouse entry, such entry shall be liquidated and withdrawals passed on the basis of the weight, gauge, or measure of such merchandise in its manipulated condition with an appropriate notation in the duty statement that the duties are assessed on the basis of the manipulated condition of the merchandise. If the covering entry is liquidated prior to any manipulation of the merchandise, each subsequent warehouse withdrawal of manipulated merchandise shall be liquidated on the basis of the condition, quantity, and weight of the merchandise at the time of withdrawal. (See § 16.2 (e))

(b) When the amount of duty is governed in any way by the net weight of the merchandise, liquidation may be made on the net weight shown on the invoice if it is impracticable to obtain actual net weight without injury to the goods.

(c) If weighable merchandise is subject to an ad valorem rate of duty, liquidation shall be made on the basis upon which appraisement was made, as indicated by the appraiser's report.

(d) Duties and internal-revenue taxes on imported alcoholic beverages provided for in Schedule 8, Tariff Act of 1930, and subject to internal-revenue taxes shall be collected only on the number of proof gallons (or wine gallons if below proof) and fractional parts thereof, entered or withdrawn for consumption.[7]

NOTE: The amended paragraph 813, Tariff Act of 1930, quoted in note 7 is effective as to merchandise entered, or withdrawn from warehouse, for consumption on or after June 9, 1948, and applies also to merchandise entered or withdrawn before that day with respect to which the liquidation of the entry or withdrawal, the exaction, or the decision as to dutiable quantity has not become final by reason of section 514, Tariff Act of 1930.

(R. S. 251, sec. 624, 46 Stat. 759; Pub. Law 612, 80th Cong., 19 U. S. C. 66, 1624)

§ 16.6 *Tare.* (a) The net weight of merchandise dutiable by net weight, or upon a value dependent on net weight,[8] shall be determined insofar as possible by deducting the actual or schedule tare from the gross weight. Actual tare may be determined on the basis of tests when the tares of the packages in a shipment are reasonably uniform.

(b) When the actual tare cannot reasonably be determined and no schedule tare is applicable, the invoice tare may be used in ascertaining the net weight of the merchandise.

(c) The following tares which, from experience, have proved to be the average weight of coverings of certain classes of merchandise shall be known as schedule tares and shall be applied, except as provided in paragraph (d) of this section:

Apple boxes. Eight pounds per box. This schedule tare includes the paper wrappers, if any, on the apples.

Cheese with inedible, but not readily removable, coverings. Asiago, Cremonese, Parmesan, Parmiggiano, Reggiano, Reggianito, and Traboliano, 1 percent: Cotrone, Molliterno, Molliterno type, and Palmese, 2 percent; all others, 2½ percent.

China clay in so-called half-ton casks. Seventy-two pounds per cask.

Figs in skeleton cases. Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

Fresh tomatoes. Four ounces per 100 paper wrappings.

Lemons and oranges. Ten ounces per box and 5 ounces per half box for paper wrappings, and actual tare for outer containers.

Ocher, dry, in casks. Eight percent of the gross weight; *in oil in casks:* 12 percent of the gross weight.

Sugar. (See § 13.6 of this chapter.)

Tobacco, leaf not stemmed. Thirteen pounds per bale; *Sumatra:* actual tare for outside coverings, plus 4¼ pounds for the inside matting and, if an affidavit be attached to the consular invoice certifying that the bales contain paper wrappings and specifying whether light or heavy paper has been used, either 4 or 8 ounces for the paper wrapping according to the thickness of paper used.

(d) If the importer is not satisfied with the invoice tare or with the schedule tare, or if the collector is of the opinion that the invoice or schedule tare does not correctly represent the tare of the merchandise, or if the weigher has reason to believe that the invoice or schedule tare is greater than the real tare, the actual tare shall be ascertained and in so doing the weigher shall empty and weigh as many casks, boxes, and other coverings as he may deem necessary.

(e) When it is impracticable to ascertain the actual tare, the weigher shall state in his report what, in his judgment, constitutes a fair tare allowance.

§ 16.7 *Articles in examination packages not specified in the invoice.* When any article not corresponding with the description given in the invoice is found by the appraiser and is reported to the collector in accordance with section 499, Tariff Act of 1930, as amended, duties shall be assessed on the goods actually found, and, if the discrepancy appears conclusively to be the result of a mistake and not of any intent to defraud, no proceedings for forfeiture shall be taken. When the entire shipment does not agree with the invoice and there is no evidence of any intent to defraud, a new entry shall be required and the estimated duty paid on the original entry shall be refunded on liquidation as in the case of a nonimportation. (Secs. 499, 505, 624, 46 Stat. 728, 732, 759; secs. 15, 16 (a), 52 Stat. 1034; 19 U. S. C. 1499, 1505, 1555, 1624)

§ 16.8 *Excess of merchandise.* Increased duty only is incurred by a simple

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[5] "(b) *Proclaimed value basis of conversion.* For the purpose of the assessment and collection of duties upon merchandise imported into the United States on or after the day of the enactment of this Act, wherever it is necessary to convert foreign currency into currency of the United States, such conversion, except as provided in subdivision (c), shall be made at the values proclaimed by the Secretary of the Treasury under the provisions of section 25 of such Act of August 27, 1894, as amended, for the quarter in which the merchandise was exported.

"(c) *Market rate when no proclamation.* If no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate. If the date of exportation falls upon a Sunday or holiday, then the buying rate at noon on the last preceding business day shall be used. For the purposes of this subdivision such buying rate shall be the buying rate for cable transfers payable in the foreign currency so to be converted; and shall be determined by the Federal Reserve Bank of New York and certified daily to the Secretary of the Treasury, who shall make it public at such times and to such extent as he deems necessary. In ascertaining such buying rate such Federal reserve bank may in its discretion (1) take into consideration the last ascertainable transactions and quotations, whether direct or through exchange of other currencies, and (2) if there is no market buying rate for such cable transfers, calculate such rate from actual transactions and quotations in demand or time bills of exchange." (Tariff Act of 1930, sec. 522 (b) and (c); 19 U. S. C. 1522 (b) and (c))

[7] "Notwithstanding any other provision of this Act, the duties imposed on beverages in this schedule (Schedule 8, Tariff Act of 1930) which are subject also to internal-revenue taxes shall be imposed only on the quantities subject to such taxes." (Tariff Act of 1930, par. 813, as amended; 19 U. S. C. 1001, par. 813)

For application for refund of internal-revenue taxes paid on imported distilled spirits or wines in excess of the quantity actually withdrawn from warehouse for consumption, see § 24.36 of this chapter.

[8] "The Secretary of the Treasury is hereby authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but in no case shall there be any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise." (Tariff Act of 1930, sec. 507; 19 U. S. C. 1507)

excess of quantity over the quantity stated in the invoice, but when the entered unit value of the goods is less than the appraised value thereof, both increased and additional duties accrue upon any like goods found in excess of the entered quantity. (Secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1505, 1624)

§ 16.9 *Commingling of goods.* Under the provisions of section 508, Tariff Act of 1930,[9] the customs officer shall ascertain and segregate portions of imported commingled goods for duty purposes if he is able readily to do so; otherwise no separate classifications shall be applied unless the importer shall segregate the merchandise under customs supervision within 10 days after entry at his own risk and expense. (Secs. 508, 624, 46 Stat. 732, 759; 19 U. S. C. 1508, 1624)

§ 16.10 *Change in classification or value; higher or lower rate; effective date; duress entries.* (a) If there is an established and uniform practice at the various ports, a change in classification resulting in a higher rate of duty, except as the result of a court decision, shall be made only upon the Bureau's instructions and shall be applicable only to merchandise entered for consumption after the expiration of 30 days after the date of the publication of the Bureau's instructions in the Treasury Decisions. In the case of merchandise entered for warehouse, such change shall apply to goods withdrawn for consumption after the expiration of such 30-day period, provided the warehouse entry is unliquidated or can be reliquidated within 60 days after the date of liquidation.[10]

(b) If there is not an established and uniform practice at the various ports, a change in classification resulting in a higher rate of duty shall be applicable immediately to all merchandise covered by unliquidated entries, whether for consumption or warehouse, and also to merchandise covered by liquidated warehouse entries if the merchandise has remained in warehouse after the date the change in classification is established, provided reliquidation can be completed within 60 days after the date of liquidation.

(c) A change in classification resulting in a lower rate of duty, except as the result of a court decision, shall be made only upon the Bureau's instructions or upon the receipt of a Customs Information Exchange report showing the higher classification to be clearly erroneous and contrary to the current practice at the various ports. A change to a lower rate of duty, when decided upon, shall be applicable to all unliquidated entries and to all protested entries involving the same issue which have not been forwarded to the United States Customs Court.

(d) The principles of decisions of the United States Customs Court or the United States Court of Customs and Patent Appeals favorable to the Government shall be applied to merchandise identical with that passed on by the court, if such merchandise is covered by unliquidated entries, whether for consumption or warehouse, or by liquidated warehouse entries which can be reliquidated within 60 days from the date of liquidation, provided that in the latter case the merchandise remains in warehouse after the date of the publication of the decision in the weekly Treasury Decisions.

(e) The principle of any such favorable decision shall be applied to merchandise, though not identical with the merchandise the subject of the court's decision, if its classification is affected by such principle, provided that it has been entered for consumption or withdrawn from warehouse for consumption after 30 days from the date of publication of the court's decision in the weekly Treasury Decisions, and that, in the case of liquidated warehouse entries, the reliquidation can be completed within 60 days from the date of liquidation.

(f) If the overruling of a protest is accompanied by a definite statement that a higher rate than that assessed by the collector was properly chargeable, such higher rate, when applicable, shall be made effective as to merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days from the date of the publication of the court's decision in the weekly Treasury Decisions, provided that, in the case of liquidated warehouse entries, reliquidation thereof can be completed within 60 days from the date of liquidation.

(g) Unless the Bureau otherwise directs, the principle of any decision of the United States Customs Court or the United States Court of Customs and Patent Appeals adverse to the Government shall be applied to unliquidated entries and protested entries which have not been forwarded to the Customs Court and in which the same issue is involved as soon as the time within which an application for a rehearing or review may be filed has expired without such application having been made.

(h) When the rate of duty or internal-revenue tax is changed by act of Congress or by proclamation of the President,[11] entries covering all merchandise

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[9] "Whenever dutiable merchandise and merchandise which is free of duty or merchandise subject to different rates of duty are so packed together or mingled that the quantity or value of each class of such merchandise cannot be readily ascertained by the customs officers, the whole of such merchandise shall be subject to the highest rate of duty applicable to any part thereof, unless the importer or consignee shall segregate such merchandise at his own risk and expense under customs supervision within ten days after entry thereof, in order that the quantity and value of each part or class thereof may be ascertained." (Tariff Act of 1930, sec. 508, 19 U. S. C. 1508)

[10] "* * * No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the weekly Treasury Decisions of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties." (Tariff Act of 1930, sec. 315, as amended; 19 U. S. C. 1315)

[11] "(a) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

"(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and

"(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 per centum any existing rate of duty or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly: *Provided*, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

* * * * *

"(c) As used in this section, the term 'duties and other import restrictions' includes (1) rate and form of import duties and classification of articles, and (2) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports." (Tariff Act of 1930, sec. 350; 19 U. S. C. 1351)

"(c) *Proclamation by the President.* The President shall by proclamation approve the rates of duty and changes in classification and in basis of values specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

"(d) *Effective date of rates and changes.* Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification or in basis of value specified in the report of the commission shall take effect." (Tariff Act of 1930, sec. 336 (c) and (d); 19 U. S. C. 1336)

previously imported, for which no entry has been made, and all merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued, shall be liquidated or reliquidated, as the case may be, on the basis of the new rate of duty or tax. The reliquidation in such cases shall be made in the district where the merchandise is in customs custody on the date of the change of rate of duty or tax. In the case of merchandise covered by a warehouse or rewarehouse entry and subject to a tariff-rate quota, the liquidation shall be governed by § 16.3 (c) 1945 Supp. "In the case of alcoholic beverages provided for in Schedule 8, Tariff Act of 1930, subject to internal-revenue taxes, the liquidation shall be made at the port at which the merchandise is withdrawn for consumption.

(i) When merchandise is entered as provided for in section 503, Tariff Act of 1930, and the merchandise is finally appraised at less than the duress entered value, the collector shall liquidate the entry on the basis of the final appraised value. (Secs. 503, 505, 624, 46 Stat. 731, 732, 759; 19 U. S. C. 1503, 1505, 1624)

§ 16.11 *Warehouse entries.* Warehouse entries shall be liquidated by single packages when necessary for the purpose of withdrawal. (Secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1505, 1624)

§ 16.12 *Appraisement, baggage, informal, and mail entries.* (a) The preparation of mail entries, customs Form 3419 or 3420, and informal entries, customs Form 5119, the acceptance of baggage entries, customs Form 6059 or 6063, and the computations of duty made by the entry clerk after the return of an appraisement entry, customs Form 7500, by the appraiser shall be considered the tentative liquidations of such entries, and no review of such tentative liquidations shall be made in the collector's office, unless an obvious error is observed or a complaint against the assessment of duty is received by the collector before the entry is transmitted to the comptroller.

(b) Appraisement, informal, mail, and baggage entries shall be formally liquidated after verification by the comptroller and return to the collector, and a carbon copy of customs Form 5171 covering such entries shall be posted or lodged as the notice of liquidation, in the place and manner specified in § 16.2 (d) for customs Form 4333, after a line has been drawn through the data relating to any entry listed thereon which has not been liquidated as entered. When any such entry is liquidated otherwise than as entered, or is liquidated after the copy of Form 5171 on which it was scheduled has already been posted or lodged as a notice of liquidation, notice of the liquidation shall be posted or lodged on customs Form 4333. All such entries ready for liquidation during any one month may be liquidated on any convenient day during that month. The date of posting or lodging for the information of importers shall be stamped on the bulletin as the date of liquidation of all entries covered thereby.

(c) Free baggage declarations, originals, certified copies, or certificates in lieu of certified copies, customs Form 6059–A shall not be liquidated and shall not be forwarded to the comptroller unless they are used to clear baggage held in general order. In such cases, the original, certified copy, or certificate in lieu of a certified copy shall be forwarded to the comptroller to enable him to complete his general-order record.

(d) If a mail entry or informal entry on customs Form 5119 is issued for articles which subsequently are passed free under the $100 or $300 exemption on the basis of a certified copy of a returning resident's baggage declaration, a proper notation that the articles were passed under paragraph 1798, Tariff Act of 1930, as amended, "per certified copy of baggage declaration produced" shall be made on the entry by the customs officer. In such case the mail or informal entry shall be scheduled on customs Form 5171 as "Free" and forwarded to the comptroller of customs in due course. The certified copy of the baggage declaration shall not accompany the mail entry to the comptroller of customs for verification of the liquidation.

(e) The fact and date of liquidation shall be shown on the office copy of Form 5171 on which the entries were originally scheduled. (Secs. 505, 624, 46 Stat. 732, 759; 19 U. S. C. 1505, 1624)

§ 16.13 *Errors; correction of.* Clerical errors in the reports of weight, gauge, or measure, errors in extension and other mathematical calculations, the inclusion of uniformly nondutiable charges in the entered value, and other clerical errors apparent from the papers, dock books, or other records may be corrected by collectors (a) upon liquidation of the entry, (b) upon voluntary reliquidation completed within 60 days after liquidation, or (c) upon a reliquidation pursuant to a protest covering the particular merchandise with respect to which such errors have occurred. In other cases such errors may be corrected only on instructions from the Bureau. (Secs. 520, 624, 46 Stat. 739, 759, sec. 18, 52 Stat. 1086; 19 U. S. C. 1520, 1624)

§ 16.14 *Limitation upon reliquidation.* (a) In the absence of a protest, no entry shall be reliquidated after the expiration of the protest period, except as provided for in section 520 (c), as amended, or section 521, Tariff Act of 1930,[11] or § 16.10 (h)

(b) An error in the liquidation of an entry covering household or personal effects may be corrected by collectors of customs without reference to the Bureau, notwithstanding a timely protest was not filed, if an application for refund is filed with the collector within 1 year after the date of entry and no waiver of compliance with applicable regulations is involved other than a waiver which the collector has authority to grant. (Secs. 514, 520, 521, 624, 46 Stat. 734, 739, 759, sec. 18, 52 Stat. 1086; 19 U. S. C. 1514, 1520, 1521, 1624)

§ 16.15 *Taxes; applicability of laws relating to customs duties.* (a) Import taxes imposed by I. R. C. sections 2490, 3420, and 3500 shall be construed to be customs duties subject to the limitations specified in I. R. C. sections 2493, 3430, and 3501, respectively, and in the liquidation of entries such taxes shall be treated in the same manner as duties imposed by the Tariff Act of 1930, as amended.

(b) Provisions of law (including preferences and exemptions) relating only to customs duties shall not be applied to taxes or other charges which are not construed to be customs duties,[12] notwithstanding such taxes or charges may be collected on imported merchandise in customs custody by collectors of customs. (Sec. 20, 52 Stat. 1087, sec. 624, 46 Stat. 759; 19 U. S. C. 1528, 1624)

NOTE: Treasury Decision 51964, Acting Commissioner of Customs, approved by the Acting Secretary of the Treasury, June 30, 1948, 13 F. R. 3963, provides in part as follows: "All pertinent customs regulations are hereby extended to govern the assessment and collection of the import taxes imposed by section 3500 of the Internal Revenue Code for the period from July 1, 1948 to June 30, 1953."

§ 16.16 *Taxes on imported oils and other products.* (a) In the liquidation of an entry, taxes imposed by I. R. C. sections 2490, 3420, and 3500 shall be treated in the same manner as duties imposed by the Tariff Act of 1930, as amended.

(b) In the case of any article, merchandise, or combination subject to a tax under I. R. C. section 2491 (c) not less than 10 percent of the quantity by weight of which consists of or is derived directly or indirectly from one or more of the products (except seeds) specified in the said section or in I. R. C. section 2470, the report of the appraising officer on the invoice shall indicate the percentage of the total net weight of the imported article which consists of or is derived directly or indirectly from each of the products above mentioned. If the facts for the assessment of duty cannot be determined from an examination of the imported article or from other available

[11] "Notwithstanding a valid protest was not filed, the Secretary of the Treasury may authorize a collector to reliquidate an entry to correct—

"(1) A clerical error in any entry or liquidation discovered within one year after the date of entry, or within sixty days after liquidation when liquidation is made more than ten months after the date of entry; or

"(2) Any assessment of duty on household or personal effects which by law were not subject to duty and in respect of which an application for refund has been filed with the collector within one year after the date of entry." (Tariff Act of 1930, sec. 520 (c), as amended; 19 U. S. C. 1520 (c))

"If the collector finds probable cause to believe there is fraud in the case, he may reliquidate an entry within two years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation." (Tariff Act of 1930, sec. 521; 19 U. S. C. 1521)

[12] "No tax or other charge imposed by or pursuant to any law of the United States shall be construed to be a customs duty for the purpose of any statute relating to the customs revenue, unless the law imposing such tax or charge designates it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws. * * *" (Tariff Act of 1930, sec. 623, as amended; 19 U. S. C. 1523)

sources, the maximum tax likely to be due shall be collected and the liquidation of the entry suspended for a reasonable time to enable the importer to furnish the necessary information. If a claim shall be filed in connection with the entry that, in view of I. R. C. section 2492, an article or part thereof is not taxable under I. R. C. section 2491 because such article or part thereof was derived directly or indirectly from a waste not named in I. R. C. section 2491, the collector may require such additional evidence, in the form of affidavits or otherwise, as may be necessary and suitable to determine the facts on which the claim is based. (53 Stat. 264, 267, 268; I. R. C. 2470, 2490, 2491, 2492; 26 U. S. C. 2470, 2490, 2491, 2492)

§ 16.17 *Additional duty arising from undervaluation.* In imposing additional duty for undervaluation under section 489, Tariff Act of 1930,[14] the rate to be assessed shall not include any fraction of 1 per centum. For example, if the advance is 10¼ or 10⅞ percent, the additional duty to be assessed shall be 10 percent. (Secs. 489, 624, 46 Stat. 725, 759; 19 U. S. C. 1489, 1624)

§ 16.18 *Additional duties on articles not legally marked.* (a) The marking duty prescribed by section 304 (c) Tariff Act of 1930, as amended,[15] shall be assessed upon the value as defined in section 503, Tariff Act of 1930.

(b) The liquidation of entries, other than warehouse entries, shall not be suspended merely because the merchandise covered thereby is reported to be not legally marked, but, upon special application by the importer, the liquidation may be deferred for a reasonable time to permit the marking, destruction, or exportation of the merchandise. Warehouse entries covering merchandise not legally marked shall not be liquidated prior to the withdrawal of the merchandise from warehouse for consumption, exportation, or destruction. (Sec. 304, 46 Stat. 687, sec. 3, 52 Stat. 1077, 19 U. S. C. 1304)

§ 16.19 *Discriminating duties.* The discriminating duties provided for in subsection 1 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U. S. C. 128, 131) and the discriminating duties and penalties provided for in section 338, Tariff Act of 1930, shall be imposed only in pursuance of specific instructions from the Commissioner of Customs. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. and Sup., 66, 1624)

§ 16.20 *Duties contingent upon foreign export duties, charges, or restrictions.* Paragraph 1401, Tariff Act of 1930, provides in part for the imposition under certain conditions of additional duties on articles covered thereby. The assessment of these additional duties is dependent upon action by the President, and notice of such action, if taken, will be published in the weekly Treasury Decisions. (Par. 1401. sec. 1, 46 Stat. 590, sec. 624, 46 Stat. 759; 19 U. S. C. 1001, 1624)

§ 16.21 *Dumping duty; notice to importer* (a) Special dumping duty shall be assessed on all importations of merchandise, whether dutiable or free, as to which the Secretary of the Treasury has made public a finding of dumping, provided the particular importation has not been appraised prior to the publication of such finding, and the appraiser reports that the purchase price or exporter's sales price is less than the foreign-market value or cost of production, as the case may be.[16]

(b) Before dumping duty is assessed the collector shall notify the importer of the appraiser's report, as in the case of an advance in value. If the importer files an appeal for reappraisement, liquidation shall be suspended until the appeal for reappraisement is finally decided.

(c) If the necessary conditions are present, special dumping duty shall be assessed on samples imported for the purpose of taking orders and making sales in this country. (R. S. 251, sec. 202, 42 Stat. 11, 19 U. S. C. 66, 161)

§ 16.22 *Method of computing dumping duty.* If it appears that the merchandise has been purchased by a person not the exporter within the meaning of section 207, Antidumping Act, 1921, the special dumping duty shall equal the difference between the purchase price and the foreign-market value on the date of purchase, or, if there is no foreign-market value, between the purchase price and the cost of production, any foreign currency involved being converted into United States money as of the date of purchase or agreement to purchase. If it appears that the merchandise is imported by a person who is the exporter within the meaning of such section 207, the special dumping duty shall equal the difference between the exporter's sales price and the foreign-market value on the date of exportation, or, if there is no foreign-market value, between the exporter's sales price and the cost of production, any foreign currency involved being converted into United States money as of the date of exportation. (R. S. 251, secs. 202, 207, 42 Stat. 11, 14, 19 U. S. C. 66, 161, 166)

§ 16.23 *Cuban preference.* (a) The total and partial exemptions from duty provided for in the trade agreement with the Republic of Cuba of October 30, 1947,[17] shall be deemed to apply only to direct shipments from Cuba and to shipments via other countries for which there is furnished proof that the merchandise was destined to the United States at the time of exportation from Cuba and also a certificate of the proper customs officer of each foreign country in which the merchandise was landed while en route to the United States showing continuous

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[14] "If the final appraised value of any article of imported merchandise which is subject to an ad valorem rate of duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the entered value, there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of 1 per centum of the total final appraised value thereof for each 1 per centum that such final appraised value exceeds the value declared in the entry. Such additional duty shall apply only to the particular article or articles in each invoice that are so advanced in value upon final appraisement and shall not be imposed upon any article upon which the amount of duty imposed by law on account of the final appraised value does not exceed the amount of duty that would be imposed if the final appraised value did not exceed the entered value, and shall be limited to 75 per centum of the final appraised value of such article or articles. * * * All additional duties, penalties, or forfeitures applicable to merchandise entered in connection with a certified invoice shall be alike applicable to merchandise entered in connection with a seller's or shipper's invoice or statement in the form of an invoice. * * *" (Tariff Act of 1930, sec. 489; 19 U. S. C. 1489)

[15] "If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. * * *" (Tariff Act of 1930, sec. 304 (c), as amended; 19 U. S. C. 1304 (c))

[16] Such findings by the Secretary will be published in the Treasury Decisions and will contain a description of the merchandise of the kind or class to which they apply, in such detail as may be necessary for the guidance of customs officers.

For regulations regarding finding of dumping by the Secretary and procedure under the Antidumping Act, 1921, see §§ 14.7–14.17 of this chapter.

The fact that the importer has added on entry the difference between the purchase price or the exporter's sales price and the foreign-market value or cost of production and the appraiser has approved the resulting entered value shall not prevent the assessment of the special dumping duty. However, a mere difference between the purchase price or exporter's sales price and the foreign-market value or cost of production, without a finding by the Secretary of the Treasury, as above referred to, is not sufficient for the assessment of the special dumping duty.

[17] The operation of the Convention of Commercial Reciprocity between the United States and Cuba signed December 11, 1902 (T. D. 24836), and the operation of the trade agreement with Cuba of August 24, 1934 (T. D. 47232), as amended by the supplementary trade agreements of December 18, 1939 (T. D. 50050), and of December 23, 1941 (T. D. 50541), are suspended for such time as the United States and Cuba are both contracting parties to the General Agreement on Tariffs and Trade concluded at Geneva on October 30, 1947.

customs custody of the shipment while in such foreign country.

(b) No evidence of origin shall be required for any Cuban merchandise which is unconditionally free of duty. Certified invoices shall be required for merchandise of Cuban origin embraced within the classes enumerated in § 8.15 of this chapter. If the right of the merchandise to any total or partial exemption from duty is dependent upon its Cuban origin and the value of the shipment exceeds $100. In the case of every shipment of Cuban articles for which any total or partial exemption from duty is sought under the provisions of the Cuban Trade Agreement, there shall be filed in connection with the entry, preferably on the invoice filed with the entry, a declaration of the shipper, or other person having actual knowledge of the facts, that the articles for which the exemption is sought are of the growth, produce, or manufacture of Cuba.

(c) Duties assessed on imports on special occasions, such as marking duties (sec. 304, Tariff Act of 1930) and additional duties for undervaluation (sec. 489, Tariff Act of 1930), internal-revenue taxes imposed on imported articles, and other special exactions (as distinguished from the ordinary customs duties such as are imposed under the provisions of the dutiable list of the tariff act and I. R. C.-sections 2490 and 3420) are not subject to any reduction under the trade agreement. (49 Stat. 3559; R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 16.24 *Countervailing duties.* (a) Declarations or notices of the Secretary of the Treasury of the payment or bestowal of bounties or grants with respect to the articles or merchandise listed below have been issued pursuant to section 303, Tariff Act of 1930,[18] and are presently in effect:

[18] "Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated. The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of such additional duties." (Tariff Act of 1930, sec. 303; 19 U. S. C. 1303)

Country	Commodity	Treasury Decision	Action
Australia	Sugar content of certain articles	37319	Accrued duties (estimated).
		37341	Enumerates rates of duty.
		37729	Supplemental data.
		37312	Do.
		40157	Suspended liquidation pending determination varying amounts of bounty.
	Fencing wire, galvanized sheets, traction engines, wire netting	4701	Accrued duties (declared).
		42284	New rates (galvanized sheets).
	Butter	42337	Accrued duties (estimated).
		42777	Increased rates.
		45021	New rates.
Denmark	Butter	47329	Accrued duties (estimated).
		45724	Discontinued as to direct shipments prior to Oct. 25, 1939, and imported indirectly after Nov. 10, 1939.
Germany	Cameras, calf and kid leather, surgical instruments, toys, dolls, cotton-and-rayon gloves, china tableware, thumbtacks, metal-covered paper, leather gloves	43020	Declaration of bounty (estimated).
		43444	Exempt gifts and articles for personal use.
		43473	Contracts entered into after July and August 1939 in respective cases exempts merchandise from provisions T. D. 43020.
		43479	
		51371	Modifies all Treasury decisions listed above under Germany which impose countervailing duties on commodities described therein, when exported directly or indirectly from Germany or from areas or countries named in other Treasury decisions listed above under Germany as under the de facto administration of German authorities, so as not to apply to such commodities if exported on or after May 8, 1945.
	Ethylene dibromide	45719	Declaration of bounty (3.775¢ lb. declared).
	All dutiable merchandise	43321	Declaration of bounty (estimated); deposit of 25% of invoice value effective Apr. 22, 1939.
		43340	Modifies T. D. 43321 as to articles for personal use and importations not involving bounty.
		43373	Declaration of importer.
		43375	Amends T. D. 43321 and T. D. 43340; grants collectors more authority.
		43393	Samples, merchandise furnished gratis, etc., exempt.
		43393	Austria incorporated in the territory of Germany.
		45743	Sudeten transferred to Germany.
		45363	Memel, territory of Lithuania, ceded to Germany.
		43392	Countries under control of Germany
		50029	
Italy	Silk and silk articles	42399	Accrued duties (estimated).
		50148	Modifies T. D. 43399 as to exportations after Jan. 1, 1940.
Lithuania	Butter	43122	Accrued duties (estimated).
Netherlands	Chicory	43741	Accrued duties (estimated).
		51324	Modifies T. D. 43741 so as not to apply to exports from the Netherlands on and after May 8, 1945.
	Meat products	43399	Accrued duties (estimated).
		43370	Exempts direct exportations to United States after Apr. 9, 1939.
	Milk products	43729	Accrued duties (estimated).
		43749	Suspends T. D. 43729 pending investigation.
		43939	Modifies T. D. 43729 to apply to indirect shipments only.
	Peas	47003	Declaration of bounty (estimated).
		49114	Restricted to indirect shipments only.
Great Britain	Silk and artificial silk	42395	Bounties—spun silk yarn declared.
		42924	Bounties—various articles.
		44742	New rates.
		47413	Supplemental new rates.
		47502	Bounties enumerated.
		47504	Duties on exportations on and after Dec. 1, 1934.
United Kingdom, Great Britain, Northern Ireland, and Ireland.	Spirits	31229	Declaration of bounty declared.
		31429	Revokes T. D. 31229 on basis export allowance not a bounty.
		34109	Reconsideration that export allowance is a bounty and rates declared.
		34732	Classification—spirits.
		34732	No duty on rum.
		35039	Method of determining proof gallons.
		37310	Includes alcoholic perfumery.
		35038	Includes orange bitters.
		47723	Includes shipments from Irish Free State (Ireland) in addition to Great Britain.
		47723(7)	Net quantity of landed gallons to be used as basis for computing duty.
	Sugar	42395	Accrued duties declared.
		42931	Supplemental rates declared.
		50103	Supplemental rates declared.
		50127	Amends T. D. 50103 re formula (4).
Canada	Cheese: 93-94 score. From whole milk, cheddar or "washed curd" types.	50093	Accrued duty declared.
Spain	Cork and cork manufactures	51727	Accrued duties (estimated).
		51870	Modifies T. D. 51727 so as not to apply to exports from Spain on and after Nov. 1, 1947.
	Shelled almonds	52074	Accrued duty declared.

(b) For countervailing duty purposes the currency shall be converted at the rate certified daily by the Federal Reserve Bank whether the variance between this and the proclaimed rate is more or less than 5 percent. (R. S. 251, sec. 303, 624, 46 Stat. 687, 759; 19 U. S. C. 66, 1303, 1624)

§ 16.25 *Special duties on articles imported under agreements in restraint of trade.* Whenever it appears that imported articles may be subject to the special duties provided for in section 802, act of Sept. 8, 1916, 39 Stat. 799; 15 U. S. C. 73,[19] the collector shall report the matter to the Commissioner of Customs and await instructions with respect to the imposition of such duties. (Sec. 803, 39 Stat. 799; 15 U. S. C. 74)

§ 16.26 *Philippine trade.* (a) The free entry of "Philippine articles"[20] entered, or withdrawn from warehouse, for consumption before July 4, 1954, and the total or partial exemptions for the period after July 4, 1954, which are authorized by the Philippine Trade Act of 1946 and the exclusive trade agreement between the United States and the Republic of the Philippines, effective January 2, 1947, apply to "Philippine articles" imported from any foreign country.

(b) No evidence of origin shall be required for any Philippine merchandise which is unconditionally free of duty.

(c) When any total or partial exemption from duty is claimed on the ground that an importation consists of "Philippine articles," the claim shall be allowed only if it is established to the satisfaction of the collector of customs concerned. The collector may accept as satisfactory evidence that an article is "Philippine article" a certificate in the appropriate form specified in paragraph (d) of this section, subject to any verification he may deem necessary, or he may satisfy himself of such fact by other reasonable ways and means if, taking into consideration the kind and value of the goods and the circumstances of importation, he deems a certificate unnecessary.

(d) (1) When no material which is not the growth, product, or manufacture of the Philippines or of the United States was used at any stage in the production of the imported article, a certificate in the following form may be accepted as evidence that the commodity is a "Philippine article":

The product covered by the _____
(Describe above
_____
the invoice, bill of lading, or other document
_____
or statement identifying the shipment)

annexed or appended to this certificate of Philippine origin at the time it was subscribed and sworn to before the notary public, or other officer authorized to administer oaths, whose signature appears below, is the growth, product, or manufacture of the Philippines. No foreign materials (other than those which are of the growth, product, or manufacture of the United States) were used at any stage in the production of this product, i. e., either in its immediate production or in the production of any intermediate product used at any stage in the chain of production in the Philippines which resulted in this product.

(2) When any material which is not the growth, product, or manufacture of the Philippines or of the United States was used at any stage in the manufacture of the imported article, a certificate in the following form may be accepted as evidence that the commodity is nevertheless a "Philippine article":

The product covered by the _____
_____
(Describe above the invoice, bill of lading, or other document or statement identifying the shipment)

annexed or appended to this certificate of Philippine origin at the time it was subscribed and sworn to before the notary public, or other officer authorized to administer oaths, whose signature appears below, is the product of the Philippines. There were used in its production in the Philippines_____
_____
(Number of units and description)
of foreign materials (other than those which are of the growth, product, or manufacture of the United States), valued by the Philippine customs officers for the purpose of the Philippine customs laws at _____
_____
(Official Philippine customs value at the time of importation into the Philippines, in terms of pounds, yards, or other applicable unit) plus, if not included in such unit value, _____, the cost per unit of bringing such foreign materials to the Philippines.

(3) If the collector shall be satisfied that the revenue will be protected adequately thereby, he may accept in lieu of the certificate specified in subparagraph (2) of this paragraph a certificate in the following form:

The product covered by the_____
_____
(Describe above the invoice, bill of lading, or other document or statement identifying the shipment)

annexed or appended to this certificate of Philippine origin at the time it was subscribed and sworn to before the notary public, or other officer authorized to administer oaths, whose signature appears below, is the product of the Philippines. There were or may have been used in its production in the Philippines foreign materials (other than those which are of the growth, product, or manufacture of the United States).

It is impracticable to ascertain the exact number of units of foreign material, if any, used in its production or the customs valuation of such material, but to the best of (my) (our) (its) knowledge and belief such foreign materials as were or may have been used would not exceed 20 per centum of the selling price or invoice value of the product covered by this certificate.

(4) If more than one kind of article is covered by a certificate provided for in subparagraphs (1) (2), or (3) of this paragraph, the required information shall be shown with respect to each kind. When more than one kind of material of other than Philippine or United States origin is used in the production of an article covered by such a certificate, the certificate shall state the number of units, description, and Philippine customs valuation per unit of each such kind of material.

(5) A certificate conforming to subparagraphs (1) (2) or (3) of this paragraph shall be accepted as evidence of the facts alleged therein only if (i) there is annexed thereto a copy of the commercial invoice or bill of lading covering the articles or other documentary matter which identifies the articles to which the certificate pertains, (ii) the certificate is signed by the manufacturer or producer of the articles to which it pertains, or by the person who exported the articles from the Philippines, and is sworn to by him before a person authorized to administer oaths, and (iii) it clearly appears that such copy or other documentary matter was annexed to the certificate when it was signed and sworn to. (R. S. 251, sec. 624, 46 Stat. 759, secs. 2, 201–5, 214, 60 Stat. 141, 143, 144, 146; 19 U. S. C. 66, 1624, 22 U. S. C. 1251–1255, 1264, 1360)

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[19] If any article produced in a foreign country is imported into the United States under any agreement, understanding, or condition that the importer thereof or any other person in the United States shall not use, purchase, or deal in, or shall be restricted in his using, purchasing, or dealing in, the articles of any other person, there shall be levied, collected, and paid thereon, in addition to the duty otherwise imposed by law, a special duty equal to double the amount of such duty: *Provided*, That the above shall not be interpreted to prevent the establishing in this country on the part of a foreign producer of an exclusive agency for the sale in the United States of the products of said foreign producer or merchant, nor to prevent such exclusive agent from agreeing not to use, purchase, or deal in the article of any other person, but this proviso shall not be construed to exempt from the provisions of this section any article imported by such exclusive agent if such agent is required by the foreign producer or if it is agreed between such agent and such foreign producer that any agreement, understanding, or condition set out in this section shall be imposed by such agent upon the sale or other disposition of such article to any person in the United States.

[20] The term "Philippine articles" means articles which are products of the Philippines, but does not include any article produced with the use of materials imported into the Philippines which are products of any country other than the Philippines or the United States if the aggregate value of such imported materials when landed at the Philippine port of entry, exclusive of any landing cost and Philippine duty, was more than 20 per centum of the appraised customs value of the article imported into the United States. (22 U. S. C. 1360 (a) (4).)

PART 17—PROTESTS AND REAPPRAISEMENTS

PROTESTS

Sec.
17.1 Protest; form of.
17.2 Power of attorney to file protest.
17.3 Collector's review on protest; transmission of protests and samples to the United States Customs Court.
17.4 Decisions of United States Customs Court; appeals; reliquidation; refunds.
17.5 Stipulations following decisions of the courts.

REAPPRAISEMENT AND REVIEW

17.6 Notice of advance.
17.7 Appeal for reappraisement; form; hearing at New York; samples.
17.8 Notice to importer of reappraisement decision; review of.

ANTIDUMPING PROTESTS AND APPEALS; REMISSION OF ADDITIONAL DUTY; AMERICAN PRODUCERS' APPEALS AND PROTESTS

Sec.
17.9 Antidumping; protests and appeals; procedure.
17.10 Remission of additional duty; procedure.
17.11 American producers' appeals and protests; procedure.

PROTESTS

§ 17.1 *Protest; form of.* (a) Protests (except protests by American manufacturers, producers, and wholesalers) filed against decisions of the collector shall be in the form and filed within the time prescribed by section 514, Tariff Act of 1930.[1]

(b) Each protest shall be in triplicate, addressed to the collector, and signed by the person protesting or his agent or attorney. Each protest shall show the address of the protestant and the address of his agent or attorney, if signed by one of these, the number and date of the entry, the name of the importing carrier, the date of importation, and the date of the liquidation of the entry, and it shall set forth distinctly and specifically with respect to each entry, payment, claim, decision, or refusal the reasons for the objection, stating the rate or rates of duty claimed to be applicable and the paragraph or section of the law, if any, under which relief is claimed.

(c) The date of liquidation for the purpose of computing the time for filing protests under section 514, Tariff Act of 1930, shall be the date of liquidation stamped upon the entry, and the posting or lodging of notice of the liquidation in compliance with § 16.2 (d) of this chapter shall be sufficient notice of the fact and date of liquidation.

(d) The date of the decision of the collector excluding any merchandise from entry or delivery under any provision of the customs revenue laws shall be the date of his written notice to the importer that entry or delivery will not be allowed. The action of the collector or other customs officer in seizing or directing the seizure of merchandise shall not constitute a notice of exclusion for the purpose of this paragraph. (Secs. 514, 624, 46 Stat. 734, 759; 19 U. S. C. 1514, 1624)

§ 17.2 *Power of attorney to file protest.* (a) Except as hereinafter provided in this paragraph, no protest signed by an agent or attorney shall be granted or denied by the collector unless there has been filed, or is filed with the protest, in the collector's office a power of attorney on customs Form 5295 or 5295–A or other form as explicit in its terms as is the prescribed customs form, authorizing such agent or attorney to make, sign, and file the protest. Such powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of receipt thereof by the collector. All other powers of attorney may be granted for an unlimited period but shall be subject to revocation prior to the date of expiration stated therein by written notice given to and received by the collector. When a protest is filed by an agent or attorney not named in a power of attorney as required by this section, it shall be numbered and stamped with the date of receipt in order to establish whether it was filed within the period prescribed by section 514, Tariff Act of 1930, and the collector shall cause an investigation to be made to ascertain whether the agent or attorney was duly authorized to file the protest. If it is found upon such investigation that the agent or attorney was so authorized, the protest shall be reviewed by the collector and granted or denied and referred to the customs court as in cases where a proper power of attorney has been filed. If it is found upon such investigation that the agent or attorney was not duly authorized to file the protest, the purported protest shall not be granted or denied by the collector but shall be transmitted, together with the entry and accompanying papers and all exhibits connected therewith, to the United States Customs Court, with a communication explaining to the court that the agent or attorney who filed the purported protest was not named in a power of attorney, that it was found upon investigation that the agent or attorney was not authorized to file the protest, and that the collector has been prevented from complying with section 515 of the tariff act by the lack of authority of the agent or attorney to file the protest, inasmuch as section 514 specifies the only persons by or on whose behalf protests may be filed with the collector and section 515 does not authorize the collector to grant any purported protest or (if he does not agree with the claim) to deny it and refer it to the court for litigation on the merits, until the statutory prerequisite that it has been filed by an authorized person has been established.

(b) A partnership power of attorney to file protests may be executed by one member in the name of the partnership, provided the power recites the names of all the members. A corporate power of attorney to file protests shall be signed by a duly authorized officer or employee of the corporation and, if the collector is otherwise satisfied as to the authority of such corporate officer or employee to grant such power of attorney, compliance with the requirements of § 8.19 (e) of this chapter may be waived with respect to such power. (Secs. 514, 515, 624, 46 Stat. 734, 759; 19 U. S. C. 1514, 1515, 1624)

§ 17.3 *Collector's review on protest; transmission of protests and samples to the United States Customs Court.* (a) The collector, after reviewing so much of his liquidation as is covered by the protest, may reliquidate the entry involved, assessing the duties believed by him at that time to be correct.[2]

(b) Samples shall not be required when the question involved is one of law which does not necessitate an inspection of the merchandise by the court, or when the merchandise is heavy, bulky, or otherwise of such character as to make the retention of samples impracticable. When no samples have been retained by the appraiser, they shall be furnished to the collector by the protestant in appropriate cases and transmitted to the appraiser for verification. If samples are sent to the court at the importer's request, the transportation charges shall be paid by him. If samples are needed to sustain the Government's case, they shall be sent by mail, if possible, under Government frank; otherwise under Government bill of lading. (Secs. 515, 624, 46 Stat. 734, 759; 19 U. S. C. 1515, 1624)

§ 17.4 *Decisions of United States Customs Court; appeals; reliquidation; refunds.* (a) An entry which is the subject of a decision of the United States

[1] "Except as provided in subdivision (b) of section 516 of this Act (relating to the protests by American manufacturers, producers, and wholesalers), all decisions of the collector, including the legality of all orders and findings entering into the same, as to the rate and amount of duties chargeable, and as to all exactions of whatever character (within the jurisdiction of the Secretary of the Treasury), and his decisions excluding any merchandise from entry or delivery, under any provision of the customs laws, and his liquidation or reliquidation of any entry, or refusal to pay any claim for drawback or his refusal to reliquidate any entry for a clerical error discovered within one year after the date of entry, or within sixty days after liquidation or reliquidation when such liquidation or reliquidation is made more than ten months after the date of entry, shall, upon the expiration of sixty days after the date of such liquidation, reliquidation, decision, or refusal, be final and conclusive upon all persons (including the United States and any officer thereof), unless the importer, consignee, or agent of the person paying such charge or exaction, or filing such claim for drawback, or seeking such entry or delivery, shall, within sixty days after, but not before such liquidation, reliquidation, decision, or refusal, as the case may be, as well in cases of merchandise entered in bond as for consumption, file a protest in writing with the collector setting forth distinctly and specifically, and in respect to each entry, payment, claim, decision, or refusal, the reasons for the objection thereto. The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the collector upon any question not involved in such liquidation." (Tariff Act of 1930, sec. 514, 19 U. S. C. 1514)

[2] "Upon the filing of such protest the collector shall within ninety days thereafter review his decision, and may modify the same in whole or in part and thereafter remit or refund any duties, charge, or exaction found to have been assessed or collected in excess, or pay any drawback found due, of which notice shall be given as in the case of the original liquidation, and against which protest may be filed within the same time and in the same manner and under the same conditions as against the original liquidation or decision. If the collector shall, upon such review, affirm his original decision, or if a protest shall be filed against his modification of any decision, and, in the case of merchandise entered for consumption, if all duties and charges shall be paid, then the collector shall forthwith transmit the entry and the accompanying papers, and all the exhibits connected herewith, to the United States Customs Court for due assignment and determination, as provided by law. Such determination shall be final and conclusive upon all persons, and the papers transmitted shall be returned, with the decision and judgment order thereon, to the collector, who shall take action accordingly, except in cases in which an appeal shall be filed in the United States Court of Customs and Patent Appeals within the time and in the manner provided by law." (Tariff Act of 1930, sec. 515; 19 U. S. C. 1515)

Customs Court shall be reliquidated in harmony with the judgment order thereon at the expiration of 60 days from the date of the decision, or 90 days in the case of entries covering merchandise imported into Alaska or the insular possessions of the United States, unless an appeal or motion for a rehearing is filed,[3] except that entries the subject of decisions of the court, which follow a decision of the Court of Customs and Patent Appeals involving the same issue, may ordinarily be reliquidated immediately upon receipt of the judgment orders from the United States Customs Court.

(b) An entry covering merchandise the subject of a decision of the Court of Customs and Patent Appeals shall be reliquidated only upon receipt of the judgment order from the United States Customs Court, but no such entry shall be liquidated pursuant to such order if an appeal is taken to the Supreme Court.[4]

(c) Refund of duties on reliquidation by reason of any ruling or decision of the Bureau, the United States Customs Court, or the United States Court of Customs and Patent Appeals shall be made in accordance with part 24. (Secs. 515, 624, 46 Stat. 734, 759; 19 U. S. C. 1515, 1624)

§ 17.5 *Stipulations following decisions of the courts.* (a) All stipulations following a decision of the United States Customs Court or United States Court of Customs and Patent Appeals, which are to be certified by appraising officers, shall be presented in triplicate to the office of the appraiser at ports other than New York, and to the office of the Assistant Attorney General at the Port of New York, and shall be forwarded to the protest section in the appraiser's office. At ports other than New York the receipt of the stipulation shall be acknowledged by the appraiser by initialing the triplicate copy and returning it to the importer or attorney submitting it. At the port of New York the protest section of the appraiser's office shall acknowledge the receipt of each stipulation from the Assistant Attorney General's office by initialing and returning the triplicate copy to the Assistant Attorney General's messenger.

(b) Each item or class of merchandise mentioned in the body of the stipulation shall be identified by a separate capital letter and by the initials of the certifying officer, but in no case shall the letter or symbol "X" be used for such identification purposes. The stipulation shall indicate that the merchandise is so marked on the invoice by a statement in substantially the following form:

It is hereby stipulated and agreed by and between counsel for the plaintiff and the Assistant Attorney General, attorney for the United States, that the merchandise_____, covered by the protests
(Give description)
enumerated in Schedule A, attached, and represented by the items marked "A," "B," "C," etc., on the invoice(s), and checked by _____
(The examiner will here insert his initials and his full name thereafter)
_____, assessed with duty at the rate of _____ under paragraph _____, Tariff Act of_____, as _____, is the same in all material respects as the merchandise passed upon in the case of_____
(Insert title and Abstract, T. D., C. D., or C. A. D. number)
and therein held dutiable at the rate of_____ _____ under paragraph_____ _____, Tariff Act of _____,

The conclusion of the stipulation shall contain a declaration that the protests are limited to the items of merchandise indicated by the examiner by means of a symbol letter and his initials, and abandoned as to any other merchandise mentioned in the protest. There shall also be a waiver of future amendment to the protests and a statement that "the protests are deemed submitted on this stipulation."

(c) At the end of each stipulation there shall be added a certificate in one of the following forms: [5]

(Form 1)

I have read the foregoing stipulation and am familiar with the merchandise covered by the decisions therein. I have personally passed the items covered by the foregoing stipulation and have seen samples of said items.

It is my opinion that the items covered by the stipulation are similar in all material respects to the merchandise covered by the test case, and I do so certify.

_____
(Signature of certifying officer.)
_____
(Title)
_____
(Date)
Approved:
_____
(Signature of reviewing officer.)
_____
(Title)

(Form 2)

I have read the stipulation and am familiar with the merchandise covered by the decision cited therein.

I am of the opinion that the merchandise covered by the stipulation, and which was passed upon by former Examiner _____ _____, who is now deceased (or is not available because _____ _____), is similar in all material respects to the merchandise covered by the test case.

I base my opinion upon the examination of the official records showing the practice of former Examiner _____ in advisorily classifying similar merchandise imported by this plaintiff, the inspection of samples where available, and my knowledge of the importer's line of merchandise obtained by my personal examination of current and past importations.

_____
(Signature of certifying officer.)
_____
(Title)
_____
(Date)
Approved:
_____
(Signature of reviewing officer.)
_____
(Title)

Whenever it seems necessary to modify the provisions of Form 1 or 2 to meet the facts of a particular case, the importer or his attorney shall submit a draft of a modified certificate to the appraiser for his advance approval.

(d) If any protest number or entry number is to be deleted from a schedule of protest numbers or entry numbers attached to or embodied in a stipulation, a line shall be drawn through the number and the change shall be initialed by the attorney for the importer and the customs officers making and approving the certificate.

(e) No stipulation which does not conform to the requirements of these regulations, or with respect to which there is doubt, shall be certified unless it is approved by an authorized representative of the Assistant Attorney General's office.

(f) Except upon a specific request of the Assistant Attorney General, stipulations shall be considered only in connection with cases covering issues with respect to which a judicial decision has become final. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

[3] "Any party to a proceeding before the Customs Court who is dissatisfied with the decision of such court as to the construction of the law and the facts respecting the classification of imported merchandise and the rate of duty imposed thereon under such classification, or with any other appealable decision of such court, may, not later than sixty days after the entry of the decision, apply to the Court of Customs and Patent Appeals for a review of all questions of law and fact. In cases arising in the Territories and Possessions ninety days shall be allowed for making such application.

"The application shall be made by filing in the office of the clerk of the Court of Customs and Patent Appeals a concise statement of errors of law and fact complained of; and a copy of such statement shall be served on the collector, or on the importer, owner, consignee, or agent, as the case may be. Thereupon the Court of Customs and Patent Appeals shall immediately order the Customs Court to transmit the record and evidence taken, together with a certified statement of the facts involved in the case and the decision thereon; and all the evidence taken by and before the Customs Court shall be competent evidence before the Court of Customs and Patent Appeals. The decision of the Court of Customs and Patent Appeals shall be final unless set aside or modified by the Supreme Court, and the case shall be remanded to the Customs Court for further proceedings to be taken in pursuance of such decision." (28 U. S. C. 2601)

[4] "The Court of Customs and Patent Appeals shall have jurisdiction to review by appeal final decision of the Customs Court in all cases as to the construction of the law and the facts respecting the classification of merchandise, the rate of duty imposed thereon under such classifications, and the fees and charges connected therewith, and all appealable questions as to the jurisdiction of the Customs Court and as to the laws and regulations governing the collection of the customs revenues." (28 U. S. C. 1541)

"Cases in the Court of Customs and Patent Appeals may be reviewed by the Supreme Court by writ of certiorari." (28 U. S. C. 1256)

[5] Form 1 shall be used when the examiner who examined the merchandise is still in the Service and shall be executed by such officer. Form 2 shall be used when the examiner who examined the merchandise is no longer in the Service or is incapacitated. It shall be executed by the examiner to whom the examination of merchandise of the kind covered by the stipulation has been assigned officially.

REAPPRAISEMENT AND REVIEW

§ 17.6 *Notice of advance.* (a) The collector at the headquarters port, or the deputy collector in charge at any other port, shall promptly give notice of appraisement on customs Form 4301 when such notice is required by section 501, Tariff Act of 1930, as amended.[6] The notice shall be prepared in duplicate and the retained copy, with the date of mailing or delivery noted thereon, shall be securely attached to the invoice.

(b) In the case of so-called "duress" entries, the notice to the importer of appraisement shall be on customs Form 4301. The notice shall be prepared in duplicate and the retained copy, with the date of mailing or delivery noted thereon, shall be made part of the entry record. (Sec. 501, 46 Stat. 730, sec. 503 (b) 46 Stat. 731, sec. 16 (b) 52 Stat. 1084, sec. 624, 46 Stat. 759; 19 U. S. C. 1501, 1503 (b) 1624)

§ 17.7 *Appeal for reappraisement; form; hearing at New York; samples.* (a) When the collector appeals for reappraisement he shall use customs Form 4325 and at once forward a copy of the appeal to the consignee or his agent or attorney. Such appeal shall specify the particular items in the invoice affected if it does not apply to all.

(b) The appeal of a consignee or his agent shall be filed with the collector in triplicate.[7] Customs Form 4305 may be used for this purpose. The post office address of the consignee or his agent shall be set forth in each appeal.

(c) When an appeal for reappraisement by the collector or by the consignee or his agent has been completed, the collector shall transmit the invoices and all papers pertaining to reappraisement (except advance reports, customs Form 6445, and documentary evidence attached thereto) with customs Form 3085 to the United States Customs Court, 201 Varick Street, New York, N. Y.[8]

(d) The importer may waive the right to have the hearing held at the port of entry and request that it be held in New York. Such a request shall be made on customs Form 4305.

(e) When samples are sent to the court at the importer's request, the transportation charges shall be paid by him. (Sec. 402 (b), 46 Stat. 708, sec. 501, 46 Stat. 730, sec. 16 (b), 52 Stat. 1084, sec. 624, 46 Stat. 759; 19 U. S. C. 1402 (b), 1501, 1624)

§ 17.8 *Notice to importer of reappraisement decision; review of.* (a) The collector, upon receipt of notice of a reappraisement decision, shall immediately issue to the consignee or his agent notice on customs Form 4301 of any advance over the entered value. The notice shall be prepared in duplicate and the retained copy, with the date of mailing or delivery noted thereon, shall be made part of the entry record.

(b) Any application by or on behalf of the consignee for a review of a reappraisement decision shall be filed with the collector in duplicate.[9] Customs Form 4307 may be used for this purpose. (Sec. 501, 46 Stat. 730, sec. 16 (b), 52 Stat. 1034, sec. 624, 46 Stat. 759; 19 U. S. C. 1501, 1624)

ANTIDUMPING PROTESTS AND APPEALS; REMISSION OF ADDITIONAL DUTY; AMERICAN PRODUCERS' APPEALS AND PROTESTS

§ 17.9 *Antidumping; protests and appeals; procedure.* (a) Appeals for reappraisement, applications for reviews of reappraisements, and protests relating to the Antidumping Act, 1921, shall be made in the same manner as appeals, applications for review, and protests relating to ordinary customs duties.[10]

(b) Notice of appraiser's reports which require the assessment of dumping duties shall be sent by the collector to the importer, consignee, or agent. (See § 17.6.) (R. S. 251, sec. 210, 42 Stat. 15, sec. 1, 44 Stat. 669, sec. 1, 45 Stat. 1475; 19 U. S C. 66, 169)

§ 17.10 *Remission of additional duty; procedure.* (a) Except when additional duty under section 489, Tariff Act of 1930,[11] was the result of a clerical error,

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[6] "The collector shall give written notice of appraisement to the consignee, his agent, or his attorney, if (1) the appraised value is higher than the entered value, or (2) a change in the classification of the merchandise results from the appraiser's determination of value. * * *" (Tariff Act of 1930, sec. 501 (a), as amended; 19 U. S. C. 1501 (a))

"* * * The decision of the appraiser shall be final and conclusive upon all parties unless a written appeal for a reappraisement is filed with or mailed to the United States Customs Court by the collector within sixty days after the date of the appraiser's report, or filed by the consignee or his agent with the collector within thirty days after the date of personal delivery, or if mailed the date of mailing of written notice of appraisement to the consignee, his agent, or his attorney. No such appeal filed by the consignee or his agent shall be deemed valid, unless he has complied with all the provisions of this Act relating to the entry and appraisement of such merchandise. * * *" (Tariff Act of 1930, sec. 501 (a), as amended; 19 U. S. C. 1501 (a))

"* * * A decision of the appraiser that foreign value, export value, or United States value can not be satisfactorily ascertained shall be subject to review in reappraisement proceedings under section 501; but in any such proceeding, an affidavit executed outside of the United States shall not be admitted in evidence if executed by any person who fails to permit a Treasury attaché to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise." (Tariff Act of 1930, sec. 402 (b); 19 U. S. C. 1402 (b))

[8] "* * * Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court * * *" (Tariff Act of 1930, sec. 501 (a), as amended; 19 U. S. C. 1501 (a))

[9] "The Customs Court shall have exclusive jurisdiction of appeals for reappraisement and applications for review of reappraisement of imported merchandise * * *" (28 U. S. C. 1582)

"In finding the value of merchandise, in reappraisement proceedings before a single judge of the Customs Court, affidavits and depositions of persons whose attendance cannot reasonably be had, price lists and catalogues, reports or depositions of consuls, customs agents, collectors, appraisers, assistant appraisers, examiners, and other officers of the Government may be admitted in evidence. Copies of official documents, when certified by an official duly authorized by the Secretary of the Treasury, may be admitted in evidence with the same force and effect as original documents.

"The value found by the appraiser shall be presumed to be the value of the merchandise. The burden shall rest upon the party who challenges its correctness to prove otherwise." (28 U. S. C. 2633)

"The judge assigned to hear an appeal for reappraisement of merchandise shall render his decision in writing, together with a statement of the reasons therefor and of the facts on which his decision is based." (28 U. S. C. 2635)

"(a) The decision of a single judge in a reappraisement proceeding shall be final and conclusive upon all parties unless within 30 days from the date it is filed with the collector of customs an application for its review is filed with or mailed to the Customs Court by the collector or other person authorized by the Secretary of the Treasury, and a copy of such application mailed to the consignee, or his agent or attorney, or filed by the consignee, or his agent or attorney, with the collector, by whom the same shall be forwarded forthwith to such court." (28 U. S. C. 2636 (a))

"The decision of a division of the Customs Court, in any matter within its jurisdiction shall be the decision of such court, and shall be final and conclusive upon all parties, unless a party to such proceeding takes an appeal to the Court of Customs and Patent Appeals within the time and manner provided in section 2601 of this title, but if the decision relates to a reappraisement of merchandise, such appeal to the Court of Customs and Patent Appeals shall be upon questions of law only." (28 U. S. C. 2637)

[10] "* * * the determination of the appraiser or person acting as appraiser as to the foreign market value or the cost of production, as the case may be, the purchase price and the exporter's sales price and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; * * * as in the case of appeals and protests relating to customs duties under existing law." (19 U. S. C. 169)

[11] "* * * Such additional duties shall not be construed to be penal and shall not be remitted nor payment thereof in any way avoided, except in the case of a clerical error, upon the order of the Secretary of the Treasury [Commissioner of Customs], or in any case upon the finding of the United States Customs Court, upon a petition filed at any time after final appraisement and before the expiration of sixty days after liquidation and supported by satisfactory evidence under such rules as the court may prescribe, that the entry of the merchandise at a less value than that returned upon final appraisement was without any intention to defraud the revenue of the United States or to conceal or misrepresent the facts of the case or to deceive the appraiser as to the value of the merchandise. If the appraised value of any merchandise exceeds the value declared in the entry by more than 100 per centum, such entry shall be presumptively fraudulent, and the collector shall seize the whole case or package containing such merchandise and proceed as in case of forfeiture for violation of the customs laws; and in any legal proceeding other than a criminal prosecution that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he rebuts such presumption of fraud by sufficient evidence.

"Upon the making of such order or finding, the additional duties shall be remitted or refunded, wholly or in part, and the entry shall be liquidated or reliquidated accordingly. Such additional duties shall not be refunded in case of exportation of the merchandise, nor shall they be subject to the benefit of drawback. * * *" (Tariff Act of 1930, sec. 489; 19 U. S. C. 1489)

any petition for remission of such additional duty shall be addressed to the United States Customs Court and filed with the collector of customs in accordance with rule 29, Rules of the United States Customs Court.[12]

(b) A petition for the remission of additional duty under section 489 of the tariff act, which has resulted from a clerical error, shall be addressed to the Commissioner of Customs and submitted through the collector of customs at the port where the entry was made. It shall state in concise form the facts showing how the error occurred. (See § 23.15 of this chapter.) (Secs. 489, 624, 46 Stat. 725, 759; 19 U. S. C. 1489, 1624)

§ 17.11 *American producers' appeals and protests; procedure.* (a) All complaints under section 516, Tariff Act of 1930, as amended,[13] and requests for information as to classifications and rates of duty under subdivision (b) thereof, shall be submitted to the Commissioner of Customs in triplicate. Complaints may be filed by complainants themselves or by duly authorized attorneys or agents on their behalf. A complaint filed by a corporation shall be signed by an officer thereof, and a complaint filed by a copartnership shall be signed by a member thereof. The name of the complainant, his principal place of business, and the fact that he is an American manufacturer, producer, or wholesaler shall be shown. The complaint shall present in detail the information required by section 516, as amended; shall show the class or kind of merchandise manufactured, produced, or sold which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise; and shall contain such information as the complainant may have as to the port or ports at which such merchandise is being imported into the United States. Complaints shall be itemized as to each class or kind of merchandise involved.

(R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 18 U. S. C., 19 U. S. C. 1624)

(b) All information secured by the collector as to the character and description of merchandise of the kind covered by a complaint, entered after publication by the Commissioner of his decision as to the proper classification and rate of duty, and samples of such merchandise, shall be made available to the complainant upon application by him to the collector.

(c) Notice of the liquidation of the first of the entries to be liquidated, covering merchandise of a class or kind which would enable the complainant to present the issue desired, shall be given to the complainant by the collector, as required by section 516 (b), Tariff Act of 1930, as amended. If, upon examination of the information secured by the collector as to this entry and inspection of the sample, if any, the complainant believes and the collector agrees that the merchandise or the facts surrounding this importation are not sufficient to raise the issue involved in the complaint, the collector shall then give the complainant notice of the first liquidation thereafter of such an entry as will permit the framing of the issue covered by the complaint, and shall, under the same condition, continue to give such notices for so long as he is of the opinion that the complainant is sincere in his desire to protest.

(d) A complainant shall not be permitted in any case to inspect any documents or papers of the consignee or importer lodged in the customhouse, except upon instructions of the Commissioner.

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[12] "Petitions for remission of additional duties, accruing by reason of advances made on final appraisement of merchandise, shall be in writing, signed and filed, in duplicate, by the importer, consignee, or agent with the collector of customs at the port of entry at any time after final appraisement, but within 60 days after liquidation. The petition shall set forth in concise form the relief sought and the facts desired to be proved before the court. The collector shall forthwith transmit the original thereof, together with the invoice, entry, and all other papers connected therewith to the Clerk of the United States Customs Court."

[13] "(a) *Value.* Whenever an American manufacturer, producer, or wholesaler believes that the appraised value of any imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him is too low, he may file with the Secretary of the Treasury a complaint setting forth the value at which he believes the merchandise should be appraised and the facts upon which he bases his belief. The Secretary shall thereupon transmit a copy of such complaint to the appraiser at each port of entry where the merchandise is usually imported. Until otherwise directed by the Secretary, the appraiser shall report each subsequent importation of the merchandise giving the entry number, the name of the importer, the appraised value, and his reasons for the appraisement. If the Secretary does not agree with the action of the appraiser, he shall instruct the collector to file an appeal for a reappraisement as provided in section 501 of this Act, and such manufacturer, producer, or wholesaler shall have the right to appear and to be heard as a party in interest under such rules as the United States Customs Court may prescribe. The Secretary shall notify such manufacturer, producer, or wholesaler of the action taken by such appraiser, giving the port of entry, the entry number, and the appraised value of such merchandise and the action he has taken thereon. If the appraiser advances the entered value of merchandise upon the information furnished by the American manufacturer, producer, or wholesaler, and an appeal is taken by the consignee, such manufacturer, producer, or wholesaler shall have the right to appear and to be heard as a party in interest, under such rules as the United States Customs Court may prescribe. If the American manufacturer, producer, or wholesaler is not satisfied with the action of the Secretary, or the action of the appraiser thereon, he may file, within thirty days after the date of the mailing of the Secretary's notice, an appeal for a reappraisement in the same manner and with the same effect as an appeal by a consignee under the provisions of section 501 of this Act.

"(b) *Classification.* The Secretary of the Treasury shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification of, and the rate of duty, if any, imposed upon, designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the proper rate of duty is not being assessed, he may file a complaint with the Secretary, setting forth a description of the merchandise, the classification, and the rate or rates of duty he believes proper, and the reasons for his belief. If the Secretary decides that the classification of, or rate of duty assessed upon, the merchandise is not correct, he shall notify the collectors as to the proper classification and rate of duty and shall so inform the complainant, and such rate of duty shall be assessed upon all such merchandise entered for consumption or withdrawn from warehouse for consumption after thirty days after the date such notice to the collectors is published in the weekly Treasury Decisions. If the Secretary decides that the classification and rate of duty are correct, he shall so inform the complainant. If dissatisfied with the decision of the Secretary, the complainant may file with the Secretary, not later than thirty days after the date of such decision, notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise. Upon receipt of such notice from the complainant, the Secretary shall cause publication to be made of his decision as to the proper classification and rate of duty and of the complainant's desire to protest, and shall thereafter furnish the complainant with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at the port of entry designated by the complainant in his notice of desire to protest, as will enable the complainant to protest the classification of, or rate of duty imposed upon, such merchandise in the liquidation of such an entry at such port. The Secretary shall direct the collector at such port to notify such complainant immediately when the first of such entries is liquidated. Within thirty days after the date of mailing to the complainant of notice of such liquidation, the complainant may file with the collector at such port a protest in writing setting forth a description of the merchandise and the classification and rate of duty he believes proper. Notwithstanding such protest is filed, merchandise of the character covered by the published decision of the Secretary, when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, rendered under the provisions of subsection (c) of this section, not in harmony with the published decision of the Secretary, shall be classified and the entries liquidated in accordance with such decision of the Secretary, and, except as otherwise provided in this Act, the liquidations of such entries shall be final and conclusive upon all parties. * * *

"(c) *Hearing and determination.* A copy of every appeal and every protest filed by an American manufacturer, producer, or wholesaler under the provisions of this section shall be mailed by the collector to the consignee or his agent within five days after the filing thereof, and such consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court. The collector shall transmit the entry and all papers and exhibits accompanying or connected therewith to the United States Customs Court for due assignment and determination of the proper value or of the proper classification and rate of duty." (Tariff Act of 1930, sec. 516, as amended; 19 U. S. C. 1516)

"In reappraisement or classification proceedings instituted under section 1516 of Title 19, an American manufacturer, producer, or wholesaler shall not have the right to inspect any documents or papers of the consignee or importer disclosing any information which the Customs Court or any judge or division thereof deems unnecessary or improper to be disclosed to him." (28 U. S. C. 2634 (b))

(e) All appeals for reappraisement and protests filed under section 516, Tariff Act of 1930, as amended, shall be in triplicate. (Sec. 516, 46 Stat. 735, sec. 17 (a) 52 Stat. 1084, sec. 624, 46 Stat. 759; 19 U. S. C. 1516, 1624)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

GENERAL PROVISIONS

Sec.
18.1 Carriers; application to bond.
18.2 Receipt by carrier; manifest.
18.3 Transshipment; transfer by bonded cartman.
18.4 Sealing conveyances and compartments; labeling packages; warning cards.
18.5 Diversion.
18.6 Short shipments; shortages; entry and allowance.
18.8 Liability of carrier for shortage, irregular delivery, or non-delivery; penalties.
18.9 Examination by inspectors of trunk line associations of agents of the Interstate Commerce Commission.
18.10 Kinds of entry.

IMMEDIATE TRANSPORTATION WITHOUT APPRAISEMENT

18.11 Entry; classes of goods for which entry is authorized; form used.
18.12 Entry at port of destination.

SHIPMENT OF BAGGAGE IN BOND

18.13 Procedure; manifest.
18.14 Shipment of baggage in transit to foreign countries.
18.15 Domestic baggage through foreign territory.

WAREHOUSE AND REWAREHOUSE WITHDRAWALS FOR TRANSPORTATION

18.16 Form of withdrawal; time.
18.17 Withdrawal procedure.
18.18 Forwarding procedure; procedure at destination.

WAREHOUSE WITHDRAWALS FOR EXPORTATION OR FOR TRANSPORTATION AND EXPORTATION

18.19 Procedure.

MERCHANDISE IN TRANSIT THROUGH THE UNITED STATES TO FOREIGN COUNTRIES

18.20 Entry procedure; forwarding.
18.21 Restricted and prohibited merchandise.
18.22 Procedure at port of exit.
18.23 Change of destination; change of entry.
18.24 Retention of goods on dock; splitting of shipments.

EXPORTATION FROM CUSTOMS CUSTODY OF MERCHANDISE UNENTERED OR COVERED BY AN UNLIQUIDATED CONSUMPTION ENTRY, OR MERCHANDISE DENIED ADMISSION BY THE GOVERNMENT

18.25 Direct exportation.
18.26 Indirect exportation.
18.27 Port marks.

FINAL PORT OF EXPORTATION OF MERCHANDISE CROSSING CONTIGUOUS FOREIGN TERRITORY

18.28 Port of exportation; cancelation of charge against bond.

MERCHANDISE ARRIVING FROM A CONTIGUOUS COUNTRY IN SEALED VESSELS OR VEHICLES

18.29 Sealed shipment authorized.
18.30 Procedure; documents required.
18.31 Merchandise in less-than-carload lots.

GENERAL PROVISIONS

§ 18.1 *Carriers; application to bond.* (a) Merchandise to be transported from one port to another in the United States in bond, except as provided for in paragraph (b) of this section, shall be delivered to a common carrier bonded for that purpose, but such merchandise may be transported with the use of the facilities of other bonded or nonbonded carriers.[1] For the purposes of this section, the term "common carrier" means a common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route or a freight forwarder as defined in section 402 of part IV of the Interstate Commerce Act.

(b) Pursuant to Public Resolution 108, of June 19, 1936,[2] and subject to compliance with all other applicable provisions of this part, the collector of customs at New York, upon the request of the party in interest, may permit merchandise entered and examined for customs purposes to be transported in bond between the ports named in the resolution by bonded cartmen or lightermen duly qualified in accordance with the provisions of Part 21 of this chapter, if the collector is satisfied that the transportation of such merchandise in this manner will not endanger the revenue.

(c) A common carrier desiring to receive merchandise for transportation in bond shall file with the collector of customs, in duplicate, a bond on customs Form 3587 in a sum to be recommended by the collector, together with a certified extract of its charter showing that it is authorized to engage in common carriage and a statement that it is operating or intends to operate as a common carrier and that it undertakes to carry for such as choose to employ it and does not limit its carriage to specific individuals or firms. In addition to the foregoing a freight forwarder shall submit in duplicate a certificate issued by the Interstate Commerce Commission showing that it is operating as a freight forwarder as defined in section 402 of part IV of the Interstate Commerce Act. The extract and statement need not be submitted in the case of railroad or steamship companies generally known to be engaged in common carriage.

(d) In the case of motor carrier bonds submitted for consideration, the following shall be filed in addition to the requirements mentioned above:

(1) A detailed description of the equipment to be used, showing whether the trucks are open or closed and whether they can be secured with customs seals, the number of trucks operated, and whether such trucks are owned or leased by the proposed bonded motor carrier, and, if leased, whether the trucks are operated by employees of the lessee or lessor.

(2) A list of the lines or routes over which the principal operates or will operate, setting out the cities or towns at which the trucks stop or lay over en route and where and in whose custody the trucks remain during such stops or layovers.

(3) A definite statement as to whether the principal transports merchandise according to schedule over each of the lines or routes named or performs carriage only when a shipment is secured for transportation.

(4) A detailed description of the terminal facilities employed by the principal at the points of origin and destination shown on the list of lines or routes.

(5) A statement showing that facilities are available for the segregation and safeguarding of the packages designated by the collector for examination from a particular shipment until such packages are called for by the public store cartman and removed to the public stores for examination.

(e) Canadian and Mexican common carriers by motor vehicles may be bonded for the transportation of merchandise between two ports in Canada or Mexico through the United States. (See § 5.11 of this chapter.)

(f) Common-carrier bonds may be discontinued at any time by the Bureau. Bonded carriers desiring to discontinue such bonds shall make application therefor to the Bureau through the collector at the port where the bond is filed. (Sec. 551, 46 Stat. 742, 49 Stat. 1538, sec. 624, 46 Stat. 759; 19 U. S. C. 1551, 1551a, 1624)

§ 18.2 *Receipt by carrier; manifest.* (a) All merchandise delivered to a bonded carrier for transportation in bond shall be receipted for by an agent of the carrier and laden on the transporting conveyance under the supervision of a customs officer.

(b) A manifest, customs Form 7512, containing a description of the merchandise shall be prepared by the carrier or shipper and signed by the agent of the carrier. Except as prescribed in § 5.11 of this chapter, relating to merchandise in transit through the United States between ports in contiguous foreign territory, a separate set shall be prepared for each entry and, if the consignment is contained in more than one conveyance, a separate set shall be prepared for each conveyance.

(c) The manifest shall be filed in triplicate and, after the goods have been laden and the carrier has receipted all three copies, one copy shall be delivered

[1] Under such regulations and subject to such terms and conditions as the Secretary of the Treasury shall prescribe, any common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route for the transportation of merchandise in the United States, or any freight forwarder, as defined in section 402 of part IV of the Interstate Commerce Act (U. S. C., Sup. III, title 49, sec. 1002 (5)), upon application, may, in the discretion of the Secretary, be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. (19 U. S. C., Sup., 1551)

[2] "The Secretary of the Treasury be, and he is hereby, authorized, when it appears to him to be in the interest of commerce, and notwithstanding any provision of law or regulation requiring that the transportation of imported merchandise be by a bonded common carrier, to permit such merchandise which has been entered and examined for customs purposes to be transported by bonded cartmen or bonded lightermen between the ports of New York, Newark, and Perth Amboy, which are all included in Customs Collection District Numbered 10 (New York) *Provided*, That this resolution shall not be construed to deprive any of the ports affected of its rights and privileges as a port of entry." (19 U. S. C. 1551a)

to the conductor, master, or person in charge to accompany the conveyance and be delivered to the collector at destination for his record. An extra copy of customs Form 7512 may be required for use as a permit to the inspector or storekeeper at the point where the merchandise is to be laden. When a copy of the carrier's manifest is lost or cannot be produced, a copy shall be made of whichever manifest is available. (Secs. 551, 624, 46 Stat. 742, 759; 19 U. S. C. 1551, 1624)

§ 18.3 *Transshipment; transfer by bonded cartman.*[3] (a) When bonded merchandise is to be transshipped under customs supervision at a place or places other than the port of origin, an additional copy of the manifest on customs Form 7512 shall be prepared by the carrier or shipper for each such place of transshipment. Each such additional copy shall be certified and, with an appropriate direction, given by the lading inspector to the conductor, master, or person in charge of the conveyance to be delivered to the collector of customs at the place of transshipment.

(b) When bonded merchandise arriving at the place of transshipment in one conveyance is transshipped into more than one conveyance, a separate set of customs Form 7512 in quadruplicate shall be prepared at the place of transshipment by the carrier, agent of the shipper, or forwarder for each such conveyance; one copy to be delivered to the conductor, master, or person in charge to accompany the conveyance and be delivered to the collector at destination for his record.

(c) If it becomes necessary at any point in transit to remove the customs seals from a conveyance containing bonded merchandise for the purpose of transferring its contents to another conveyance or to gain access to the shipment because of casualty or other good reason, and it cannot be done under customs supervision because of the element of time involved or because there is no customs officer stationed at such point, a responsible agent of the carrier may remove the seals, supervise the transfer or handling of the merchandise, seal the conveyance in which the shipment goes forward, and make appropriate notation on the conductor's or master's copy of the manifest of his action, including the date, serial number of the new seals applied, and the reason therefor. This authorization shall not apply in any case not involving a real emergency.

(d) All transfers to or from the conveyance or warehouse of merchandise undergoing transportation in bond shall be made under the provisions of Part 21 and at the expense of the parties in interest, unless the carrier's bond is liable for the safekeeping and delivery of the merchandise while it is being transferred. (Secs. 551, 624, 46 Stat. 742, 759; 19 U. S. C. 1551, 1624)

§ 18.4 *Sealing conveyances and compartments; labeling packages; warning cards.* (a) Conveyances or compartments in which bonded merchandise is transported shall be sealed with red inbond customs seals under customs supervision, except that when the compartment or conveyance cannot be effectively sealed, as in the case of merchandise shipped in open cars or barges, or on the decks of vessels, or when it is known that any seals would necessarily be removed outside the jurisdiction of the United States for the purpose of discharging or taking on cargo, or when it is known that the breaking of the seals will be necessary to ventilate the hatches, or in other similar circumstances, such sealing may be waived with the consent of the carrier and an appropriate notation of such waiver shall be made on the manifest. The Commissioner of Customs may authorize the waiver of sealing of conveyances or compartments in which bonded merchandise is transported in other cases when in his opinion the sealing thereof is unnecessary to protect the revenue or to prevent violations of the customs laws and regulations.

(b) Ports at which the facilities are insufficient to maintain continuous customs supervision over vessels arriving with bonded cargo while the bonded merchandise is not under customs seals shall permit the vessels to proceed to destination without further sealing and notation to this effect shall be made on the manifest.

(c) Merchandise not under bond may be transported in sealed conveyances or compartments containing bonded goods when destined for the same place or places beyond, but not when intended for intermediate places.

(d) The seals to be used in sealing conveyances, compartments, or packages are prescribed by the Department and may be obtained in accordance with § 24.13 of this chapter.

(e) Except as otherwise provided for in this paragraph, packages shipped in bond or by a carrier permitted to transport articles under the last sentence of section 553 of the tariff act, as amended, shall be corded and sealed or, in lieu thereof, the carriers shall furnish and attach to each such package two warning labels on bright red paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

U. S. CUSTOMS

Transportation Entry No. _____
From _____ To _____
This package is under bond and must be delivered intact to the chief officer of the customs at _____

WARNING

Two years' imprisonment or $5,000 fine or both, is the penalty for unlawful removal of this package or any of its contents.

Such cording and sealing or labeling of the packages so shipped is not required either when the packages are transported in a conveyance or compartment sealed with customs seals, or when the sealing of the conveyance or compartment in which the packages are transported is waived under paragraph (a) or (b) of this section. When the packages are shipped in a railroad car the sealing of which is practicable but which is not sealed because merchandise not being transported in bond is or may be carried in the same car, the packages being transported in bond shall be corded and sealed or labeled.

(f) The warning labels, when used, shall be securely pasted on the package under customs supervision, one as close as practicable to the marks and numbers of the package, and the other on the opposite face of the package.

(g) When, in the case of crates and similar packages, it is impossible to attach the warning labels by pasting, bright red shipping tags of convenient size, large enough to be conspicuous and containing the same legend as the labels, shall be used in lieu of labels. Such tags shall be wired or otherwise securely fastened to the packages in such manner as not to injure the merchandise.

(h) Bonded carriers shall furnish and securely attach to the side doors of cars, to the doors of compartments, and on vehicles carrying bonded merchandise which are secured with customs seals, bright red cards, 8 by 10¼ inches in size, which shall be attached near such seals and on which shall be printed in large, clear, black letters the following:

United States Customs. Two years' imprisonment, or $5,000 fine, or both, is the penalty for the unlawful removal of United States customs seals on this car, vehicle, or compartment. United States customs officers only are authorized to break these seals.

Car or vessel _____
Number or name _____
From _____
To _____

NOTICE: The merchandise in this car, vehicle, or compartment shall be delivered to the chief officer of the customs at _____

(Secs. 551, 624, 46 Stat. 742, 759; 19 U. S. C. 1551, 1624)

§ 18.5 *Diversion.* (a) Collectors of customs at ports of first arrival may permit merchandise forwarded under any class of transportation entry to be diverted to any other port than the port named in the entry upon application of the consignee or agent.

(b) The collector at an intermediate port may permit merchandise in transit under bond under any class of transportation entry to be entered at his port for consumption, warehouse, exportation, further transportation in bond, or under any bond provision of the tariff laws.

(c) Merchandise received at the port of original destination under any class of transportation entry may be forwarded to another port or returned to the port of origin on the same transportation entry, unless the merchandise has been placed in general order or a certificate of delivery has been issued, in which case a new transportation entry shall be required.

(d) If it is desirable to split a shipment at a port of destination and to enter a portion for consumption or warehouse and forwarded the balance in bond, or to divert the entire shipment or a part thereof to more than one port, the collector at the port where such diversion takes place shall complete the original transaction, forward a certificate of delivery to the port of origin, and require the filing of a new transportation entry

[3] For provisions for transshipment or unlading due to accident or other casualty, see § 4.31 of this chapter.

or entries for the portion or portions forwarded.

(e) The diversion of shipments in bond which are subject on importation to restriction or prohibition under quarantines and regulations administered by the Bureau of Animal Industry or the Bureau of Entomology and Plant Quarantine shall be allowed only upon written permission or under regulations issued by the agency concerned. (Secs. 551, 624, 46 Stat. 742, 759; 19 U. S. C. 1551, 1624)

§ 18.6 *Short shipments; shortages; entry and allowance.* (a) When there has been a short shipment and the short-shipped packages are subsequently received, they may be forwarded under a proper supplemental transportation entry bearing the original entry number or, if a new bill of lading has been issued therefor, under a new transportation entry.

(b) When there is a shortage of one or more packages or nondelivery of an entire shipment, and inquiry discloses that the merchandise has been delivered directly to the consignee, entry therefor may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

(c) If the merchandise cannot be recovered intact, as above specified, entry shall not be accepted and a copy of the collector's report on customs Form 3861, showing the amount of duty or any internal-revenue tax due, shall be sent to the initial carrier for its information, investigation, and report within 90 days.

(d) An allowance in duty on merchandise reported short at destination, including merchandise found by the appraising officer to be damaged and worthless, and animals and birds found by the discharging officer to be dead on arrival at destination, shall be made in the liquidation of the entry.

(e) When a particular cargo or lot of grain in bulk is divided and shipped under a series of transportation and exportation entries, if the aggregate shortage when prorated by the collector at the port of entry among all the entries of the series embracing the original import lot or cargo does not exceed 2 percent of the entered quantity, the charge against the carrier's bond shall be canceled and the shortage shall not be reported to the Bureau, as no penalty will be assessed in such cases. In determining the 2 percent allowance, only shortages due to shrinkage (evaporation of moisture) or ordinary wastage (inconsequential losses such as necessarily occur in handling and transshipping large quantities of grain, but not large losses due to casualty or accident) shall be considered. When the shortage when prorated as above exceeds 2 percent or was due to causes other than shrinkage or ordinary wastage, the facts shall be reported to the Bureau for instructions.

(f) In the case of shipments arriving in the United States by rail or seatrain which are forwarded under customs in-bond seals under the provisions of § 5.11 of this chapter, and §§ 18.11, 18.20, or 18.29, a notation shall be made by the carrier or shipper on the in-bond manifest, customs Form 7512, to show whether the shipment was transferred to the car designated in the manifest or whether it was laden in the car in the foreign country, which shall be named. (Sec. 551, 624, 46 Stat. 742, 759; 19 U. S. C. 1551, 1624)

§ 18.8 *Liability of carrier for shortage, irregular delivery, or nondelivery; penalties.* (a) The initial bonded carrier shall be responsible for shortage, irregular delivery, or nondelivery at destination or port of exit of bonded merchandise, rereceived by it for carriage. When sealing is waived, any loss found to exist at destination shall be presumed to have occurred while the merchandise was in the possession of the carrier, unless conclusive evidence to the contrary is produced.

(b) Penalties imposed as liquidated damages under the common carrier's bond for shortage, failure to deliver, or irregular delivery shall be as follows:

(1) In the case of shortage, failure to deliver, or delivery direct to the consignee, or other person of any merchandise free of duty, an amount equal to the value of the missing merchandise, not to exceed in any one shipment the sum of $25.

(2) In the case of shortages or failure to deliver merchandise subject to duty, an amount equal to the duties on the missing merchandise or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest.

(3) In the case of delivery without customs supervision directly to the consignee or other person of merchandise subject to duty, an amount equal to one and one-quarter times the duty thereon, or, if the duties cannot be estimated promptly, an amount equal to 70 per centum of the value shown on the manifest.

(c) In addition to the above-described penalties the carrier shall pay any internal-revenue taxes or other taxes accruing to the United States on the missing merchandise, together with all costs, charges, and expenses caused by the failure to make such transportation, report, and delivery. (Secs. 551, 624, 46 Stat. 742, 759; 19 U. S. C. 1551, 1624)

§ 18.9 *Examination by inspectors of trunk line associations or agents of the Interstate Commerce Commission.* (a) Upon presentation of proper credentials showing the applicant to be a representative of the Trunk Line Association, the Interstate Commerce Commission, the Joint Rate Inspection Bureau of Chicago, or the Southern Weighing and Inspection Bureau of Atlanta, inspectors of customs in charge shall permit such applicant to open and examine packages containing in-bond merchandise described in the manifest in general terms for the purpose of ascertaining whether the merchandise is properly classified under the interstate commerce laws.

(b) The opening and examination of such packages shall be without expense to the Customs Service or the owner of the goods and shall be done in the presence of a customs officer. The contents of the cases shall not be removed or disturbed further than is necessary to ascertain the character thereof. The customs officer shall require the packages to be securely closed, and shall note on the manifest the packages so inspected, the date, and by whom inspected. (Secs. 551, 624, 46 Stat. 742, 759; 19 U. S. C. 1551, 1624)

§ 18.10 *Kinds of entry.* (a) The following entries and withdrawals may be made for merchandise to be transported in bond: [4]

(1) Entry for immediate transportation without appraisement.

(2) Warehouse or rewarehouse withdrawal for transportation.

(3) Warehouse withdrawal for exportation or for transportation and exportation.

(4) Entry for transportation and exportation.

(5) Entry for exportation.

(b) The copy of each entry or withdrawal made in any of the above-named classes which is retained in the office of the forwarding collector shall be signed by the party making the entry or withdrawal. In the case of bonded shipments to the Virgin Islands (U. S.) two additional copies of the entry or withdrawal on customs Form 7512 shall be filed. One such copy shall be mailed to the comptroller of customs at New York, N. Y., and the other to the collector of customs, Charlotte Amalie, St. Thomas, Virgin Islands (U. S.). (Sec. 552, 46 Stat. 742, sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087, sec. 557, 46 Stat. 744, secs. 2, 22 (a), 23 (a) 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1552, 1553, 1557, 1624)

IMMEDIATE TRANSPORTATION WITHOUT APPRAISEMENT

§ 18.11 *Entry; classes of goods for which entry is authorized; form used.* (a) Entry for immediate transportation without appraisement may be made under section 552, Tariff Act of 1930,[5] for merchandise in general-order warehouse at any time within 1 year from the date of importation.

(b) The carrier bringing the merchandise to the port of arrival, the carrier who is to accept the merchandise on its bond for transportation to the port of destination, or any person shown by the bill of lading or manifest, by a certificate of the importing carrier, or by any other document satisfactory to the collector to have a sufficient interest in the merchandise for that purpose may

[4] Before shipping merchandise in bond to another port for the purpose of warehousing or rewarehousing, the shipper should ascertain whether warehouse facilities are available at the intended port of destination.

[5] "Any merchandise, other than explosives and merchandise the importation of which is prohibited, arriving at a port of entry in the United States may be entered, under such rules and regulations as the Secretary of the Treasury may prescribe, for transportation in bond without appraisement to any other port of entry designated by the consignee, or his agent, and by such bonded carrier as he designates, there to be entered in accordance with the provisions of this Act." (Tariff Act of 1930, sec. 552; 19 U. S. C. 1552)

Special provisions concerning the shipment of baggage under this provision of law are contained in § 18.13.

make entry for immediate transportation without appraisement.

(c) Immediate transportation without appraisement entries may be accepted for merchandise shown on the invoice, bill of lading, carrier's certificate, or manifest to be destined to any place within the port limits of any designated port of destination.[6]

(d) Merchandise covered by different bills of lading naming different consignees at the port of destination shall not be included under one immediate transportation without appraisement entry.

(e) Carload shipments of livestock shall not be entered for immediate transportation without appraisement unless they will arrive at destination before it becomes necessary to remove the seals for the purpose of watering and feeding the animals, or unless the route be such that the removal of the seals and the watering, feeding, and reloading of the stock may be done under customs supervision.

(f) Entries for immediate transportation without appraisement covering merchandise subject to detention of supervision by any Federal agency shall contain a sufficient description of the merchandise to enable the representative of the agency concerned to determine the contents of the shipment. Such merchandise covered by quarantines and regulations adminstered by the Bureau of Entomology and Plant Quarantine shall be forwarded under such entries only upon written permission of or under regulations issued by that Bureau.[7]

(g) One or more entire packages of merchandise covered by an invoice from one consignor to one consignee may be entered for consumption or warehouse at the port of first arrival, and the remainder for immediate transportation without appraisement, provided all the merchandise covered by the invoice is entered simultaneously.

(h) Several importations may be consolidated in one immediate transportation without appraisement entry when the bills of lading or carrier's certificates name only one consignee at the port of first arrival.

(i) Customs Form 7512 shall be used as a combined entry, invoice, and manifest, and nine copies shall be required at the port of origin. The merchandise shall be described on this form in such detail as to enable the collector to make an estimate of the duties due thereon. The collector may requre evidence to satisfy him of the approximate correctness of the value or quantity stated in the entry. The value stated on entry at the port of first arrival is not binding on the ultimate consignee making entry at the port of destination. (Secs. 552, 624, 46 Stat. 742, 759; 19 U. S. C. 1552, 1624)

§ 18.12 *Entry at port of destination.* (a) Merchandise received under immediate transportation without appraisement entry may be entered for transportation and exportation or for immediate exportation, or under any other form of entry, and shall be subject to all the conditions pertaining to merchandise entered at a port of first arrival if not more than 1 year has elapsed from the date of original importation. If more than 1 year has elapsed, only an entry for consumption shall be accepted. Such entry shall show the name of the port of first arrival, the transporting carrier, and the number of the immediate transportation entry. (See § 20.2 of this chapter.)

(b) The right to make entry at the port of destination shall be determined in accordance with the provisions of § 8.6 of this chapter.

(c) When a portion of a shipment is entered at the port of first arrival and the remainder is entered for consumption or warehouse at one or more subsequent ports, the entry at each subsequent port may be made on an extract of the invoice as provided for in § 8.11 (b) of this chapter.

(d) All importations forwarded under immediate transportation without appraisement entries shall be held by the bonded carrier at the port of destination until released by the collector of customs.

(e) All the merchandise included in an immediate transportation without appraisement entry not entered within 48 hours after delivery of the manifest to the collector at the port of destination shall be treated as unclaimed unless the collector, with the concurrence of the carrier, authorizes in writing a longer time. When a notation on the manifest or a report from the collector at the port of first arrival shows certain merchandise to have been short-shipped, such merchandise shall not be included in the entry. (Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083, secs. 552, 624, 46 Stat. 742, 759; 19 U. S. C. 1484, 1552, 1624)

SHIPMENT OF BAGGAGE IN BOND

§ 18.13 *Procedure; manifest.* (a) When baggage appears by the manifest of the importing vessel or other satisfactory evidence to be destined to a port of entry other than the port of first arrival, it may be forwarded to its destination over a bonded route at the request of the passenger, the transportation company, or the agent of either, under cord and seal and baggage manifest described below, without examination or assessment of duty. For this purpose the carrier shall furnish cards of bright red cardboard not less than 2½ by 4 inches in size with the following printed text:

UNITED STATES CUSTOMS

Check No. _____
Baggage in bond:
Carrier _____
From port of _____

TO COLLECTOR OF CUSTOMS

Port of _____

This baggage must be delivered by carrier to the collector of customs at the port named. Failure to do so renders the carrier liable to a fine.

(b) A paster of the same dimensions and with the same legend may also be placed upon the baggage if the carrier desires. The card shall be placed on the cords back of the seal and upon arrival of the baggage at the port of destination the customs officer shall detach the card.

(c) A customs manifest for baggage shipped in bond, customs Form 7520, shall be prepared in sextuple for each shipment. One copy shall be delivered to the carrier to accompany the baggage and shall be delivered by the carrier to the collector of customs at the port of destination as a notice of arrival.

(d) Baggage arriving in bond or otherwise at a port on the Atlantic or Pacific coast, destined to a port on the opposite coast, may be laden under customs supervision, without examination and without being placed in bond, on a vessel proceeding to the opposite coast, provided the vessel will proceed to the opposite coast without stopping at any other port on the first coast.

(e) Checked baggage may be shipped in bond from places in contiguous foreign territory at which United States customs officers are stationed. The procedure shall be the same as though the shipment originated at a port of entry in the United States and no customs formalities shall be required at the place of actual arrival in the United States. (Secs. 498, 552, 624, 46 Stat. 728, 742, 759; 19 U. S. C. 1498 (a), 1552, 1624)

§ 18.14 *Shipment of baggage in transit to foreign countries.* The baggage of any person in transit through the United States from one foreign country to another may be shipped over a bonded route for exportation. Such baggage shall be corded and sealed and shipped under the regulations prescribed in § 18.13 except that the fifth copy of the manifest, customs Form 7520, for the comptroller of customs for the port of exit shall not be required, and the card or paster shall be printed on yellow paper and shall read "Baggage in bond for export." See § 5.11 of this chapter for the regulations applicable to baggage shipped in transit through the United States between points in Canada or Mexico. (Sec. 498, 46 Stat. 728, sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087, sec. 624, 46 Stat. 759, 19 U. S. C. 1498, 1553, 1624)

§ 18.15 *Domestic baggage through foreign territory.* (a) Checked baggage of domestic origin transported from port to port in the United States via a foreign port or through foreign territory, on the request of the carrier, may be corded and sealed by United States customs officers at the port of exit from the United States with United States customs in-transit seals, with a special manifest in the following form on white cardboard 2½ by 4½ inches in size attached to each piece on the cord back of the seal:

UNITED STATES CUSTOMS

IN-TRANSIT BAGGAGE MANIFEST

Check No. _____
This baggage is in transit from _____, (Port of exit)
through foreign territory to _____, (Port of reentry)
in the United States.
This baggage was corded and sealed by me and laden for transportation as above stated.
Date _____

_____,
U. S. Customs Officer.

[6] This practice may not be extended to shipments to points not within the port limits of a port merely because of their proximity to a port of entry.

[7] For procedure as to merchandise subject to quarantine, disinfection, and special inspection, if not forwarded in bond, see Part 12 of this chapter.

(b) In lieu of cording and sealing, the baggage may be forwarded in a car or compartment sealed with United States customs blue seals and manifested as in the case of other merchandise in transit through foreign territory.

(c) The provisions of this section shall not apply to domestic hand baggage crossing foreign territory which, upon reentry into the United States, shall be examined in the same manner as baggage of foreign origin. (Secs. 554, 624, 46 Stat. 743, 759; 19 U. S. C. 1554, 1624)

WAREHOUSE AND REWAREHOUSE WITHDRAWALS FOR TRANSPORTATION

§ 18.16 *Forms of withdrawal; time.* (a) Merchandise may be withdrawn from warehouse for transportation to another port of entry if withdrawal for consumption or exportation can be accomplished at the port of destination within the total period of time allowed for such merchandise to remain in bonded warehouse. If the merchandise is so withdrawn by a transferee, the assent of the person who made the warehouse or rewarehouse entry shall be endorsed on the withdrawal, unless the person who made the warehouse or rewarehouse entry has in writing previously authorized the withdrawal of such merchandise; and the collector shall endorse the withdrawal to show whether the transferee has filed the bond provided for in § 8.39 of this chapter. Withdrawals for transportation shall be on customs Form 7512, ten copies of which shall be required at the port of origin.

(b) All withdrawals for transportation shall show the original warehouse entry number, date of entry, and the port at which filed, and shall name a consignee at the port of destination or exportation. When the withdrawal is made from a rewarehouse entry, the number and date of the rewarehouse entry, as well as the number and date of the original warehouse entry and the port at which the original warehouse entry was filed, shall be shown on such withdrawal. (Sec. 557, 46 Stat. 744, secs. 2, 22 (a) 23 (a) 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 18.17 *Withdrawal procedure.* (a) Merchandise may be withdrawn for transportation prior to liquidation of the warehouse entry. In such cases the transportation entry, customs Form 7512, shall show any ascertained weight, gauge, or measure, the entered value of the particular merchandise covered by the withdrawal, and the estimated duty.

(b) All or any part of the merchandise covered by a warehouse entry may be withdrawn for transportation without deposit in a bonded warehouse and before liquidation, and may be permitted to remain on the vessel or other vehicle or on the pier in a constructive warehouse status pending examination and appraisement. When any such merchandise not deposited in warehouse is not forwarded under the withdrawal for transportation on account of damage or other cause, the importer shall be required to withdraw such merchandise immediately for consumption or exportation, or designate a warehouse to which it may be sent, and, upon his failure to do so, it shall be treated as unclaimed.

(c) The duty on any samples withdrawn at the original port from a shipment covered by a withdrawal for transportation shall be collected at such port and a notation thereof made on the transportation entry. No separate invoice or extract from the original invoice shall be required to cover such samples. (Sec. 557, 46 Stat. 744, secs. 2, 22 (a), 23 (a) 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 18.18 *Forwarding procedure; procedure at destination.* (a) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond §§ 18.1–18.8.

(b) On arrival at destination, the merchandise may be entered for rewarehouse in accordance with §§ 8.33 and 8.34 of this chapter; for rewarehouse and withdrawal for consumption in accordance with § 8.35 of this chapter; or for exportation in accordance with § 8.36 of this chapter; or may be diverted to another port or returned to the port of origin in accordance with § 18.5 (c) and (d).

(c) The liquidation of the original warehouse entry shall be followed except in cases provided for in § 16.10 (b) in this chapter in cases involving shortage, irregular delivery, or nondelivery under the warehouse withdrawal for transportation, and in cases where the collector at destination is of the opinion that circumstances make it inadvisable to follow such liquidation. When the merchandise has been withdrawn for consumption prior to the receipt of the notice of liquidation from the original port, differences of less than $1 between the estimated duty collected and the liquidated duty shall be disregarded. This procedure is likewise applicable to internal-revenue taxes. (Sec. 557, 46 Stat. 744, secs. 2, 22 (a) 23 (a) 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

WAREHOUSE WITHDRAWALS FOR EXPORTATION OR FOR TRANSPORTATION AND EXPORTATION

§ 18.19 *Procedure*—(a) *Direct exportation.* When merchandise is withdrawn from warehouse for direct exportation without transportation in bond to another port, an entry and manifest, customs Form 7512, shall be filed in quintuple.

(b) *Indirect exportation.* (1) When merchandise is withdrawn from warehouse for transportation and exportation, eight copies of customs Form 7512 shall be required at the port of withdrawal.

(2) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8.

(3) If any part of a shipment is not exported or when a shipment is divided at the port of exportation, extracts in duplicate from the manifest on file in the customhouse shall be made on customs Form 7512 for each part, one copy to be sent to the discharging inspector and the other to the lading inspector to be used as a report of exportation. The splitting up for exportation of shipments arriving under warehouse withdrawals for transportation and exportation shall be permitted only when various portions of a shipment are destined to different destinations, when the export vessel cannot properly accommodate the entire quantity, or in other similar circumstances. The provisions of §§ 18.23 and 18.24 shall also be followed in applicable cases. (Sec. 557, 46 Stat. 744, secs. 2, 22 (a), 23 (a) 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

MERCHANDISE IN TRANSIT THROUGH THE UNITED STATES TO FOREIGN COUNTRIES

§ 18.20 *Entry procedure; forwarding.* (a) When an importation is entered for transportation through the United States and exportation to a foreign country,[8] except as provided for in § 5.11 of this chapter (relating to merchandise in transit through the United States between two points in contiguous foreign territory), eight copies of Customs Form 7512 shall be required.

(b) In places where no bonded common-carrier facilities are reasonably available and merchandise is permitted to be transported otherwise than by a bonded common carrier, the collector may permit entry in accordance with the procedure outlined in paragraph (a) of this section, if he is satisfied that the revenue will not be endangered thereby. The entries in such cases shall be under a separate series of numbers. A bond on customs Form 7557 in an amount equal to double the estimated duty shall be required when the collector deems such action necessary for the protection of the revenue. (See § 25.15 of this chapter for cancellation of export bonds.)

(c) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8. If the merchandise is not forwarded within 30 days from the date the entry is filed, the entry shall be canceled and the merchandise treated as unclaimed as of the date of original arrival. (Sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087, and sec. 624, 46 Stat. 759; 19 U. S. C. 1553, 1624)

[8] "Any merchandise, other than explosives and merchandise the importation of which is prohibited, shown by the manifest, bill of lading, shipping receipt, or other document to be destined to a foreign country, may be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duties and exported under such regulations as the Secretary of the Treasury shall prescribe, and any baggage or personal effects not containing merchandise the importation of which is prohibited arriving in the United States destined to a foreign country may, upon the request of the owner or carrier having the same in possession for transportation, be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duty, under such regulations as the Secretary of the Treasury may prescribe. In places where no bonded common-carrier facilities are reasonably available, such merchandise may be so transported otherwise than by a bonded common carrier under such regulations as the Secretary of the Treasury shall prescribe." (Tariff Act of 1930, sec. 553, as amended; 19 U. S. C. 1553)

§ 18.21 *Restricted and prohibited merchandise.* (a) Merchandise subject upon importation to examination, disinfection, or further treatment under quarantines and regulations administered by the Bureau of Entomology and Plant Quarantine shall be released for transportation or exportation only upon written permission of, or under regulations issued by that Bureau.

(b) Narcotics and other articles prohibited admission into the commerce of the United States shall not be entered for transportation and exportation and any such merchandise offered for entry for that purpose shall be seized, except that exportation or transportation and exportation may be permitted upon written authority from the proper governmental agency and on compliance with the regulations of such agency.

(c) Articles in t r a n s i t manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the collector that they are non-narcotic, shall be detained and subjected, at the carrier's risk and expense, to such examination as may be necessary to satisfy the collector whether or not they are of a narcotic character. A properly verified certificate of the shipper, specifying the items in the shipment and stating whether narcotic or not, may be accepted by the collector to establish the character of such a shipment. (Sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087, sec. 624, 46 Stat. 759; 19 U. S. C. 1553, 1624)

§ 18.22 *Procedure at port of exit.* (a) If transfer is necessary, the procedure shall be as prescribed in § 18.19 (b) (3)

(b) Upon the arrival at the port of exit of express shipments of articles shown by the manifest, customs Form 7512, to be baggage and to be deliverable to the owner on board the exporting vessel, such articles may be transferred by the express company, without a permit from the collector and without the use of a transfer ticket or other customs formality, from its terminal to the exporting vessel for lading under customs supervision, if the express company is bonded as a common carrier and is responsible under its bond for the delivery of the articles to the customs officer in charge of the exporting vessel. The manifest shall show the name of the owner of the baggage and the name of the vessel on which he intends to sail. (Sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087, sec. 64, 46 Stat. 759; U. S. C. 1553, 1624)

§ 18.23 *Change of destination, change of entry.* (a) The foreign destination of such merchandise may be changed by the parties in interest upon notice to the collector at the port of exit from the United States. The collector at the port of exit, in his discretion, may report the application for a change of foreign destination to the collector at the port of entry.

(b) Such merchandise may be entered for consumption or warehouse or under any other form of entry. If the merchandise is subject on importation to quarantine and regulations administered by the Bureau of Entomology and Plant Quarantine, it shall be entered for consumption or warehouse only upon written permission of, or under regulations issued by, that Bureau. (Sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087, sec. 624, 46 Stat. 759; 19 U. S. C. 1553, 1624)

§ 18.24 *Retention of goods on dock; splitting of shipments.* (Upon written application of a party in interest and the written consent of the owner of the dock, the collector, in his discretion, may allow in-transit merchandise to remain on the dock under the supervision of a customs officer without extra expense to the Government for any period not exceeding 90 days. The Bureau may extend the time beyond 90 days.[9] The splitting up of shipments for exportation shall be permitted only when the exportation of a shipment in its entirety is not possible by reason of the different destinations to which portions of the shipment are destined, when the exporting vessel cannot properly accommodate the entire quantity, or in other similar circumstances. The collector may take possession of the merchandise at any time. (Sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087, sec. 624, 46 Stat. 759; 19 U. S. C. 1553, 1624)

EXPORTATION[10] FROM CUSTOMS CUSTODY OF MERCHANDISE UNENTERED OR COVERED BY AN UNLIQUIDATED CONSUMPTION ENTRY, OR MERCHANDISE DENIED ADMISSION BY THE GOVERNMENT

§ 18.25 *Direct exportation.* (a) When merchandise in customs custody for which no entry has been made or completed, or which is covered by an unliquidated consumption entry, or which has been denied admission by any Government agency is to be exported directly without transportation to another port, an entry on customs Form 7512 shall be filed in quadruplicate. An extra copy of customs Form 7512 shall be furnished the collector of the port of arrival for statistical purposes if such merchandise is not covered by some other form of entry, the statistical copy of which has previously been sent to the Section of Customs Statistics.

(b) An exportation bond on customs Form 7557, 7559, or other appropriate form shall be required with the entry, provided a consumption entry bond on customs Form 7551 or 7553 or other appropriate form was not previously given.

(c) If the merchandise has been landed or is transferred from one vessel to another and has not been entered for consumption or, in the case of goods entered for consumption and rejected, if the statistical copy of the consumption entry has not been sent to the Section of Customs Statistics, customs Form 7513 shall be used as the export declaration.

(d) If the merchandise is exported in the importing vessel without landing, the customs officer in charge of the vessel shall certify that the vessel was constantly under customs supervision and that the merchandise entered for exportation was not discharged during her stay in port, if these are the facts. A charge shall be made against the vessel term bond, customs Form 7569, if on file, or a vessel bond on customs Form 7567 shall be given as in the case of residue cargo for foreign ports.

(e) Gunpowder and other explosive substances, the deposit of which in any public store or bonded warehouse is prohibited by law, may be entered on arrival from a foreign port for immediate exportation in bond by sea, but shall be transferred directly from the importing to the exporting vessel. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

§ 18.26 *Indirect exportation.* (a) When merchandise of the character enumerated in § 18.25 (a) is to be transported in bond to another port for exportation, it may be entered for transportation and exportation in accordance with the procedure in § 18.20. No bond on customs Form 7557 or 7559 shall be required as the common carrier's bond is sufficient to insure the safekeeping of the merchandise pending its exportation. In the case of merchandise prohibited entry by any Government agency, that fact shall be prominently noted on customs Form 7512 for the information of the collector at the port of exportation.

(b) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8.

(c) If the merchandise is to be transferred after arrival at the selected port of exportation, the procedure prescribed in § 18.19 (b) (3) shall be followed. The provisions of §§ 18.23 and 18.24 shall also be followed in applicable cases. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

§ 18.27 *Port marks.* Port marks may be added by authority of the collector and under the supervision of a customs officer. The original marks and the port marks shall appear in all papers pertaining to the exportation. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

FINAL PORT OF EXPORTATION OF MERCHANDISE CROSSING CONTIGUOUS FOREIGN TERRITORY

§ 18.28 *Port of exportation; cancelation of charge against bond.* Merchandise which leaves the United States at one frontier port, crosses contiguous foreign territory, and reenters the United States at another frontier port before final exportation to a contiguous country shall be treated as exported when it

[9] "Any entered or unentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year from the date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government * * *" (Tariff Act of 1930, sec. 491, as amended; 19 U. S. C. 1491)

[10] "If any merchandise entered or withdrawn for exportation without payment of the duties thereon, or with intent to obtain a drawback of the duties paid, or of any other allowances given by law on the exportation thereof, is relanded at any place in the United States without entry therefor having been made, the same shall be considered and treated as having been imported into the United States contrary to law, and all persons concerned therein and such merchandise shall be liable to the same penalties as are prescribed by section 593 of this Act." (Tariff Act of 1930, sec. 589; 19 U. S. C. 1589)

has passed through the last frontier port. This section shall control whether or not the merchandise to be exported is domestic or foreign and whether or not it is exported with benefit of drawback. The manifest, shipper's export declaration, and the notice of intent, if any, shall be filed at the last port of exit from the United States. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

MERCHANDISE ARRIVING FROM A CONTIGUOUS COUNTRY IN SEALED VESSELS OR VEHICLES

§ 18.29 *Sealed shipment authorized.* (a) Except to the extent that it is modified by §§ 18.30 and 18.31, the procedure in connection with merchandise arriving from a contiguous country in sealed vessels or vehicles under the provision of section 463, Tariff Act of 1930,[11] shall be the same as that applicable to similar classes of shipments entered at the port of first arrival for transportation in bond.

(b) Plants and plant products, unless specifically exempted from inspection by the Department of Agriculture, shall not be forwarded in sealed vessels or vehicles under the provisions of section 463 of the tariff act unless previously inspected and released by a representative of the Department of Agriculture. This restriction also applies to purebred animals for which free entry is to be claimed, which are required to be inspected at the border for identification purposes. (Secs. 463, 624, 46 Stat. 718, 759; 19 U. S. C. 1463, 1624)

§ 18.30 *Procedure; documents required.* (a) The master of the vessel or the person in charge of the vehicle shall present to the customs officer at the place of shipment a manifest on customs Form 7512, nine copies of which shall be required when the merchandise is intended to be entered for consumption or warehouse in the United States and nine copies when the merchandise is entered for transportation and exportation.

(b) The declaration of the "importer" on customs Form 7512 shall be executed by the shipper who shall sign it as shipper.

(c) Upon receipt of the manifest, the customs officer, after comparing the contents of the vessel or vehicle with the manifest, shall cause the said vessel or vehicle to be closed and sealed. The expense of sealing vessels and vehicles, exclusive of the compensation of the customs officer, shall be paid by the carrier.

(d) The customs officer shall deliver four copies of the manifest in a sealed envelope to the conductor or person in charge of the vessel or vehicle for transmittal to the collector of customs at the port of first arrival in the United States and shall deliver another copy to such conductor or person to accompany the shipment to destination.

(e) The carrier to whom the merchandise is released at the port of first arrival shall be bonded and the agent of such carrier shall execute the receipt on the collector's copy of the manifest.

(f) On arrival of the vessel or vehicle at the port of destination, the master of the vessel or person in charge of the vehicle shall deliver immediately the vessel or vehicle[12] and manifest covering the shipment to the collector of customs at the port.[13] (Secs. 463, 624, 46 Stat. 718, 759; 19 U. S. C. 1463, 1624)

§ 18.31 *Merchandise in less-than-carload lots.* Merchandise in less-than-carload lots originating at a point in a contiguous country at which there is a United States customs officer may be forwarded from that place under a manifest on customs Form 7512. The procedure to be followed shall be the same in all respects as that governing the forwarding of merchandise in sealed vessels or vehicles, except that the packages need not be sealed and the carrier shall furnish and attach to each package the warning labels required in the case of other bonded merchandise shipped in less-than-carload lots. (Secs. 463, 624, 46 Stat. 718, 759; 19 U. S. C. 1463, 1624)

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

Sec.
19.1 Classes of customs warehouses.

GENERAL PROVISIONS

19.2 Application to bond; bond; renewal of.
19.3 Bonded warehouses; alterations; suspensions; discontinuance.
19.4 Offices; safety and sanitary requirements.
19.5 Storekeeper; compensation of.
19.6 Permits; releases.
19.7 Expenses of labor and storage.
19.8 Examination of goods by importer; sampling; repacking; examination of merchandise by prospective purchasers.
19.9 Transfer to another warehouse.
19.10 Examination packages.

MANIPULATION IN BONDED WAREHOUSES AND ELSEWHERE

19.11 Manipulation in bonded warehouses and elsewhere.

ACCOUNTS

19.12 Certification of storekeeper's reports.

MANUFACTURING WAREHOUSES

19.13 Requirements for establishment of warehouse.
19.14 Materials for use in manufacturing warehouse.
19.15 Withdrawal for exportation of articles manufactured in bond; waste or by-products for consumption
19.16 Cigar-manufacturing warehouses.

SMELTING AND REFINING WAREHOUSES

19.17 Application to establish warehouse; bond.
19.18 Smelting and refining; allowance for wastage; withdrawal for consumption.
19.19 Manufacturers' statements.
19.20 Withdrawal of products from bonded smelting or refining warehouses.
19.21 Smelting and refining in separate establishments.
19.22 Withdrawal of metal refined in part from imported crude metal and in part from crude metal produced from imported materials.
19.23 Withdrawal for exportation from one port to be credited on warehouse ledger account at another port.
19.24 Theoretical transfer without physical shipment of metal producible.
19.25 Credit to be applied under various forms of withdrawals.
19.26 Affidavits as to dutiable metals entirely lost.
19.27 Copper-bearing ores and concentrates and copper-bearing materials to be smelted or refined in bond.
19.28 Allowances for smelting and refining losses; dutiable zinc.

FOREIGN-TRADE ZONES

19.29 Foreign merchandise brought into a zone.
19.30 Domestic merchandise brought into a zone.
19.31 Immediate liquidation.
19.32 Customs supervision of entry of domestic merchandise.
19.33 Customs control of merchandise in a zone.
19.34 Entry of merchandise into customs territory from a zone.
19.35 Tariff classification and value.
19.36 Transfer of merchandise from one zone to another.
19.37 Disposition of abandoned merchandise.
19.38 Vessels arriving in customs territory from a zone.
19.39 Reimbursement of customs expenses.

§ 19.1 *Classes of customs warehouses.* (a) Customs warehouses shall be designated according to the following classifications:

(1) *Class 1.* Premises owned or leased by the Government and used for the storage of merchandise undergoing examination by the appraiser, under seizure, or pending final release from customs custody.[1] Unclaimed merchandise stored in such premises shall be held under "general order."[2]

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[11] "To avoid unnecessary inspection of merchandise imported from a contiguous country at the first port of arrival, the master of the vessel or the person in charge of the vehicle in which such merchandise is imported may apply to the customs officer of the United States stationed in the place from which such merchandise is shipped, and such officer may seal such vessel or vehicle. Any vessel or vehicle so sealed may proceed with such merchandise to the port of destination under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 463; 19 U. S. C. 1463)

[12] "If the master of such vessel or the person in charge of any such vehicle fails to proceed with reasonable promptness to the port of destination and to deliver such vessel or vehicle to the proper officers of the customs, or fails to proceed in accordance with such regulations of the Secretary of the Treasury, or unlades such merchandise or any part thereof at other than such port of destination, or disposes of any such merchandise by sale or otherwise, he shall be guilty of a felony and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than five years, or both; and any such vessel or vehicle, with its contents, shall be subject to forfeiture." (Tariff Act of 1930, sec. 464; 19 U. S. C. 1464)

[13] See § 5.1 of this chapter and notes.

[1] "Any premises owned or leased by the Government and used for the storage of merchandise for the final release of which from customs custody a permit has not been issued shall be known as a 'public storage.'" (Tariff Act of 1930, sec. 561; 19 U. S. C. 1561)

[2] "The Secretary of the Treasury may cause to be set aside any available space in a building used as a customhouse for the storage of bonded merchandise or may lease premises for the storage of unclaimed merchandise or other imported merchandise required to be stored by the Government, and set aside a portion of such leased premises for the storage of bonded merchandise: *Provided*, That

When such premises are not sufficient or available for the storage of seized and unclaimed goods, such goods may be stored in a warehouse of class 3, 4, or 5. So far as such warehouses are used for this purpose, they shall be designated "bonded stores." If there are no warehouses of these classes available, the collector may, with the approval of the Bureau, rent suitable premises for the storage of seized and unclaimed goods.[3]

(2) *Class 2.* Importers' private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof. A warehouse of class 4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case it shall be known as a private bonded warehouse.

(3) *Class 3.* Public bonded warehouses used exclusively for the storage of imported merchandise. A warehouse of this class shall consist of an entire building, or a part of a building entirely separated from the rest of the building by suitable partitions or walls.

(4) *Class 4.* Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk. If the collector deems it necessary, the yards shall be enclosed by substantial fences with entrance and exit gates capable of being secured by customs locks. The inlets and outlets to tanks shall be secured by means of seals or customs locks in combination with steel chains.

(5) *Class 5.* Bonded bins or parts of buildings or of elevators to be used for the storage of grain. The bonded portions shall be effectively separated from the rest of the building.

(6) *Class 6.* Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal-revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.[4]

(7) *Class 7* Warehouses bonded for smelting and refining imported ores and

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no part of any premises owned or leased by the Government may be used for the storage of bonded merchandise at any port at which a public bonded warehouse has been established and is in operation. All the premises so leased shall be leased on public account and the storage and other charges shall be deposited and accounted for as customs receipts, and the rates therefor shall not be less than the charges for storage and similar services made at such port of entry by commercial concerns for the storage and handling of merchandise. No collector or other officer of the customs shall own, in whole or in part, any bonded warehouse or enter into any contract or agreement for the lease or use of any building to be thereafter erected as a public store or warehouse. No lease of any building to be so used shall be taken for a longer period than three years, nor shall rent for any such premises be paid, in whole or in part, in advance." (Tariff Act of 1930, sec. 560; 19 U. S. C. 1560)

[3] "Buildings or parts of buildings and other inclosures may be designated by the Secretary of the Treasury [Commissioner of Customs] as bonded warehouses for the storage of imported merchandise entered for warehousing, or taken possession of by the collector, or under seizure, or for the manufacture of merchandise in bond, or for the repacking, sorting, or cleaning of imported merchandise. Such warehouses may be bonded for the storing of such merchandise only as shall belong or be consigned to the owners or proprietors thereof and be known as private bonded warehouses, or for the storage of imported merchandise generally and be known as public bonded warehouses. * * *" (Tariff Act of 1930, sec. 555; 19 U. S. C. 1555)

[4] "All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses,' class six: *Provided,* That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: *Provided, further,* That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them shall not be permitted in such manufacturing warehouses.

"Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

"No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days from the date of the enactment of this Act shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.

"Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

"Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port, who shall certify to such shipment and exportation, or ladening for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided,* That the by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under the Act of March 24, 1874, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected by law if such waste or by-products were imported from a foreign country: *Provided,* That all waste material may be destroyed under Government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

"A careful account shall be kept by the collector of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officers in charge, shall be made by the manufacturer containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

"Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

"Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom: *Provided,* That cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

"The provisions of section 3433 of the Revised Statutes shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this Act and to the merchandise conveyed therein.

"Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section, and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided,* That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further* That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, and that no person rectifying distilled spirits or wines in such warehouses shall be subject by reason of such rectification to the payment of special tax as a rectifier." (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

crude metals for exportation or domestic consumption.[5]

(8) *Class 8.* Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under customs supervision and at the expense of the proprietor.[6]

(b) The whole or a part of any warehouse of class 1, 2, 3, 4, 5, 6, or 7 may be designated a constructive manipulation (class 8) warehouse when the exigencies of the service so require.

(c) When parts of buildings are used as customs bonded warehouses, the bonded and nonbonded portions thereof shall be effectively separated by partitions of substantial materials and construction erected in such a manner as to render it impossible to enter the premises in the absence of the storekeeper without such violence as to make the entry easy of detection. So-called poultry wire, wood lattice or palings, plasterboard, beaverboard, or other materials of a light or flimsy nature, or materials of a substantial nature but which are insecurely installed are not acceptable for use as partitions. Where partitions consist of wire mesh or expanded metal panels, the wire shall be not less than No. 6 gauge (of a diameter of .192 inch) or equivalent cross sectional area with mesh openings not to exceed 2 inches in the larger dimension, and with the panel material riveted or welded into channel-iron or T-iron frames or secured with through hairpin bolts to 2 x 4 inch wood stud partition framing. Wood partitions shall be constructed of not less than 1-inch boards (dressed if desired) of uniform length between supports, nailed with not less than ten penny nails to not less than 2 x 4 inch stud framing and for additional security held in place by ⅛ x 1 inch metal cover-strips secured crosswise of the boards, preferably over the nailed ends, with carriage bolts through the boards and partition framing. (Secs. 311, 312, 555, 556, 557, 560, 561, 562, 624, 46 Stat. 691, 692, 743, 744, 745, 759, sec. 404, 49 Stat. 1960, secs. 2, 22 (a) 23 (a) 25, 52 Stat. 1077, 1037, 1038; 19 U. S. C. 1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562, 1624)

GENERAL PROVISIONS

§ 19.2 *Application to bond; bond; renewal of.* (a) An owner or lessee desiring to establish a bonded warehouse shall make written application to the collector, describing the premises, giving their location, and stating the class of warehouse. Except in the case of a class 2 or class 7 warehouse, the application shall state whether the warehouse is to be operated only for the storage or treatment of merchandise belonging to the applicant or whether it is to be operated as a public bonded warehouse. If the warehouse is to be operated as a private bonded warehouse, the application shall also state the general character of the merchandise to be stored therein, with an estimate of the maximum duties and taxes which will be due on such merchandise at any one time.[7] All storage warehouses operated by one proprietor in the same customs district may be included in one bond.

(b) The application shall be accompanied by a certificate signed by the president or secretary of a board of fire underwriters, and at ports where no such board exists by an officer or agent of each of two or more insurance companies, stating that the building is a suitable warehouse and acceptable for fire-insurance purposes. The application shall also be accompanied by a blueprint showing measurements, openings, etc., of the building or space to be bonded. If the warehouse to be bonded is a tank, the blueprint shall show all outlets, inlets, and pipe lines and shall be certified as correct by the proprietor of the tank. A gauge table showing the capacity of the tank in United States gallons per inch or fraction of an inch of height, certified by the proprietor to be correct, shall accompany the application. When a part or parts of a building are to be used as the warehouse, there shall be given a detailed description of the materials and construction of all partitions. When the proprietor is the lessee of the premises covered by the application and bond, he shall furnish a stipulation concurred in by the sureties, agreeing that, prior to the expiration of the lease covering the premises without renewal thereof, he will (1) transfer any merchandise remaining in the bonded warehouse to an approved bonded warehouse, (2) pay all duties, charges, or exactions due on such merchandise, or (3) otherwise dispose of such merchandise in accordance with the customs laws and regulations.

(c) On approval of the application to bond a warehouse of class 2, 3, 4, 5, or 8, a bond shall be executed on customs Form 3581.[8]

(d) On approval of the application to bond a proprietor's manufacturing warehouse, class 6, a bond shall be executed in duplicate on customs Form 3583. In the case of a bonded smelting and refining warehouse, class 7, the bond shall be executed with the required number of copies and in the form prescribed in T. D. 50267. All documents referred to in paragraph (b) of this section as may relate to proprietor's warehouse bonds, class 6 or 7, shall be submitted in duplicate.

(e) Any proprietor of a bonded warehouse may be required on 10 days' notice from the collector to furnish a new proprietor's warehouse bond; and if he fails to do so, no more goods shall be sent to the warehouse and those therein shall be removed at the expense of such proprietor. A new bond is required if the bonded warehouse is substantially altered or rebuilt. (Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1555, 1556, 1624)

§ 19.3 *Bonded warehouses; alterations; suspensions; discontinuance.* (a) Alterations in bonded warehouses, class 6 or 7, may be made by permission of the collector, unless they constitute a material change in the premises, in which case the approval of the Bureau is required. All alterations to warehouses of class 2, 3, 4, 5, or 8, or combinations thereof, may be made by permission of the collector without approval of the Bureau.

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[5] "The works of manufacturers engaged in smelting or refining, or both, of ores and crude metals, may, upon the giving of satisfactory bonds, be designated as bonded smelting warehouses. * * *" (Tariff Act of 1930, sec. 312; 19 U. S. C. 1312)

[6] "Unless by special authority of the Secretary of the Treasury, no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity imported or in a quantity not less than one ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer the same: *Provided,* That upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition. The basis for the assessment of duties on such mechandise so withdrawn for consumption shall be the entered value or the adjusted final appraised value, whichever is higher, and if the rate of duty is based upon or regulated in any manner by the value of the merchandise such rate shall be based upon or regulated by such adjusted final appraised value; but for the purpose of the ascertainment and assessment of additional duties under section 489 of this Act adjustments of the final appraised value shall be disregarded. The scouring or carbonizing of wool shall not be considered a process of manufacture within the provisions of this section. Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse." (Tariff Act of 1930, sec. 562, as amended; 19 U. S. C. 1562)

[7] "If any merchandise is fraudulently concealed in, removed from, or repacked in any bonded warehouse, or if any marks or numbers placed upon packages deposited in such a warehouse be fraudulently altered, defaced, or obliterated, such merchandise and packages shall be subject to forfeiture, and all persons convicted of the fraudulent concealment, repacking, or removal of such merchandise, or of altering, defacing, or obliterating such marks and numbers thereon, and all persons aiding and abetting therein shall be liable to the same penalties as are imposed by section 593 of this Act." (Tariff Act of 1930, sec. 597; 19 U. S. C. 1597)

[8] "* * * Before any imported merchandise not finally released from customs custody shall be stored in any such premises, the owner or lessee thereof shall give a bond in such sum and with such sureties as may be approved by the Secretary of the Treasury [Commissioner of Customs] to secure the Government against any loss or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. * * *" (Tariff Act of 1930, sec. 555; 19 U. S. C. 1555)

(b) The use of a bonded warehouse or bonded floor or space may be temporarily suspended by the collector on application of the proprietor if there are no bonded goods therein. Upon the removal of all free goods, if any, the premises may again be used for the storage of bonded goods. Rebonding will not be necessary.

(c) The Bureau may discontinue the bonded status of a warehouse at any time for reasonable cause. The collector may take similar action in the case of a warehouse of class 2, 3, 4, 5, or 8. When the proprietor desires to discontinue the bonded status of his warehouse, he shall make written application therefor to the collector. If the application is approved by the collector, he shall require all goods in such warehouse upon which the duty has not been paid to be transferred to another bonded warehouse without expense to the Government. The number of warehouses covered by a general bond may be reduced by discontinuance without necessitating a new bond unless the proprietor so desires. (Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1555, 1556, 1624)

§ 19.4 *Offices; safety and sanitary requirements.* (a) Suitable accommodations for the storekeeper shall be provided by the proprietor of the warehouse. An office for the accommodation of the warehouseman may be allowed in the bonded premises if separated by a partition from the space used for the storage of bonded goods.

(b) Fires shall not be permitted in any warehouse, other than warehouses of classes 6, 7, and 8, except in the office of the storekeeper and warehouseman. When lights are required, only safety lanterns or electric lights shall be used.

(c) All the doors and other entrances of bonded warehouses shall be secured by customs locks.

(d) In the case of merchandise subject to the Federal Food, Drug, and Cosmetic Act particular care shall be exercised by the warehouseman to keep the premises clean and free of rodents, insect infestation, trash, or other insanitary conditions. (Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1555, 1556, 1624)

§ 19.5 *Storekeeper; compensation of.* (a) The collector shall, when necessary, designate one or more employees to act as storekeeper of each bonded warehouse or public store.[9]

(b) The charge to be made for the services of a storekeeper or a customs employee temporarily assigned to act as a storekeeper at a bonded warehouse on a regular workday during his basic 40-hour workweek shall be computed at a rate per hour equal to 1/1688 of the gross annual rate of regular pay of the particular employee with an addition equal to any night pay differential actually payable under section 301 of the Federal Employees Pay Act of 1945 as amended by section 10 of the Federal Employees Pay Act of 1946 by reason of the assignment. The charge to be made for the services of a storekeeper or a customs employee temporarily assigned to act as a storekeeper at a bonded warehouse on a holiday or outside his established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945 as amended by the Federal Employees Pay Act of 1946 or the customs overtime laws (the act of February 13, 1911, as amended, and section 451 of the Tariff Act of 1930, as amended) or both, as the case may be. The time charged shall include any time within the regular working hours of the employee required for travel between the duty assignment and the place where the employee is regularly employed, and shall be not less than one hour for each visit with time after the first hour, excluding lunch periods, charged in multiples of one hour, fractional parts of an hour of less than 30 minutes being disregarded and those of 30 minutes or more being charged as one hour. In no case shall the charge be less than one dollar.

(c) The necessary traveling and subsistence expenses of an acting storekeeper assigned to relieve a full-time storekeeper outside the port limits shall be borne by the proprietor of the warehouse, except that no collection shall be made if the total amount chargeable against one proprietor for one day amounts to 30 cents or less.

(d) If any storekeeper has charge of more than one warehouse, the charge for his services shall be equitably apportioned among the respective warehousemen.

(e) Upon the failure of the warehousemen to pay such charges when due, or to comply with the laws and regulations applicable to bonded warehouses, the collector shall refuse entry of merchandise for such warehouse and reports the facts to the Bureau. (Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1555, 1556, 1624)

§ 19.6 *Permits; releases.* (a) Upon the receipt of a permit signed by the collector, or other customs officer designated for such purpose, the storekeeper shall release the merchandising covered thereby to the warehouse proprietor, unless the proprietor furnishes a delivery order authorizing release to some other person, in which case the merchandise shall be released to the person designated by the proprietor.[10] If the permit bears the endorsement provided for in § 8.38 of this chapter, release in accordance with the foregoing shall be withheld, subject to the provisions of § 20.3 (c) of this chapter, pending the lodging of an order to release on customs Form 7505-B.

(b) Before delivery is permitted, the permit shall be endorsed to show that storage, cartage, labor, and other charges due the Government have been paid.

(c) Merchandise covered by a notice of lien filed by the carrier shall not be released until the lien has been satisfied or discharged.[11] (Secs. 484 (j), 555, 556, 624, 46 Stat. 723, 743, 759; 19 U. S. C. 1484 (j) 1555, 1556, 1624)

§ 19.7 *Expenses of labor and storage.* (a) All merchandise deposited in public stores or in bonded warehouses shall be held liable for the expenses of labor and storage chargeable thereon at the customary rates and for all other expenses accruing upon the goods.

(b) The rates of storage and labor shall be agreed upon between the importer and the warehouse proprietor, but in case of disagreement the collector may, with the consent of all parties in interest, determine the rates to be charged.

(c) When merchandise is stored in a public store under a warehouse entry, general order, or otherwise, the charges for storage due the Government shall be paid before the packages are delivered. The charges shall be based upon the existing bonded warehouse tariff of the port for storage and labor. (Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1555, 1556, 1624)

§ 19.8 *Examination of goods by importer; sampling; repacking; examination of merchandise by prospective purchasers.* Importers may, upon application approved by the collector on customs Form 3499 and under the supervision of the storekeeper, examine, sample, and repack[12] or transfer merchandise in bonded warehouse. Where there will be no interference with the orderly conduct of customs business and no danger to the revenue, prospective purchasers may be permitted to examine merchandise in bonded warehouses upon the written request of the owner, importer, consignee, or transferee. (Secs. 555, 556, 624, 46 Stat. 743, 759, sec. 562, 46 Stat. 745, secs. 2, 25, 52 Stat. 1077, 1083; 19 U. S. C. 1555, 1556, 1562, 1624)

§ 19.9 *Transfer to another warehouse.* (a) With the concurrence of the proprietors of the delivering and receiving warehouses, merchandise may be transferred under customs supervision and at the expense of the party requesting it from

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[9] "* * * Except as otherwise provided in this Act, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in charge of a proper officer of the customs, who, together with the proprietor thereof, shall have joint custody of all merchandise store in the warehouse; and all labor on the merchandise so stored shall be performed by the owner or proprietor of the warehouse, under supervision of the officer of the customs in charge of the same, at the expense of the owner or proprietor. The compensation of such officer of the customs and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the Government by the proprietor of such warehouse." (Tariff Act of 1930, sec. 555; 19 U. S. C. 1555)

[10] "* * * merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. * * *" (Tariff Act of 1930, sec. 484 (j); 19 U. S. C. 1484 (j))

The Government will not compel a warehouseman to deliver bonded goods as the interest of the Government is in the collection of the duty on the merchandise or its exportation, and any question of infringement of private rights by the warehouseman must be left to the parties in interest.

[11] Imported goods in bonded warehouse are exempt from taxation or judicial process of any State or subdivision thereof. (See T. D. 50200)

[12] Repacking shall be considered a manipulation within the purview of sec. 562, Tariff Act of 1930, as amended.

one bonded warehouse to another in the same port upon the written request of the importer or transferee to the collector, who shall issue an order for such transfer on customs Form 7500–A.[23]

(b) All charges shall be paid before goods are transferred from a warehouse of class 1. (Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1555, 1556, 1624)

§ 19.10 *Examination packages.* Merchandise sent from a bonded warehouse to the appraiser's stores for examination shall be returned by the collector to the warehouse for delivery unless the warehouseman shall endorse on the duty-paid permit that the merchandise may be otherwise released. (Secs. 555, 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1555, 1556, 1624)

MANIPULATION IN BONDED WAREHOUSES AND ELSEWHERE

§ 19.11 *Manipulation in bonded warehouses and elsewhere.* (a) So far as applicable, the general provisions of the regulations governing warehouses bonded for the storage of imported merchandise shall apply to bonded manipulation warehouses and to other designated places of manipulation.[24]

(b) Merchandise to be manipulated under section 562, Tariff Act of 1930, as amended,[25] may be entered on customs Form 7502 and sent directly to a storage-manipulation warehouse.

(c) Merchandise entered for warehouse may be transferred to a storage-manipulation warehouse; or merchandise entered for storage-manipulation warehouse may be transferred after manipulation to the storage portion of the same warehouse, to another storage warehouse, or to a manufacturing warehouse of class 6.

(d) The application to manipulate, which shall be filed in duplicate on customs Form 3499 with the collector having jurisdiction of the warehouse or other designated place of manipulation, shall describe the contemplated manipulation in sufficient detail to enable the collector to determine whether the imported merchande is to be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, within the meaning of section 562, Tariff Act of 1930, as amended. If the collector is satisfied that the merchandise is to be so manipulated, he may issue a permit on customs Form 3499, making any necessary modification in such form. Manipulation resulting in a change in condition of the merchandise, which will make it subject to a lower rate of duty or free of duty upon withdrawal for consumption, is not precluded by the provisions of such section 562; but if the manipulation produces two or more parts of an article constituting an entirety, the parts shall not be classified separately if all the parts constituting the entirety are withdrawn for consumption under a single withdrawal.

(e) No merchandise shall be manipulated elsewhere than in a bonded warehouse unless the merchandise has been regularly entered for consumption or warehouse and is of a class entitled to the warehousing privilege under section 557, Tariff Act of 1930, as amended.

(f) Upon compliance with the provisions of paragraph (d) of this section, manipulated merchandise may be further manipulated before withdrawal in cases where the collector is satisfied that this will not endanger the revenue or interfere with the efficient conduct of customs business. The merchandise remaining in the warehouse shall be properly repacked after each manipulation.

(g) Manipulated merchandise may be withdrawn under any form of withdrawal, but no withdrawal shall be accepted for less than an entire repacked package. When merchandise covered by a consumption entry is manipulated elsewhere than in a bonded warehouse and thereafter withdrawn for consumption, the withdrawal shall be on customs Form 7505 and shall be liquidated in accordance with § 16.2 (e) of this chapter. (Secs. 556, 624, 46 Stat. 743, 759, sec. 562, 46 Stat. 745, secs. 2, 25, 52 Stat. 1077, 1088; 19 U. S. C. 1556, 1562, 1624)

ACCOUNTS

§ 19.12 *Certification of storekeeper's reports.* Before transmittal to the collector, the storekeeper's report of merchandise received, delivered, released, withdrawn, or transferred shall be certified by the proprietor of the warehouse to be correct. (Secs. 556, 624, 46 Stat. 743, 759; 19 U. S. C. 1556, 1624)

MANUFACTURING WAREHOUSES

§ 19.13 *Requirements for establishment of warehouse.* (a) Buildings or parts of buildings and other enclosures may be designated as bonded manufacturing warehouses if the Commissioner of Customs is satisfied that their location, construction, and arrangement afford adequate protection to the revenue.[26] Such warehouses shall be used solely and exclusively for the purpose for which they are bonded. The general provisions pertaining to warehouses for the storage of bonded merchandise shall, so far as relevant, apply to bonded manufacturing warehouses.

(b) Application for the establishment of such a warehouse shall be made to the collector of customs for the port where the premises are situated, setting forth the size, construction, and location of the premises, the manufacture proposed to be carried on, and the kinds of materials intended to be stored and used therein.

(c) The procedure outlined in § 19.2 with respect to the application to bond the premises and the execution of the bond shall be followed, except that the bond shall be executed on customs Form 3583.

(d) A list of all articles intended to be manufactured in the warehouse shall be filed in duplicate with the collector of customs, who shall transmit one copy to the Bureau. Such list shall set forth the specific names under which the articles are to be exported and under which they will be known to the trade, and shall show the names of all the ingredients entering into the manufacture of such articles, with the quantities of such ingredients or materials as may be dutiable or taxable.[27]

(e) Proprietors of such warehouses are required to conform strictly to the formulas filed with the bond, or subsequently, and in no instance shall an article be permitted to be manufactured in or withdrawn from the warehouse which does not contain all the ingredients and in the quantities specified in the formula for the manufacture of such article, or which contains any ingredient not specified in the formula.

(f) Manufactured articles shall be marked with the trade name of the goods and may be marked, in addition,

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[23] "* * * merchandise may be withdrawn, at any time within three years from the date of importation, * * * for transfer to another bonded warehouse at the same port: * * *" (Tariff Act of 1930, sec. 557 (a), as amended; 19 U. S. C. 1557 (a))

[24] "* * * Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse." (Tariff Act of 1930, sec. 562, as amended; 19 U. S. C. 1562)

[25] "* * * upon permission therefor being granted by the Secretary of the Treasury [Commissioner of Customs], and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in conditions. * * *" (Tariff Act of 1930, sec. 562, as amended; 19 U. S. C. 1562)

[26] "All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[27] "* * * Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury [Commissioner of Customs] a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein; * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

with the formulas and with such insignia or name as may be indicated or desired by the purchaser, if such additional marking will in no manner conflict with the requirements of the formula or afford an opportunity to mislead purchasers.

(g) Each bonded manufacturing warehouse shall have a portion separated from the remainder of the premises and secured by customs locks to be used exclusively for the storage of all imported merchandise, domestic spirits, or other materials subject to internal-revenue tax transferred into such warehouse for manufacture. A like compartment shall be provided to be used exclusively for the storage of products manufactured in the warehouse. The premises shall be so secured as to prevent any person from having access thereto in the absence of the storekeeper in charge, and the goods stored therein shall be so arranged as to give all practicable convenience to such officer in making the required examination or taking samples for analysis. (Sec. 311, 46 Stat. 691, sec. 404, 49 Stat. 1960; 19 U. S. C. 1311)

§ 19.14 *Materials for use in manufacturing warehouse.* (a) Imported merchandise to be used in a bonded manufacturing warehouse shall be entered on customs Form 7521 at the port at which such warehouse is located. Such form shall be prepared in quintuple. If the merchandise is not to be taken immediately to the manufacturing warehouse, a warehouse or rewarehouse entry, as the case may be, shall be made and customs Form 7521 used as a combined withdrawal and entry for manufacturing warehouse. If the merchandise has been imported or entered for warehouse at another port, it may be forwarded to the port at which the manufacturing warehouse is located under an immediate transportation without appraisement entry or warehouse withdrawal for transportation, whichever is applicable.

(b) Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on customs Form 7571 in an amount equal to double the estimated duties shall be required unless a general bond on customs Form 3583 has been given.

(c) When the proprietor of any bonded manufacturing warehouse desires to receive therein any domestic merchandise, except merchandise subject to internal-revenue tax, to be used in connection with the manufacture of articles permitted to be manufactured in such warehouse, including packages, coverings, vessels, and labels used in putting up such articles, an application shall be executed in duplicate in the following form, one copy to be filed with the collector and the other with the storekeeper in charge of the warehouse:

APPLICATION TO RECEIVE FREE MATERIALS

Port of _____,
_____, 19____.

To the Collector of Customs:

Application is hereby made to receive into the bonded manufacturing warehouse known as _____, situated at _____, the following-described articles and materials:

Marks	Nos.	Description	Quantity	Value

_____
(Signature)

Port of _____, _____ 19____.

To the storekeeper in charge of the bonded manufacturing warehouse specified above:

The above-described articles and materials are hereby permitted to be received into the warehouse in your charge, to be used therein in connection with the manufacture of articles as authorized by law.

_____
Collector

(d) For the transfer of domestic spirits from an internal-revenue bonded warehouse to a bonded manufacturing warehouse, or for the transfer of domestic wines from internal-revenue bonded winery or bonded wine storeroom to a bonded manufacturing warehouse, a bond on customs Form 7571 shall be required unless the warehouse is covered by a bond on customs Form 3583. (Sec. 311, 46 Stat. 691, sec. 404, 49 Stat. 1960; 19 U. S. C. 1311)

§ 19.15 *Withdrawal for exportation of articles manufactured in bond, waste or byproducts for consumption.* (a) Except cigars manufactured in bond and supplies for vessels, no articles or materials received into a bonded manufacturing warehouse or articles manufactured therefrom shall be withdrawn or removed therefrom except for direct exportation or transportation and exportation in bond to a foreign country. The exportation or shipment shall in every case be under the supervision of a customs officer.[18]

(b) The coverings or containers of imported articles or materials, whether or not subject to duty apart from their contents, are not "articles or materials" within the meaning of section 311, Tariff Act of 1930, as amended, and need not be exported, but may be withdrawn from the warehouse for consumption under customs Form 7505 upon payment of the duties applicable to such coverings or containers in their condition as withdrawn.

(c) Labels, coverings, and empty containers imported to be used in putting up the manufactured articles, if subject to duty or tax, constitute "articles or materials" within the meaning of section 311, Tariff Act of 1930, as amended, but may be withdrawn for consumption upon payment of all applicable duties and taxes.

(d) When waste or a byproduct is withdrawn for consumption, customs Form 7505 shall be used, modified as necessary and describing in detail the waste or byproduct and the imported material from which it was produced. Such waste or byproduct shall be appraised at its wholesale value at the time of withdrawal in the principal markets of the country from which the material was imported, determined in accordance with the provisions of section 402, Tariff Act of 1930, as amended. Upon payment of the duty, the withdrawal permit shall be issued for delivery and a proper credit given upon the manufacturer's bond.

(e) The general procedure covering warehouse withdrawals for exportation shall be followed in the case of articles withdrawn for exportation from a bonded manufacturing warehouse, except that in the case of flour each copy of customs Form 7512 shall bear the following legend:

Produced from wheat imported after September 15, 1930, without payment of duty thereon. Must not be exported to Cuba without permission from the collector at the port of withdrawal.[19]

(f) Articles may be withdrawn for transportation and delivery to a bonded storage warehouse at an exterior port under the provisions of section 311, Tariff Act of 1930, as amended,[20] for the sole purpose of immediate export or may be withdrawn pursuant to section 309 (a) of the tariff act, as amended, or I. R. C. section 3451. Such withdrawal shall be effected on customs Form 7512 as provided for in § 18.16 of this chapter. If such port of final exit is in a comptroller's district other than that in which the bonded warehouse is located, an additional copy of customs Form 7512 shall be prepared and sent to the comptroller for the port of exit. A rewarehouse entry shall be made at the exterior port in accordance with § 8.33 of this chapter supported by a bond on custom Form 7555 in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duties on the merchandise (including any taxes imposed thereon which are required by law to be treated as duty imposed by the Tariff Act of 1930) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs. The recital clause of such bond shall be modified to show that the merchandise is the product of a bonded manufacturing warehouse, class 6, and

[18] "* * * Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port, * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[19] "* * * No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days after the date of the enactment of this Act, shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect to such flour in the country which it is to be exported. * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[20] "* * * Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom: * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

that it has been rewarehoused at the exterior port for the sole purpose of immediate export or withdrawal pursuant to section 309 (a) of the tariff act, as amended, or I. R. C. section 3451. The following new condition shall be added to the bond: "And if said articles shall be exported or withdrawn in accordance with the provisions of section 311 or 309 (a) Tariff Act of 1930, as amended, or in accordance with I. R. C. section 3451, in the manner prescribed by the regulations; or, in default thereof, if the obligors shall pay to the collector as liquidated damages the amount of the bond;"

(g) No merchandise manufactured in a bonded manufacturing warehouse may be withdrawn by a person other than the manufacturer either from the manufacturing warehouse or from a warehouse where the merchandise is stored awaiting direct exportation, unless an authorization of the manufacturer is endorsed on the face of the withdrawal, or the manufacturer previously and in writing has transferred the right of withdrawal.

(h) When spirits and wines are withdrawn for shipment to Puerto Rico under section 311, Tariff Act of 1930, as amended, the procedure outlined in §7.1 of this chapter shall be followed.

(i) As proof of manufacture and exportation, the manufacturer shall file in the case of each transaction or period of manufacture a statement under oath verified by the storekeeper in charge of the warehouse, showing the date and number of the bond, the quantity and identity of the dutiable or taxable merchandise used, and the quantity and description of the articles into which it has been manufactured, together with the quantities of any byproducts and waste produced. In the case of articles manufactured with the use of distilled spirits, the statement shall also be verified by the foreman or chemist of the factory and shall show the number of packages of spirits used, the marks and numbers, the number of wine, proof and taxable gallons, and the degree of proof.

(j) The same proofs of exportation shall be required as in the case of other warehouse withdrawals for exportation.

(k) When the fact of exportation of all the products has been established by such proofs and any byproducts and waste have been exported or released for consumption, the bond given by the manufacturer, or the charges against his general bond, shall be canceled.

(l) Shortage, irregular delivery, and nondelivery occurring with respect to merchandise withdrawn from bonded manufacturing warehouse while it is under transportation in bond shall be charged against the bonded carrier. (Sec. 311, 46 Stat. 691, sec. 404, 49 Stat. 1960; 19 U. S. C. 1311)

§ 19.16 *Cigar - manufacturing warehouses.* (a) Tobacco to be used in the manufacture of cigars in bond under the provisions of section 311, Tariff Act of 1930, as amended[21] shall be entered for warehouse but may be transferred directly from the importing vessel or from a bonded warehouse of class 2 or 3 into a bonded manufacturing warehouse of class 6 and stored in separate compartments therein under customs locks pending its withdrawal for use in the manufacture of cigars. Before any such tobacco may be transferred to the manufacturing department in such premises for use in the manufacture of cigars, it shall be withdrawn in original packages and duty paid thereon in the same manner and under the same regulations as govern the withdrawal of merchandise for consumption from warehouses of class 3.

(b) Cigars manufactured in a bonded warehouse for home consumption shall not be removed therefrom until internal-revenue stamps, the caution notice, and customs stamps shall have been affixed to each box containing such cigars.

(c) A record of all tobacco received in a bonded manufacturing warehouse and delivered from storage compartments to the manufacturing department shall be kept on customs Form 5215.

(d) Cigars may be exported from a bonded manufacturing warehouse without payment of duty or internal-revenue tax under the laws and regulations governing the withdrawal of merchandise from other warehouses of class 6.

(e) Before removal of cigars from the bonded premises for consumption, there shall be affixed to each box thereof the stamp provided by the Government indicating their character according to the method of manufacture, origin of tobacco, place of manufacture, and that they were manufactured in bond. These stamps shall be sold to manufacturers by collectors of customs at the rate of $1 per thousand.

(f) Before the removal of cigars from the bonded premises, both the customs and internal-revenue stamps shall be canceled in a legible manner by means of a rubber stamp or perforation showing the name of the manufacturer, the place where the factory is located, and the date of cancelation.

(g) Before removal from warehouse for consumption, each box of such cigars shall have affixed thereto, either by branding or by use of a paper label, a caution notice in the following form:

Made in No. ----------, customs bonded manufacturing warehouse, class 6.

NOTICE: The manufacturer of the cigars herein contained has complied with all the requirements of law. Every person is cautioned not to use either this box for cigars again or the stamp thereon again, nor to remove the contents of this box without destroying said stamp, under the penalties provided by law in such cases.

(h) Proprietors of premises bonded for the manufacture of cigars may remove therefrom scraps, cuttings, and clippings of tobacco produced in the premises for transfer to cigar or tobacco manufacturers operating under the internal-revenue laws. Such proprietors shall keep a record of each transfer of scraps, cuttings, and clippings, and application for permission for such transfer shall be in the following form:

APPLICATION AND PERMIT FOR TRANSFER OF SCRAPS, CUTTINGS, AND CLIPPINGS

Port of ----------,
----------, 19-----.

The Collector of Customs,

SIR: Application is hereby made to transfer ---------- pounds of scraps, cuttings, and clippings of tobacco upon which duty has been paid from our bonded manufacturing warehouse, class 6, to ----------, factory No. ----------, district ----------, State of ----------.

Proprietor of Bonded Manufacturing Warehouse, Class 6

Port of ----------,
----------, 19-----.

The above application is hereby granted. The storekeeper shall deliver the material stated and make his report below.

Collector

Port of ----------,
----------, 19-----.

I hereby certify that ---------- pounds of scraps, cuttings, and clippings of tobacco, upon which duty has been paid, have been delivered by me from the bonded manufacturing warehouse, class 6, of ---------- for transfer to ----------.

Storekeeper

(Sec. 311, 46 Stat. 691, sec. 404, 49 Stat. 1960; 19 U. S. C. 1311)

SMELTING AND REFINING WAREHOUSES

§ 19.17 *Application to establish warehouse; bond.* (a) Application for the bonding of a plant of a manufacturer engaged in the smelting or refining, or both, of ores and crude metals as provided for in section 312, Tariff Act of 1930,[22] shall be made by the manufac-

[21] "* * * cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture. * * *" (Tariff Act of 1930, sec. 311, as amended; 19 U. S. C. 1311)

[22] "* * * Ores or crude metals may be removed from the vessel or other vehicle in which imported, or from a bonded warehouse, into a bonded smelting warehouse without the payment of duties thereon, and there smelted or refined, or both, together with ores or crude metals of home or foreign production: *Provided*, That the bonds shall be charged with a sum equal in amount to the regular duties which would have been payable on such ores and crude metals if entered for consumption at the time of their importation, and the several charges against such bonds shall be cancelled upon the exportation or delivery to a bonded manufacturing warehouse established under section 1311 of this title of a quantity of the same kind of metal equal to the quantity of metal producible from the smelting or refining, or both, of the dutiable metal contained in such ores or crude metals, due allowance being made of the smelter wastage as ascertained from time to time by the Secretary of the Treasury: *Provided further*, That the said metal so producible, or any portion thereof, may be withdrawn for domestic consumption or transferred to a bonded customs warehouse and withdrawn therefrom and the several charges against the bonds canceled upon the payment of the duties chargeable against an equivalent amount of ores or crude metals from which said metal would be producible

turer, through the collector of the district in which such plant is situated, giving the location of the premises and setting forth the work proposed to be carried on therein.

(b) The same procedure shall be followed as that required for bonding a warehouse of class 2 and the bond shall be on customs Form 3583.

(c) A manufacturer may give a general bond covering such of his plants as are designated bonded smelting or bonded smelting and refining warehouses, which bond shall also be conditioned for the performance of all the requirements of law or regulations governing smelting or refining in bond, except for the production of bills of lading, and shall be in lieu of a separate bond for each plant. Such bond shall remain on file in the Bureau and a copy thereof shall be forwarded to the collector of customs of each district in which the manufacturer seeks to conduct business. The penalty of all such bonds shall be fixed by the Commissioner of Customs.

(d) Upon 10 days' notice from the collector, the manufacturer shall be required to renew his bond and if he fails to do so no further permits shall be granted for removals from or transfers to his warehouse.

(e) At the request of the proprietor the bonded status of the warehouse may be discontinued at any time, provided the Commissioner of Customs approves such discontinuance and the proprietor complies with directions of the collector with respect to such merchandise as may remain in the warehouse.

(f) Upon application to the Commissioner of Customs through the collector of the district in which the plant is located, a proprietor having a general smelting and refining bond may be permitted to add to or take from the list of bonded premises covered by such bond..

(g) Upon the importation at any seaboard or frontier port of the United States of ores or crude metals in any form intended for a bonded smelting or refining warehouse situated at some other port of entry, they may be forwarded under an immediate transportation without appraisement entry.

(h) Upon the arrival of imported ores or crude metals in any form for the purpose of being smelted or refined, or both, in bond at a port where a bonded smelting or refining warehouse is established, they shall be entered for warehouse. A bond on customs Form 7555 shall be filed with each warehouse entry unless a blanket smelting and refining bond in the form authorized in T. D. 50267 has been filed. The collector shall thereupon issue a permit to the inspector to send such ores or metals from the importing vessel or vehicle by designated bonded vessels or vehicles to the smelting and refining warehouse named in the entry.

(i) Bonded ores or metals shall be kept separate and distinct from nonbonded material until they have been sampled and weighed. (Sec. 312, 46 Stat. 692; 19 U. S. C. 1312)

§ 19.18 *Smelting and refining; allowance for wastage; withdrawal for consumption.* The allowance to be made for wastage in smelting or refining, or both, of imported ores and crude metals in any form shall be ascertained and fixed by the Commissioner of Customs for each smelting warehouse, for each refining warehouse, and for each combined smelting and refining warehouse. The full dutiable contents of such ores or crude metals, as ascertained by commercial assay made by the Government chemist, less the wastage allowance (including dutiable metals entirely lost in smelting or refining, or both) shall constitute the quantity of metal producible (metal subject to duty or import tax which is actually recovered) from such ores or crude metals, and the quantity which must be either exported, duty paid, or transferred to another bonded warehouse in order to secure the cancelation of the charge made against the proprietor's bond as shown by the warehouse or rewarehouse ledger entry. Upon the withdrawal for consumption of metal so smelted or refined, or both, duty shall be collected thereon without the allowance for wastage, except that provided for lead in copper, gold, or silver ores and copper mattes, and for zinc in lead and copper ores entirely lost in smelting or refining, or both. (Sec. 312, 46 Stat. 692; 19 U. S. C. 1312.)

§ 19.19. *Manufacturers' statements.* (a) Every manufacturer engaged in smelting or refining, or both, shall immediately notify the collector of the district in which his plant is located of any material change in the character of the ores or crude metals smelted or refined and of any change in the methods of smelting or refining, and shall file with the collector an annual statement in duplicate not later than 60 days after the termination of the manufacturer's fiscal year. No specific form is prescribed in which such statement shall be prepared. As basic information, the statement shall show the quantities of ore and crude metal on hand at the beginning of the period, and the dutiable contents thereof;[23] quantities of ore and crude metal received during the period, and the dutiable contents thereof; total ore and crude metal to be accounted for, and the dutiable contents thereof; quantities of ore and crude metal on hand at the end of the period, and the dutiable contents thereof; and the quantities of ore and crude metal worked during the period, and the dutiable contents thereof. The statement of the quantity of ore and crude metal worked during the period shall show the quantity of foreign material and the quantity of domestic material put in process during the smelting operations. The statement shall contain such further information concerning the quantities and kinds of metals and intermediary products produced at the plant as will show the wastage sustained in the smelting and refining operation.

(b) Complete smelting and refining records shall be kept from which the annual statement shall be prepared. These records shall be made available to the collector of customs for such verification of the manufacturer's statement as the collector shall deem advisable. (Sec. 312, 46 Stat. 692; 19 U. S. C. 1312)

§ 19.20 *Withdrawal of products from bonded smelting or refining warehouses*—(a) *For exportation.* The general procedure governing warehouse withdrawals for exportation shall be followed in the case of the withdrawal for exportation of metal producible from a bonded smelting or refining warehouse.

(b) *For transfer to another bonded warehouse.* (1) Withdrawal for transfer to another bonded warehouse shall be at the risk and expense of the applicant, and the general regulations governing the transfer of bonded merchandise from one warehouse to another or the transfer of imported materials from a bonded storage warehouse to a bonded manufacturing warehouse shall be followed so far as applicable.

(2) In the case of transportation to another port, the transportation entry shall show the quantity of metal withdrawn, the wastage applicable thereto, the imported material from which such metal was produced, together with any dutiable metal charged on entry, and the credit on the warehouse ledger shall be made accordingly. (R. S. 161, sec. 312, 624, 46 Stat. 692, 759; 5 U. S. C. 22, 19 U. S. C. 1312, 1624)

§ 19.21 *Smelting and refining in separate establishments.* (a) If the operations of smelting and refining are not carried on in the same establishment, the smelting and unrefined products obtained from the smelting of imported materials in a bonded smelting warehouse may be removed therefrom for shipment to a bonded refining warehouse located at the same or another port under the general procedure for transfer from one bonded warehouse to another.

(b) When the transfer is to a bonded refining warehouse located at another port, the smelted and unrefined products or bullion obtained from the smelting of the imported material shall be weighed, sampled, and assayed before withdrawal, the sampling to be performed under Government supervision in accordance with the commercial practice in effect at the plant.

(c) The withdrawal for transportation shall show the gross weight of the smelted and unrefined products withdrawn, the weight of the dutiable metal contained therein, the wastage applicable thereto, and the duties properly chargeable on the withdrawn products as shown by the import entry, except the duties for which credit has been given for loss in smelting of zinc contained in lead or copper ores or lead contained

in their condition as imported: *Provided further,* That on the arrival of the ores and crude metals at such establishments they shall be sampled and assayed according to commercial methods under the supervision of Government officers: *Provided further,* That all labor performed and services rendered pursuant to this section shall be under the supervision of an officer of the customs, to be appointed by the Secretary of the Treasury and at the expense of the manufacturer: *Provided further,* That all regulations for the carrying out of this section shall be prescribed by the Secretary of the Treasury. * * *" (Tariff Act of 1930, sec. 312; 19 U. S. C. 1312)

[23] By "dutiable contents" is meant the quantity of each metal of a kind subject to duty contained in the material treated.

in copper, gold, or silver ores or copper mattes.

(d) The rewarehouse entry covering the smelted and unrefined products at the bonded refining warehouse to which they are transferred shall be made out in accordance with the weights and duties shown on the withdrawal for transportation.

(e) Upon withdrawal of the metal from the bonded refining warehouse for export, the warehouse account of the refining warehouse shall be credited with the amount of metal so withdrawn, plus the refining wastage prescribed for said refining warehouse, plus the smelting wastage prescribed for the bonded smelting warehouse in which the smelted and unrefined products were produced, together with the amount of any dutiable metals entirely lost in the smelting or refining, or both. However, when the metal is withdrawn for consumption, duty shall be collected on an amount of ore or crude metals in their condition as imported equivalent to that from which such metal would be producible. No allowance for either smelting or refining wastage shall be permitted, except that allowance shall be made for zinc in lead or copper ores, and lead in copper, gold, or silver ores or copper mattes to the extent that such zinc or lead has actually been lost in smelting or refining, or both. (Sec. 312, 624, 46 Stat. 692, 759; 19 U. S. C. 1312, 1624)

§ 19.22 *Withdrawal of metal refined in part from imported crude metal and in part from crude metal produced from imported materials.* Upon withdrawal for exportation of metal from a bonded warehouse engaged in refining, or smelting and refining, part of which metal was obtained from imported crude metal and part from crude metal produced by smelting imported materials, the warehouse account shall be credited with the quantity of metal so withdrawn, plus (1) the refining wastage allowance prescribed for that establishment, and (2) the smelting wastage allowance prescribed for the establishment in which the imported materials were smelted, and (3) any dutiable metals shown on the warehouse entry or the rewarehouse entry filed at the first-mentioned warehouse. However, upon withdrawal of such refined metal for consumption, no allowance shall be made for wastage except that allowance shall be made for zinc contained in lead or copper ores, and for lead contained in copper, gold, or silver ores, or copper mattes when such zinc or lead has actually been lost in smelting or refining, or both. (Sec. 312, 46 Stat. 692; 19 U. S. C. 1312)

§ 19.23 *Withdrawal for exportation from one port to be credited on warehouse ledger account at another port.* On exportation of metal in excess of that covered by open bonds under the last proviso to section 312, Tariff Act of 1930,[24] the general procedure governing warehouse withdrawals for exportation shall be followed. The proprietor of the plant from which the withdrawal is made shall prepare a sufficient number of copies of withdrawals on customs Form 7512, in addition to any other copies required by the regulations, to enable the collector of customs at the port of withdrawal to forward a copy to the collector of customs for each district where credit is to be applied and to each comptroller of customs concerned. Such withdrawals shall designate the plant or plants which are to receive the credit, shall specify the warehouse entry number or numbers to which the credit is to be applied, and shall state the quantity of metal producible which is to be applied to each warehouse entry specified. When two or more plants in a given collection district are designated to receive credit, separate copies shall be prepared for the collector and comptroller concerned to cover each such plant. If at the time of withdrawal the warehouse proprietor does not know the plants or warehouse entry numbers which are to be credited with the withdrawal, or the metallic content of the metal producible being exported, the preparation of the beforementioned copies of customs Form 7512 may be postponed for a period of not longer than 30 days from the date of the movement of the metal producible from the plant. In such cases, a so-called memorandum withdrawal, in the number of copies provided for in § 18.19 of this chapter, may be used in the first instance for the purpose of obtaining the required customs record of the exportation of the metal producible under customs supervision. All memorandum withdrawals shall be conspicuously endorsed "Memorandum Withdrawal." (Secs. 312, 624, 46 Stat. 692, 759; 19 U. S. C. 1312, 1624)

§ 19.24 *Theoretical transfer without physical shipment of metal producible.* (a) Transfer may be made from one port of entry to another by a withdrawal for transportation and rewarehouse executed in regular form without physical shipment of the metal, provided enough like metal (metal in ores, crude metals, or metals producible, including products partly smelted or refined) is on hand at the establishment to which the theoretical transfer is made to satisfy the new bond obligations.

(b) The wastage allowance established for the plant from which the original withdrawal for transportation was made shall be shown on the transfer withdrawal and set up as a part of the charge against the bond at the plant to which the metal was theoretically transferred. Such wastage shall govern and be the basis for allowance when metal is withdrawn from the plant where the theoretical rewarehousing was effected. (Sec. 312, 46 Stat. 692; 19 U. S. C. 1312)

§ 19.25 *Credit to be applied under various forms of withdrawals.* (a) The warehouse ledger account of the plant designated in the withdrawal to receive credit for the exportation shall be credited with the following:

(1) The quantity of metal producible exported.

(2) The wastage in effect on the date of withdrawal at the plant receiving the credit.

(3) The proportion of any other dutiable metals in the importation being credited which were lost at the said plant in the production of a quantity of metal producible equal to that exported.

(b) If credit is being applied to a charge set up by a theoretical transfer under § 19.24 at the plant designated in the withdrawal to receive the credit, the wastages to be applied shall be those set up at such plant in connection with the theoretical transfer, irrespective of the date of the withdrawal.

(c) On the transfer of metal producible to a bonded storage warehouse, credit shall be applied at the plant designated in the withdrawal to receive the credit in the manner provided for in paragraph (a) of this section with respect to withdrawals for exportation. The charge so credited at the plant shall be set up on the warehouse ledger account of the storage warehouse to which the metal producible has been transferred. In the case of the withdrawal of metal producible for transfer to a bonded manufacturing warehouse, credit shall be applied in the same manner at the plant designated in the withdrawal to receive the credit, but the charge set upon the warehouse ledger account of the bonded manufacturing warehouse shall be limited to the quantity of metal producible transferred to such warehouse. (Sec. 312, 46 Stat. 692; U. S. C. 1312)

§ 19.26 *Affidavits as to dutiable metals entirely lost.* In the foregoing sections, where reference is made to allowance for dutiable metals entirely lost in smelting or refining, or both, such allowance shall be made only upon affidavit of the manufacturer furnished with his annual statement that no such dutiable metals were recovered. The annual wastage allowance established by the Commissioner of Customs shall be accepted as showing the recoverable lead in copper mattes or copper, gold, or silver ores, and the blanket affidavit of wastage showing the total destruction of zinc in copper or lead ore shall be accepted for the purpose of making allowances in assessments of duty. (Sec. 312, 46 Stat. 692; 19 U. S. C. 1312)

§ 19.27 *Copper-bearing ores and concentrates and copper-bearing materials to be smelted or refined in bond.* (a) Except as hereinafter prescribed, §§ 19.22–19.26 shall, so far as applicable, be followed with respect to importations in bond of copper-bearing materials classifiable under I. R. C. section 3425 which are to be smelted or refined, or both.

(b) Samples of imported ores, concentrates, or other materials to be smelted or converted or refined shall be taken under customs supervision in accordance with the commercial method in effect at

[24] "* * * the several charges against the bonds of any smelting warehouse established under the provisions of this section may be canceled upon the exportation or transfer to a bonded manufacturing warehouse from any other bonded smelting warehouse established under this section of a quantity of the same kind of metal, in excess of that covered by open bonds, equal to the amount of metal producible from the smelting or refining, or both, of the dutiable metal contained in the imported ores and crude metals, due allowance being made of the smelter wastage as ascertained from time to time by the Secretary of the Treasury." (Tariff Act of 1930, sec. 312; 19 U. S. C. 1312)

the plant and shall be forwarded to the customs laboratory for assay. In the case of material to be smelted or converted, a deduction of 1.3 units from the copper content shall be shown on the laboratory report and made by the collector in the liquidation of the entry, but in the case of material to be refined only, no deduction shall be made.

(c) When the assay of the customs laboratory differs materially from the plant assay, a copy of which shall be furnished to the collector, the collector, upon the request of the importer if the plant assay is lower than the customs assay, or on his own motion if the plant assay is higher, shall call upon the customs laboratory for a reassay. (Sec. 312, 46 Stat. 692; 19 U. S. C. 1312)

§ 19.28 *Allowances for smelting and refining losses; dutiable zinc.* (a) In the case of material to be smelted or converted, there shall be allowed a smelting loss of 7/10 of 1 percent of the net copper content of such material, as shown by the customs laboratory assay provided for in § 19.27 (b)

(b) In the case of material to be electrolytically refined, whether ready for such refining when imported or produced in a bonded smelting warehouse, there shall be allowed a refining loss of 4/10 of 1 percent of the net copper content of such material.

(c) In the case of material to be furnace or fire refined, whether ready for such refining when imported or produced in a bonded smelting warehouse, there shall be allowed a refining loss of 2/10 of 1 percent of the net copper content of such material.

(d) A statement shall be filed in connection with the entry showing whether such material is to be smelted or converted and electrolytically refined, smelted or converted and furnace refined, electrolytically refined, or furnace refined.

(e) The entry shall be liquidated in accordance with the net quantity of copper shown by the customs laboratory report, less the matallurgical losses.[25] The charge against the bond shall be the liquidated quantity of copper and may be canceled in any manner authorized under the general smelting and refining regulations, except that wastage allowances as provided for above shall be allowed on withdrawals for consumption.

IMPORTED COPPER-BEARING MATERIAL TO BE SMELTED OR CONVERTED AND ELECTROLYTICALLY REFINED

Dry weight of material---pounds--	2,000
Government assay------percent--	30
Deduction of 1.3 units----------	1.3
Net copper assay--------percent--	28.7
Net copper content of material imported ----------pounds--	574
Less: Deduction for loss in smelting or converting operation, 7/10 of 1 percent----------	4.018
Copper content of product of smelting or converting operation ----------pounds--	569.982
Less: Deduction for loss in electrolytic refining operation, 4/10 of 1 percent----------	2.280
Liquidated quantity----pounds--	567.702

IMPORTED COPPER-BEARING MATERIAL TO BE SMELTED OR CONVERTED AND FURNACE REFINED

Dry weight of material---pounds--	2,000
Government assay------percent--	30
Deduction of 1.3 units----------	1.3
Net copper assay--------percent--	28.7
Net copper content of material imported ----------pounds--	574
Less: Deduction for loss in smelting or converting operation, 7/10 of 1 percent----------	4.018
Copper content of product from smelting or converting operation ----------pounds--	569.982
Less: Deduction for loss in furnace refining, 2/10 of 1 percent---	1.140
Liquidated quantity----pounds--	568.842

IMPORTED COPPER-BEARING MATERIAL TO BE ELECTROLYTICALLY REFINED ONLY

Dry weight of material---pounds--	2,000
Government assay------percent--	98
Net copper content of material imported ----------pounds--	1,960
Less: Deduction for loss in refining operation, 4/10 of 1 percent------	7.84
Liquidated quantity---pounds--	1,952.16

IMPORTED COPPER-BEARING MATERIAL TO BE FURNACE REFINED ONLY

Dry weight of material---pounds--	2,000
Government assay------percent--	98
Net copper content of material imported ----------	1,960
Less: Deduction for loss in refining operation 2/10 of 1 percent------	3.92
Liquidated quantity----pounds--	1,956.08

(f) When the charge against the bond is to be canceled by the exportation or transfer to a bonded warehouse of the product of a smelting or converting operation, the quantity of such product which must be exported or transferred to a bonded warehouse to cancel the charge against the bond shall contain a quantity of copper equal to the liquidated quantity charged against the bond plus the refining loss.[26]

(g) If the assay shows zinc in gold or silver ores in addition to lead and copper and it is desired to transfer the lead and the copper to different bonded refining warehouses, separate transportation withdrawals shall be issued for the lead and the copper, and the transfer of the charges for the zinc duty shall be determined by prorating the zinc content of the ore to the lead and the copper contained therein in accordance with the ratios which the lead content and the copper contained therein in accordance with the ratios which the lead content and the copper content, respectively, bear to the combined lead and copper content. For example, if an importation of material has 1,000 pounds of copper, 500 pounds of lead, and 150 pounds of zinc subject to duty, the transportation withdrawal to the copper refinery shall show 1,000 pounds of copper and 100 pounds of zinc, and that to the lead refinery 500 pounds of lead and 50 pounds of zinc. (53 Stat. 415; I. R. C. 3425; 26 U. S. C. 3425)

FOREIGN TRADE ZONES

§ 19.29 *Foreign merchandise brought into a zone.* (a) Foreign merchandise[27] may be brought into a foreign-trade zone and there stored or manipulated as authorized in the act of June 18, 1934 (19 U. S. C. 81a–81u; referred to in §§ 1929 to 19.39 as "the act"), without compliance with the customs laws and regulations relating to the entry of merchandise into customs territory.[28]

(b) If the immediate liquidation of duties on foreign merchandise to be brought into a zone is desired, an application therefor shall be filed with the collector of customs in whose district the zone is located. Such application shall be filed in duplicate on customs Form 3499 before the unlading of the vessel or other carrier, and shall be made by the consignee within the meaning of section 483, Tariff Act of 1930. The application shall specify in detail the merchandise for which the privilege of immediate liquidation of duties is desired, the carrier and date of arrival at the zone, and the place in the zone where the merchandise will be stored or manipulated. Upon the receipt of such application, the collector of customs shall provide for the supervision of the unlading of the designated merchandise and for the maintenance of customs supervision thereof until it is entered into customs territory or abandoned to the Government. (See § 19.31) (R. S. 251, secs. 1, 3, 48 Stat. 998, 999; 10 U. S. C. 16, 81a, 81c)

§ 19.30 *Domestic merchandise brought into a zone.* (a) When domestic merchandise[29] which is not intended to be returned to customs territory is brought into a zone, its admission into and retention in the zone shall not be subject to any customs requirements, except such as may be necessary for the purposes of the drawback laws and the general administration of the act and the regulations in this part relating to foreign-trade zones.

[25] Examples showing how the metallurgical losses are applied:

[25] Example:

Liquidated quantity of copper (charge against bond) pounds--	567.702

To cancel this charge there must be exported or transferred to a bonded warehouse products of smelting or converting operations containing 569.982 pounds copper by commercial assay; that is, 567.702 pounds plus 2.280 pounds refining loss, or 567.702 divided by 0.996 (100 percent less 4/10 of 1 percent).

[27] The terms "foreign articles" and "foreign merchandise" mean articles of merchandise of every description (except prohibited articles) brought into a zone otherwise than from customs territory.

[28] The term "customs territory," as used with respect to foreign-trade zones, means territory of the United States in which the Tariff Act of 1930 applies but which is not included in any foreign-trade zone.

[29] The term "domestic merchandise" means articles of merchandise of every description (except prohibited articles) which are the growth, produce, or manufacture of the United States, or which have previously been imported into customs territory and properly released from customs custody.

(b) When domestic merchandise which is intended to be returned to customs territory with a claim for exemption from duty is to be brought into a zone, the person concerned shall file with the collector of customs an application for customs supervision of the entry of the merchandise into the zone. Such application shall be in duplicate on customs Form 3499. It shall describe the merchandise in detail and specify the time at which the merchandise will arrive in the zone and the place in the zone where it will be stored or manipulated. Upon the receipt of such application, the collector of customs shall provide for the supervision of the receipt of the merchandise in the zone and for the maintenance of customs identification thereof until it is returned to customs territory or exported. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.31 *Immediate liquidation.* (a) When an application for immediate liquidation has been made as provided for in § 19.29 (b) the person of record [30] shall file with the collector of customs an entry in triplicate on customs Form 7502. Such entry shall be filed within 48 hours; exclusive of Sundays and holidays, after the unlading of the merchandise in the zone unless the collector authorizes in writing a longer time.

(b) The procedure to be followed in connection with the preparation and filing of the entry, the making of notations on invoices, the preparation of customs Form 6417, the designation of examination packages or quantities, and the appraisement of the merchandise shall be the same as that prescribed in the case of consumption entries, except that no duties need be deposited.

(c) The consignee filing an application for an immediate liquidation of an entry covering privileged merchandise [31] shall file a bond in an amount equal to double the estimated duties. Both principal and sureties shall continue liable under the bond until the liquidated duties are paid. The bond shall be in the following form:

Know all men by these presents:

That _____ of _____, as principal, and _____ of _____, and _____, of _____, as sureties, are held and firmly bound unto the UNITED STATES OF AMERICA in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas certain articles described in entry No. _____, dated _____, 19___, have been brought into the foreign-trade zone located at _____, from _____ in the _____, arrived _____, 19__, and

Whereas an application has been made by the principal herein for the appraisal of the merchandise described in the entry, and the liquidation of the duties thereon;

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT—

If the above-bounden principal shall, within 2 years after the merchandise first arrived in a foreign-trade zone, pay the full amount of liquidated duties found due on the said articles, whether such articles shall have been wholly consumed or destroyed in the zone, exported, sent into customs territory, or otherwise disposed of, then this obligation shall be void; otherwise it shall remain in full force and effect.

Signed, sealed, and delivered in the presence of—

_____ _____
(Name) (Address)
_____ _____
(Name) (Address)
_____ [SEAL]
(Principal)
_____ _____
(Name) (Address)
_____ _____
(Name) (Address)
_____ [SEAL]
(Surety)
_____ _____
(Name) (Address)
_____ _____
(Name) (Address)
_____ [SEAL]
(Surety)

(d) The merchandise covered by an application for immediate liquidation shall be transferred under customs supervision from the place of unlading to the place of delivery designated in the application, or to the place of appraisement and therefrom to the designated place of delivery, as the case may be. Such merchandise shall not be manipulated or removed from such place of delivery until the liquidation requested has been completed.

(e) The grantee operating a zone shall provide therein a suitable place for the customs examination and appraisement of merchandise. Merchandise covered by an application for immediate liquidation shall be promptly appraised on an order from the collector of customs. The examination of merchandise for the purposes of such appraisement shall be, insofar as may be practicable, at the place provided therefor in the zone but, in any case where he may deem it advisable, the collector may direct that the examination be made at any other suitable place, within or without the zone, approved by the appraiser.

(f) As soon as an entry has been completed by the filing of all necessary documents and the appropriate reports have been made to the collector, the entry shall be liquidated in accordance with the provisions of Part 16 of this chapter, insofar as they can be applied.

(g) The tariff status of merchandise covered by an application for immediate liquidation shall be determined in accordance with the condition and quantity of the merchandise and the rates of duty in force at the time such merchandise arrives within the limits of the zone in which it is to be first stored or manipulated.

(h) No allowance or abatement of duties shall be made by reason of the exportation of merchandise covered by an application for immediate liquidation. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.32 *Customs supervision of entry of domestic merchandise.* (a) The original copy of the application mentioned in § 19.30 (b) shall be used in lieu of an entry to cover the merchandise for which customs supervision of entry has been requested and shall be supported by a completely detailed inventory of the merchandise, showing the marks and numbers of the packages, the weight, gauge, measure, or quantity of merchandise in each package, and such descriptions as will enable customs officers readily to identify the goods.

(b) The merchandise covered by the application shall be transferred under customs supervision immediately upon its arrival in the zone to the place of delivery designated in the application, or to such other place for examination as may be designated by the collector and therefrom to the designated place of delivery, as the case may be. The collector, in his discretion, may require that the goods in their condition at the time of entry into the zone be appropriately marked for identification. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.33 *Customs control of merchandise in a zone.* (a) Merchandise which is prohibited entry into the United States shall not be admitted into a zone. The admission into a zone of merchandise the importation of which into the United States is restricted but not absolutely prohibited, such as certain special classes of merchandise specified in Part 12 of this chapter, shall be as prescribed by the Department of Agriculture or other Government agency having jurisdiction in the particular case. No narcotic drug as defined in the Narcotic Drugs Import and Export Act, as amended (21 U. S. C. 171) shall be admitted into a zone, except that such quantities of narcotic drugs as are required for direct emergency medical needs within a zone may be admitted into said zone from customs territory of the United States subject to the requirements of the Harrison Narcotic Law, as amended (21 U. S. C. 173), and regulations thereunder. Any prohibited merchandise found within a zone shall be seized and disposed of according to law.

(b) Any merchandise properly in a zone may be stored, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated in the zone, but may not be exhibited or manufactured there.

(c) Before any merchandise brought into a zone is manipulated as authorized in the act, permission for such manipulation shall be obtained from the collector of customs. The application for such permission shall be filed with the collector in duplicate on customs Form 3499, and shall describe in detail the work to be done. If satisfied that the contem-

[30] The term "person of record" means the person who has filed the application for immediate liquidation or the application for customs supervision of entry, or a transferee of the customs rights of any such person under any such application, as shown by endorsement on the application.

[31] The term "privileged merchandise" means foreign merchandise in a zone for which immediate liquidation of duties has been requested and domestic merchandise in a zone for which an application for customs supervision in the zone has been made. The term "nonprivileged merchandise" means all merchandise properly in a zone other than privileged merchandise.

plated manipulation is authorized in section 3 of the act, the collector shall endorse on both copies of the application a permit for the manipulation. In the case of privileged merchandise or of nonprivileged merchandise to be mixed or combined with privileged merchandise, the collector shall deliver the duplicate copy of the application to the customs officer who will supervise the manipulation. In other cases, the collector shall return the duplicate copy to the applicant, who shall retain such copy for examination by customs officers at the place where the merchandise is to be manipulated. If the collector is in doubt as to whether or not the contemplated manipulation is authorized in the act, he shall refer the application to the Commissioner of Customs for a decision. In the event the applicant is dissatisfied with the decision of the Commissioner of Customs, appeal may be made to the Board established under the act.

(d) Privileged merchandise may be stored in a zone only in places secured by customs locks or seals and may be withdrawn from such places or manipulated in the zone only under the immediate supervision of customs officers, and only in quantities of not less than one entire package, or one ton in weight in the case of parts of bulk merchandise. If any privileged merchandise is mixed or otherwise combined in a zone with other merchandise, the whole mixture or combination shall thereafter be subject to the same requirements as to storage and customs supervision as privileged merchandise.

(e) The transfer within the zone of privileged merchandise from one place of storage or manipulation to another place of storage or manipulation may be made under customs supervision on the written request of the person of record, accompanied by the concurrence in writing of the proprietors of the delivering and receiving places of storage or manipulation. Before such transfer is made the collector shall issue an order therefor on customs Form 7500–A.

(f) In the case of any diminution in the quantity or value of privileged merchandise in a zone which does not result in any change in the number of units thereof or their quantitative relation to each other, each unit shall be subject to its original duty or exemption from duty; and in the case of any diminution in the quantity or value of privileged merchandise in a zone resulting from any operation or circumstance which changes the number, value, or quantitative relation of the units, the total new units shall be subject to the same duty or exemption from duty as the total original units, and such duty or exemption shall be applicable to each new unit in accordance with its relation in quantity or value to the total quantity or value of the new units. If any privileged merchandise is wholly consumed or destroyed in a zone, or is removed therefrom otherwise than by transfer to customs territory or another zone, any liquidated duties due thereon shall be promptly paid.

(g) All reports of receipts and deliveries shall be certified as correct by the proprietor of the place from or to which the merchandise is removed. Such person shall be required to mark merchandise for identification in such manner and in such cases as the collector may deem necessary and the collector may, in his discretion, impose upon any person concerned with the manipulation such additional requirements as may assist in maintaining the identity of the manipulated merchandise or its components.

(h) Only if the collector shall be satisfied that no confusion in the records will result and that the customs revenues will at all times be properly safeguarded shall merchandise covered by more than one application for immediate liquidation or for customs supervision of entry from customs territory be in a designated manipulation space at one time. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.34 *Entry of merchandise into customs territory from a zone.* (a) The general tariff laws and regulations relating to merchandise arriving at a port of entry in customs territory from a foreign port or place shall be applicable to merchandise consisting wholly of nonprivileged merchandise which is transferred from a zone into customs territory in the same manner as though the merchandise so transferred had been imported into the United States on the date of such transfer. A certified invoice shall not be required for privileged or nonprivileged merchandise transferred from the zone into customs territory if of a kind falling within one of the exemptions under § 8.15 of this chapter.

(b) When classes of merchandise subject to different requirements under the regulations in this part relating to foreign-trade zones have been mixed or combined in a zone, the mixed or combined merchandise may be brought into customs territory and there entered under any form of entry provided for in the general customs laws and regulations, except as provided for in paragraph (c) of this section.

(c) Merchandise brought into a zone under the provisions of § 19.29 (b) shall be regarded as abandoned to the Government if remaining in a zone after 2 years from its arrival there. If such merchandise is mixed or combined with other merchandise, and the mixture or combination remains in a zone after 2 years from its arrival there. If such merchandise is mixed or combined with other merchandise, and the mixture or combination remains in a zone after 2 years from the earliest date of arrival of any component brought into the zone under § 19.29 (b) the entire mixture or combination shall be regarded as abandoned. If brought into customs territory within the 2-year period any such merchandise and any such mixture or combination shall be entered for consumption and the duties thereon paid upon its arrival at the port of destination in customs territory.

(d) When any merchandise entered under the provisions of § 19.29 (b) or any mixture or combination containing such merchandise is sent from a zone into customs territory, the collector of customs shall issue a certificate in triplicate, describing the merchandise in its present condition and certifying the amount of duty applicable to the shipment by reason of the presence therein of privileged merchandise. The amount of duty so certified shall be carefully computed with due regard to the provisions of § 19.33 (f) The duplicate copy of such certificate shall be issued to the person of record to be filed by him in connection with the consumption entry for the shipment.

(e) Merchandise brought into a zone under the provisions of § 19.30 (b), which has not been mixed or combined in the zone with any merchandise brought thereinto otherwise than under such paragraph may be returned to customs territory and there released from customs custody without formal entry if the customs identification of the goods has been maintained continuously in the zone and there has not been any noncompliance with any applicable provision of the regulations in this part. If the customs identification of such merchandise in the zone is not continuously maintained, or if there is any noncompliance with an applicable provision of the regulations in this part, it shall be treated thereafter as nonprivileged merchandise.

(f) If any merchandise brought into a zone under § 19.30 (b) has been mixed or combined in the zone with other merchandise, but in such manner that the identification of the domestic merchandise in the mixture or combination has been maintained continuously on the customs records in the zone, and the mixed or combined merchandise, or any part thereof, is to be brought into customs territory, the person of record may make application to the collector of customs for a certificate covering the identification of the domestic merchandise in the mixture or combination and indicating the exemption from duty applicable to such domestic merchandise. In proper cases the collector shall issue the requested certificate in triplicate, describing the merchandise in its present condition and certifying as to the quantity or value of the mixture or combination which is entitled to exemption from duty by reason of the entry of its components into the zone under § 19.30 (b) The duplicate copy of this certificate shall be issued to the person of record to be filed by him in connection with the consumption entry for the goods.

(g) The issuance of the certificate of identification contemplated by paragraph (d) or (f) of this section shall be denied in any case where the customs identification of the merchandise or its components for which the certificate is requested has not been continuously maintained since the first arrrival of the merchandise or components in a zone under the provisions of § 19.29 (b) or § 19.30 (b) or if there has been any noncompliance with any applicable provision of the regulations in this part. If any shipment claimed to contain merchandise or components brought into a zone under § 19.29 (b) or § 19.30 (b) is tendered for entry in customs territory and no certificate of identification as contemplated by this section is filed in connection with the entry covering such

shipment, such merchandise or component shall be treated as nonprivileged merchandise. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.35 *Tariff classification and value.* (a) Articles composed entirely of nonprivileged merchandise shall be subject on entry from a zone into customs territory to tariff classification and appraisement in accordance with their condition and quantity at the time of such entry. The value of such articles, whether or not the product of manipulation in a zone, shall be determined for all customs purposes in accordance with sections 402, as amended, and 503, Tariff Act of 1930, and if such articles are the product of manipulation in a zone, the value shall be adjusted in accordance with the provisions of section 562, Tariff Act of 1930, as amended.

(b) Articles composed entirely of privileged merchandise subject to duty, or of such merchandise and privileged merchandise entitled to exemption from duty, shall be subject, on entry from a zone into customs territory, to the payment of only the liquidated duties certified in accordance with § 19.34 (d) to be applicable thereto.

(c) Articles composed in part of privileged merchandise and in part of nonprivileged merchandise shall be subject, on entry from a zone into customs territory, to tariff classification and appraisement according to their condition and quantity at the time of such entry. For the purpose of assessing duties, however, the articles shall be constructively separated into components composed, respectively, of privileged and of nonprivileged merchandise. The privileged component in each case shall be subject to the payment of only the liquidated duties certified in accordance with § 19.34 (d) to be applicable thereto, and the nonprivileged component shall be subject to duty in accordance with the tariff classification of the complete article as an entirety, the value of such component being determined as in the case of articles composed entirely of nonprivileged merchandise, as set forth in paragraph (a) of this section.

(d) Except as otherwise specially provided for in this section, the tariff classification of merchandise arriving in customs territory from a zone shall be determined in accordance with the general customs laws and regulations as if the merchandise to be classified had arrived from a foreign port or place on the date of its arrival from the zone. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.36 *Transfer of merchandise from one zone to another.* (a) Any merchandise properly in a zone may be transferred to another zone under the procedure prescribed in Part 18 of this chapter for merchandise entered for transportation and exportation, except that the entry and manifest on customs Form 7512 shall definitely show that they cover a zone-to-zone transaction, and no export declaration shall be required upon delivery of the merchandise into the zone of destination.

(b) When privileged merchandise is transferred from one zone to another, the merchandise shall be subject in the zone of destination to the same conditions as to customs supervision and identification as in the first zone.

Privileged merchandise which may be returned from a zone to customs territory and there released without formal entry, in accordance with § 19.34 (e), may be so released for transfer to another zone. Upon arrival at the zone of destination it may be there entered under the provisions of § 19.30. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.37 *Disposition of abandoned merchandise.* Merchandise which has become abandoned to the Government as provided for in § 19.34 (c) shall be sold at the next regular sale in accordance with the provisions of §§ 20.4 and 20.5 of this chapter insofar as these may be applied and the proceeds distributed in the manner prescribed in § 20.6 of this chapter. If the proceeds of sale are insufficient to pay the duties and taxes after payment of charges having priority, the balance shall be collected under the bond. (R. S. 251, sec. 3, 48 Stat. 999; 19 U. S. C. 66, 81c)

§ 19.38 *Vessels arriving in customs territory from a zone.*[22] Merchandise from a zone may be transported by vessel or vehicle to customs territory only in bond as provided for in Part 18 of this chapter, except that domestic merchandise exempt from duty and entry requirements in accordance with § 19.34 (e) may be laden on a vessel or vehicle under customs supervision, after proper identification, and may thereafter be transported to customs territory in the same manner and under the same conditions as domestic merchandise transported from one port in customs territory to another such port. (R. S. 251, sec. 5, 48 Stat. 1000; 19 U. S. C. 66, 81e)

§ 19.39 *Reimbursement of customs expenses.* (a) The Commissioner of Customs will assign to each zone the necessary customs officers and guards to protect the revenue and to provide for the transfer of merchandise into customs territory.

(b) All necessary cost of maintaining the additional customs service required under the act and §§ 19.29–19.38 shall be reimbursed to the Government by the operator of the zone, payment to be made monthly to the collector of customs. (R. S. 251, sec. 14, 48 Stat. 1001; 19 U. S. C. 66, 81n)

[22] "Vessels entering or leaving a zone shall be subject to the operation of all the laws of the United States, except as otherwise provided in sections 81a–81u of this title, and vessels leaving a zone and arriving in customs territory of the United States shall be subject to such regulations to protect the revenue as may be prescribed by the Secretary of the Treasury. Nothing in sections 81a–81u of this title shall be construed in any manner so as to permit vessels under foreign flags to carry goods or merchandise shipped from one foreign trade zone to another zone or port in the protected coastwise trade of the United States." (19 U. S. C. 81c)

PART 20—DISPOSITION OF UNCLAIMED AND ABANDONED MERCHANDISE

Sec.

20.1 Storage of unclaimed and abandoned merchandise.
20.2 Withdrawal from general order for entry.
20.3 Merchandise remaining in customs custody or in bonded warehouse beyond the time fixed by law.
20.4 Articles subject to internal-revenue tax.
20.5 Sale of unclaimed and abandoned merchandise.
20.6 Proceeds of sale; payment of charges and expenses; surplus; deficit.

§ 20.1 *Storage of unclaimed and abandoned merchandise.* (a) Unclaimed and abandoned merchandise,[1] including merchandise formally abandoned to the Government, shall be sent under a permit to a suitable warehouse of class 3, 4, or 5 specially designated for the purpose by the collector (see § 19.1 (a) (3) (4) and (5) of this chapter) or to a public store.

(b) Whenever, pursuant to section 457 or 490, Tariff Act of 1930, the collector shall take possession of a cargo which is unclaimed and not unladen, he shall require, as a condition for granting a permit to discharge, that the vessel be removed at the expense of the owner to the wharf, pier, or other place most convenient to the general-order stores.

(c) Storage at the ordinary rates and all other expenses shall be paid by the owner or consignee of the merchandise upon entry thereof; but if the goods are sold, such charges shall be paid from the proceeds of sale to the extent that proceeds are available. (Secs. 490, 624, 46 Stat. 726, 759; 19 U. S. C. 1490, 1624)

§ 20.2 *Withdrawal from general order for entry.* (a) Merchandise in general order may be exported without examination or appraisement if the merchandise is delivered to the exporting carrier within 1 year from the date of importation. Such merchandise may be entered within 1 year from the date of importa-

[1] "Any entered or unentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year from the date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government and shall be appraised by the appraiser of merchandise and sold by the collector at public auction under such regulations as the Secretary of the Treasury shall prescribe * * *" (Tariff Act of 1930, sec. 491, as amended; 19 U. S. C. 1491)

"Merchandise upon which any duties or charges are unpaid, remaining in bonded warehouse beyond three years from the date of importation, shall be regarded as abandoned to the Government and shall be sold under such regulations as the Secretary of the Treasury shall prescribe, and the proceeds of sale paid into the Treasury, as in the case of unclaimed merchandise covered by section 493 of this Act, subject to the payment to the owner or consignee of such amount, if any, as shall remain after deduction of duties, charges, and expenses. * * *" (Tariff Act of 1930, sec. 559, as amended; 19 U. S. C. 1559)

tion for immediate transportation without appraisement to any port of entry designated by the consignee. Any imported merchandise, including merchandise entered for transportation, for which entry for consumption or warehouse or delivery to a carrier for exportation has not been completed prior to the expiration of 1 year from the date of original arrival shall be treated as abandoned. Entry for immediate transportation without appraisement shall be permitted after the expiration of the 1-year period only for the purpose of filing an entry for consumption at the port of destination.

(b) The withdrawal from general order of less than a single general-order lot shall not be permitted except as provided for in § 8.8 of this chapter. (Secs. 490, 624, 46 Stat. 726, 759; 19 U. S. C. 1490, 1624)

§ 20.3 *Merchandise remaining in customs custody or in bonded warehouse beyond the time fixed by law.* (a) If storage or other charges due the United States have not been paid on merchandise remaining in customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of 1 year from the date of importation in any other case, even though any duties due have been paid, such merchandise shall be sold as provided for in § 20.5 unless entered or withdrawn for consumption in accordance with paragraph (b) of this section.

(b) Merchandise subject to sale (except merchandise abandoned under section 506 (1) or 563 (b) Tariff Act of 1930) may be entered or withdrawn for consumption at any time prior to sale upon payment of the duties, any internal-revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.[2]

(c) Duty paid merchandise for which a permit to release has been issued but which remains in warehouse beyond the bond period[3] shall be released to the warehouse proprietor. Free and duty-paid merchandise not entered for warehouse for which permits to release have been issued, remaining in bonded warehouse at the expiration of 1 year from the date of importation, shall be released to the warehouse proprietor. (Secs. 491, 559, 624, 46 Stat. 726, 744, 759, secs. 14, 23 (a) 52 Stat. 1083, 1088; 19 U. S. C. 1491, 1559, 1624)

§ 20.4 *Articles subject to internal-revenue tax.* Articles subject to internal-revenue tax (except forfeited distilled spirits[4] and except voluntarily abandoned merchandise which has not been cleared by the Division of Procurement) may be sold for domestic consumption, but only if they will bring an amount sufficient to pay the internal-revenue tax. If such articles cannot be sold for domestic consumption for an amount sufficient to pay the internal-revenue tax, they shall be destroyed unless they can be advantageously sold for export from continuous customs custody.[5] Such articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due. R. S. 251, 46 Stat. 727, 53 Stat. 245, 357; I. R. C. secs. 2190, 3074; 19 U. S. C. 66, 1492, 26 U. S. C. 2190, 3074)

§ 20.5 *Sale of unclaimed and abandoned merchandise.* (a) All unclaimed and abandoned merchandise shall be sold at the first regular sale held after the merchandise becomes subject to sale, unless a deferment of its sale is authorized by the Commissioner of Customs. Regular sales of unclaimed and abandoned merchandise on hand and subject to sale shall be made once in every year, or more often at the discretion of the collector. Such sales may be conducted by the collector, any employee designated by him, or by a public auctioneer.

(b) Before unclaimed merchandise is offered for sale, it shall be appraised in accordance with section 402, Tariff Act of 1930, as amended. Such merchandise shall also be appraised at its actual domestic value in its condition at the time and place of examination, whether or not it has depreciated or appreciated in value since the date of exportation. The quantity of merchandise in each lot appraised shall be reported.

(c) Before drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are advertised, they shall be inspected by a representative of the Department of Agriculture to ascertain whether they comply with the requirements of the law and regulations of that Department. If found not to comply with such requirements, they shall be forthwith destroyed.

(d) All merchandise at ports other than a headquarters port which becomes subject to sale, including explosives, perishable articles, and articles liable to depreciation, shall be promptly reported to the headquarters port for disposition. The collector, in his discretion, may sell such merchandise, as well as merchandise at the headquarters port which is subject to sale, at the headquarters port or at any other port within the district.

(e) Except as prescribed in paragraphs (f), (g), and (h) of this section, a brief notice of the time and place of sale shall be given for 3 successive weeks immediately preceding the sale in one newspaper of extensive circulation published at the port where the sale is to be held. The newspaper shall be selected by the collector and publication of the notice shall be authorized on standard Form 1053. Such notice shall designate the place where catalogs may be obtained and reasonable opportunity to inspect the merchandise shall be afforded prospective purchasers.

(f) Unclaimed explosives and other dangerous articles and fruit and other perishable articles shall be sold on 3 days' public notice.[6]

(g) Other unclaimed merchandise shall be sold at public auction upon public notice of not less than 6 nor more than 10 days, as the collector may determine, if, in the opinion of the collector, such merchandise, because of depreciation in value by reason of damage, leakage, or other cause, will sell for an amount insufficient to pay the duties, storage, and other charges if allowed to remain in general order for 1 year. Unclaimed merchandise remaining on the dock which, in the opinion of the collector, will not sell for enough to pay the cost of cartage and storage shall be sold in the same manner.[7]

(h) If the collector is satisfied that the proceeds of sale will not be sufficient to pay the expenses and duties, a written or printed notice of the sale in lieu of the advertisement shall be conspicuously posted in the customhouse, and, if deemed necessary, at some other proper place for the time above specified.

(i) The catalogs, if used, shall specify the marks, numbers, and description of packages, the description and quantities of their contents, the appraised value thereof and also the domestic value at the time and place of the examination of the merchandise. The catalogs shall be distributed at the sale and announcement made that the Government does not guarantee quality or value and that

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[2] "* * * Merchandise subject to sale hereunder or under section 559 of this Act may be entered or withdrawn for consumption at any time prior to such sale upon payment of all duties, storage, and other charges, and expenses that may have accrued thereon, but such merchandise after becoming subject to sale may not be exported prior to sale without the payment of such duties, charges, and expenses nor may it be entered for warehouse. The computation of duties for the purposes of this section and sections 493 and 559 of this Act shall be at the rate or rates applicable at the time the merchandise becomes subject to sale." (Tariff Act of 1930, sec. 491, as amended; 19 U. S. C. 1491)

[3] "* * * Merchandise upon which all duties and charges have been paid, remaining in bonded warehouse beyond three years from the date of importation, shall be held to be no longer in the custody or control of the officers of the customs." (Tariff Act of 1930, sec. 559, as amended; 19 U. S. C. 1559)

[4] All distilled spirits, wine, and malt beverages forfeited, summarily or by order of court, under any law of the United States, shall be disposed of in accordance with the internal-revenue law and regulations.

[5] "Except as provided in section 3369 of the Revised Statutes, as amended (relating to tobacco and snuff), and in section 901 of the Revenue Act of 1926 (relating to distilled spirits), any merchandise abandoned or forfeited to the Government under the preceding or any other provision of the customs laws, which is subject to internal-revenue tax and which the collector shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed under regulations to be prescribed by the Secretary of the Treasury, instead of being sold at auction." (Tariff Act of 1930, sec. 492; 19 U. S. C. 1492)

[6] When it is probable that entry will be made at an early date for unclaimed perishable merchandise, the collector may hold the merchandise for a reasonable time in a bonded cold-storage warehouse if one is available. (T. D. 37374 (18))

[7] "* * * All gunpowder and other explosive substances and merchandise liable to depreciation in value by damage, leakage, or other cause to such extent that the proceeds of sale thereof may be insufficient to pay the duties, storage, and other charges, if permitted to remain in public store or bonded warehouse for a period of one year, may be sold forthwith, under such regulations as the Secretary of the Treasury may prescribe. * * *" (Tariff Act of 1930, sec. 491, as amended; 19 U. S. C. 1491)

no allowance will be made for any deficiency found after sale.

(j) When the name and address of the consignee can be ascertained, notice of the date of sale shall be mailed to him. When unclaimed merchandise was consigned to order or for other reason the name of a consignee cannot be obtained, the collector, where practicable, shall notify the shipper or his representative or the agent of the carrier of the date when and place where the goods are to be sold.

(k) Merchandise offered for sale but not sold shall be included in the next regular sale of unclaimed and abandoned merchandise. If the collector is satisfied that such merchandise is unsalable or of no commercial value, it shall be destroyed. (Secs. 491, 559, 46 Stat. 726, 744, secs. 14, 23 (a) 52 Stat. 1083, 1088; 19 U. S. C. 1491, 1559)

§ 20.6 *Proceeds of sale; payment of charges and expenses; surplus; deficit.* (a) From the proceeds of the sale of merchandise remaining in warehouse beyond the time fixed by law, the following charges shall be paid in the order named:

(1) Internal-revenue taxes.

(2) Expenses of advertising and sale.

(3) Duties.

(4) Any other charges due the United States in connection with the merchandise.

(5) Any sum due to satisfy a lien for freight, charges, or contributions in general average, of which due notice shall have been given in the manner prescribed by law.

(6) Storage and other expenses for which the merchandise may be liable.

(b) In the case of merchandise entered for warehousing which is warehoused in public stores, the charges due for storage and labor shall be paid next after the expenses of sale.

(c) The charges against the proceeds of sale of unclaimed merchandise shall be paid in the order specified in paragraphs (a) and (b) of this section, except that charges for cartage and for storage shall take priority next after the expenses of sale. When the proceeds are insufficient to pay both cartage and storage charges, such charges shall be paid pro rata.

(d) The duties chargeable on any merchandise within the purview of this section shall be assessed on the appraised dutiable value at the rate of duty chargeable at the time the merchandise became subject to sale.[8]

(e) The duties of the auctioneer shall be confined to selling the merchandise and his charge for such service shall in no case exceed the commissions usual at the port. Such commissions shall be allowed only on the gross sum actually realized on the sale.

(f) Accounts for the auctioneer's charges and all other expenses of sale which may be properly chargeable on the merchandise shall be presented to the collector for payment within 10 days from the date of sale. Such expenses shall be apportioned pro rata on the amounts received for the different lots sold.

(g) If a claim of the owner of unclaimed merchandise for the surplus proceeds of sale is properly established by due proof of his right to make entry for the merchandise, such proceeds of sale shall be paid to him pursuant to section 493, Tariff Act of 1930,[9] by a refund from the collector's special deposit account provided the claim was filed within 10 days after the sale and allowed before the proceeds of sale have been deposited in the Treasury, and in other cases by a refund from the appropriation "Refunds and Drawbacks, Customs." Any doubtful claim shall be forwarded to the Bureau with all pertinent documents and information available to the collector for the instructions of the Bureau or for reference by it to the General Accounting Office for direct settlement.

(h) Claims of the owner or consignee for the surplus proceeds of a sale made pursuant to section 559, Tariff Act of 1930, shall be paid in the manner and subject to the conditions stated in paragraph (g) of this section.

(i) If the proceeds of sale of merchandise in warehouse beyond 3 years are insufficient to pay the duties after payment of all charges having priority, the deficiency shall be collected under the warehouse entry bond, by suit if necessary.

(j) When the proceeds of sale of unclaimed merchandise are insufficient to pay the charges and duties, the consignee shall be liable for the deficiency unless the merchandise was shipped to him without his consent. If no entry for the merchandise has been filed and no other attempt to control the merchandise has been made, the merchandise shall be regarded as shipped to the consignee without his consent and no effort shall be made to collect any deficiency of duties or charges from such consignee. (Secs. 493, 624, 46 Stat. 727, 759, secs. 491, 559, 46 Stat. 726, 744, secs. 14, 23 (a), 52 Stat. 1083, 1088; 19 U. S. C. 1491, 1493, 1559, 1624)

PART 21—CARTAGE AND LIGHTERAGE

Sec.
21.1 Licensing of cartmen and lightermen; marking of vehicles and lighters.
21.2 Employees' identification cards.
21.3 Classes of cartage.
21.4 Government cartage.
21.5 Importers' cartage.
21.6 Suspension or revocation of license of cartman or lighterman.
21.7 Supervision of cartage and lighterage.
21.8 Liability; reports of loss or damage.
21.9 Tickets for goods carted or lightered.
21.10 Inability to deliver merchandise.

§ 21.1 *Licensing of cartmen and lightermen; marking of vehicles and lighters.* (a) Customs cartage and lighterage shall be done by cartmen and lightermen licensed by the collector or specifically authorized by the Commissioner of Customs for that purpose. Customhouse cartage and lighterage licenses, customs Form 3857, shall be issued by the collector of customs for a term of 1 year. Before such a license is issued, the cartman or lighterman shall be required to execute a bond on customs Form 3855 in an amount to be fixed by the collector.[1] The collector may appoint or license as a customs cartman or lighterman any common carrier who has executed and filed a carrier's bond, customs Form 3587. These licenses may be extended from year to year so long as the required bond is considered sufficient. Before customhouse licenses are issued for bonded lighters or other such vessels, the vessel's marine documents, if any have been issued, shall be presented to the collector and such documents shall be returned by the collector following his examination thereof. No license shall be issued or renewed until the applicant submits to the collector a current list showing the names and present addresses of the managing officers or members of the organization and of the employees thereof who are required by § 21.2 of this chapter to possess identification cards (customs Form 3873), and surrenders any outstanding identification cards of former employees or gives reasons satisfactory to the collector why such cards cannot be surrendered.

(b) Any cartman licensed by the city or state authorities who produces evidence of good moral character and his city or state license may be licensed as a customhouse cartman.

(c) Every licensed vehicle used for customs cartage and every licensed barge, scow, or other lighter used for customs lighterage shall be conspicuously marked with the legend "Customhouse License No. _____" and the name of the person or firm to whom the license has been issued.

(d) The marking prescribed by this section shall appear in letters and figures

[8] Household and personal effects of the character provided for in paragraph 1798, as amended, or paragraph 1632, Tariff Act of 1930, which belong to persons who have not arrived in this country before the effects become subject to sale are dutiable at the rates in effect when the effects become subject to sale, even though such persons arrive and make entry for the effects before they are sold.

[9] "The surplus of the proceeds of sales under section 491 of this Act, after the payment of storage charges, expenses, duties, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited by the collector in the Treasury of the United States, if claim therefor shall not be filed with the collector within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Treasury the amount of any surplus of the proceeds of sale." (Tariff Act of 1930, sec. 493; 19 U. S. C. 1493)

[1] "The cartage of merchandise entered for warehouse shall be done by cartmen to be appointed and licenced by the collector of customs and who shall give a bond in a penal sum to be fixed by such collector, for the protection of the Government against any loss of, or damage to, such merchandise while being so carted. The cartage of merchandise designated for examination at the appraiser's stores and of merchandise taken into custody by the collector as unclaimed shall be performed by such persons as may be designated, under contract or otherwise, by the Secretary of the Treasury, and under such regulations for the protection of the owners thereof and of the revenue as the Secretary of the Treasury shall prescribe." (Tariff Act of 1930, sec. 565; 19 U. S. C. 1565)

not less than 3 inches high and in the case of carts, trucks, drays, and other vehicles, such markings shall be placed on each side by painting directly onto the vehicle or by the attachment of signs bearing the required marking. However, in the case of vehicles, if such marking is not found to be practicable by the collector, he may designate some other conspicuous place upon the vehicle where the number shall appear.

(e) These markings shall be removed upon termination of the license in accordance with the provisions of the bond, customs Form 3855, or the cartman or lighterman shall be liable for the payment of liquidated damages as provided for in such bond.

(f) Customs officers shall not deliver any bonded goods to vehicles or lighters which are not properly marked. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.2 *Employees' identification cards.* Each licensed cartman or lighterman and each employee thereof who receives or transports imported merchandise which has not been released from customs shall possess an identification card, customs Form 3873, with his photograph securely affixed thereto with glue or other adhesive substance. The card shall also bear his signature in the space provided. Such identification card shall be issued by the collector only upon application on customs Form 3078 of the licensed cartman or lighterman. The application shall be filed personally at the customhouse by the person for whom the application for the identification card is made, together with two photographs of such person in addition to the one to be affixed to the application. The fingerprints of such person shall be taken on custom Form 3872 at the time of the filing of the application. The identification card shall become valid when the United States customs seal has been impressed thereon, which seal shall not be impressed until after the card has been otherwise completed. Each identification card shall be prepared in duplicate. The original, after having impressed thereon the customs seal, shall be presented to the person in whose name the card is issued and shall be in his possession at all times when he is engaged in receiving or transporting imported merchandise. The duplicate shall be retained as an office record. It shall be the responsibility of each person to whom an identification card is issued to protect it with an appropriate transparent cover so that the face and back of the card are visible without removing the cover. Whenever the employment of the holder of an identification card is changed to another licensed cartman or lighterman, the card, supported by an application in proper form, shall be submitted promptly to the collector so that the change may be made officially on the card and on the customhouse records. The card shall be submitted promptly to the collector when there is a change of address of the holder. New cards shall be issued when necessary. Should an identification card be presented by a person other than the one to whom it was issued, such card shall be forthwith confiscated. The identification card shall be surrendered when the holder thereof leaves the employment of a licensed cartman or lighterman for employment of some other character. All outstanding identification cards issued to a licensed cartman or lighterman and to the employees thereof, shall be taken up by the collector upon the suspension, revocation or lapse of the license of the cartman or lighterman. An identification card shall not be issued to any person whose employment in connection with the transportation of bonded merchandise will, in the judgment of the collector, endanger the revenue. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.3 *Classes of cartage.* The cartage of merchandise in customs custody is of two kinds: "government cartage," which must be done by a licensed customhouse cartman under contract or other specific authority for that purpose, and "importers' cartage," which may be done by any licensed customhouse cartman. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.4 *Government cartage.* (a) The cartage of packages designated for examination at the appraiser's stores shall be done by a cartman under contract or other specific authority for that purpose. Contracts for government cartage shall be let annually after not less than 30 days' notice by publication in one or more newspapers, or otherwise if the Bureau shall so direct. Bids for such cartage shall be supported by bid bonds and shall be submitted to the collector who has solicited such bids. The contract will be let by the Commissioner of Customs on customs Form 3083 upon execution of the bond provided as a part of such contract in a sum to be fixed by the Commissioner for the faithful performance of the contract. Such contract cartman shall be licensed as a customhouse cartman. The cartage will be paid by the Government through the collector of customs for the district in which the service is rendered from the appropriation "Collecting the Revenue from Customs."

(b) The cartage of merchandise designated for examination elsewhere than at the appraiser's store shall be done by the contract cartman whenever practicable, but, in the discretion of the collector, may be done by any licensed customhouse cartman. If the Commissioner of Customs is satisfied that at any port a particular class or classes of merchandise may be carried otherwise than by a contract or other licensed cartman to the place outside the appraiser's stores designated for examination without danger to the revenue or the proper conduct of customs business, he may by specific instructions authorize such other carriage.

(c) Merchandise withdrawn from general order for regular entry shall be conveyed under such contract at the expense of the importer to the place designated by the collector for appraisement.

(d) Unclaimed merchandise shall be carted to the public stores or bonded warehouse by bonded cartmen designated by the Commissioner and under contract for that purpose. Bond on customs Form 3083, in a sum to be approved by the Commissioner, shall be required for the faithful performance of the work. The cost of such cartage shall be charged against the merchandise and collected prior to delivery under a regular entry or paid from the proceeds of sale.

(e) Seized merchandise shall be delivered to the custody of the collector by the most practicable means available to the seizing officer. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.5 *Importers' cartage.* (a) Any licensed customhouse cartman may transfer merchandise at the expense of the importer or other party in interest from the importing vessel or other conveyance to bonded warehouse, from one vessel or conveyance to another, from one bonded warehouse to another, from the public stores to a bonded warehouse, from warehouse for transportation or for exportation, and from an internal-revenue warehouse for exportation under the internal-revenue laws without payment of tax.

(b) The collector may license any importer as a customhouse cartman for the purpose of carting his own imported merchandise.

(c) Importers and exporters shall designate on the entry and permit of bonded merchandise the bonded cartman or lighterman by whom they wish their merchandise to be conveyed and approval of such designation shall be indicated on the entry papers by the initials of the appropriate customs officer placed in close proximity to the designation.

(d) If an importer does not cart his merchandise or designate a licensed customhouse cartman for the purpose, it shall be carted by a public-store cartman authorized by contract or designated by the collector for that purpose, the cost thereof to be paid by the importer or owner of the merchandise before its release from customs custody.

(e) Nothing in this section shall apply to the cartage of examination packages to the place of examination, which shall be done only by the contract cartman, except as provided for in § 21.4 (b) (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.6 *Suspension or revocation of license of cartman or lighterman.* Inspectors or other customs officers may demand of any person claiming to be a customhouse cartman or lighterman, or employee thereof, his license or identification card for inspection. If it is not produced, or if the vehicle is not properly marked, or if the cartman or lighterman refuses or neglects to obey any proper order of the inspector or any customs order, rule, or regulation relative to the cartage or lighterage of merchandise, the collector may suspend or revoke the license of the cartman or lighterman chargeable with the offense. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.7 *Supervision of cartage and lighterage.* (a) All licensed vehicles or lighters shall be subject to the control and direction of the officer having charge of the merchandise being carried.

(b) The vehicles or lighters designated for the purpose shall be present to

take the merchandise when the customs officer in charge is ready to send it; otherwise, after waiting a reasonable time, such officer shall send the merchandise by any licensed vehicle or lighter available. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.8 *Liability; reports of loss or damage.* (a) The cartman or lighterman conveying the merchandise shall be held liable under his bond for its prompt delivery in sound condition, or in no worse than the damaged condition noted on the cartage or lighterage ticket, customs Form 6043–A, or Elliott Fisher ticket at ports where used, if damage is so noted. Any negligence or carelessness shall be cause for revocation of the license.

(b) Any loss or detention of bonded goods and any accident happening to a licensed vehicle or lighter while carrying them shall be immediately reported by the cartman or lighterman to the collector. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

§ 21.9 *Tickets for goods carted or lightered.* (a) When merchandise is carted or lightered and received in a bonded store or bonded warehouse, the representative of the proprietor shall check the goods against the ticket, customs Form 6043–A, and countersign the ticket. A receipt shall be taken for all goods delivered from public store or bonded store. Such receipt may be taken on the permit to release, customs Form 7500–B, on the appraiser's release ticket at the time delivery is made, or on customs Form 6043–C. Customs' Form 6043–C may also be used as a receipt for goods delivered from customs custody in any other case where the collector deems such receipt necessary. In the case of withdrawals from bonded warehouse for consumption, the merchandise shall be released only to or upon the order of the proprietor of the warehouse who shall acknowledge such release on customs Forms 7505–A or 7505–B. If a receipt is taken on customs Form 6043–C for goods delivered from public store or bonded store, it shall be disposed of as if a receipt were taken on the permit to release, customs Form 7500–B, or on the appraiser's release ticket.

(b) The cartman or lighterman shall countersign all tickets for goods carted or lightered or delivered from store, customs Form 6043–A or 6043–C, in the space provided as a receipt for the goods, noting any bad order or discrepancy. (Secs. 565, 624, 46 Stat. 747, 759· 19 U. S. C. 1565, 1624)

§ 21.10 *Inability to deliver merchandise.* If the warehouse is closed or the warehouseman refuses to receive the merchandise, it shall be returned to the sending inspector or deposited in the public store for safekeeping, unless otherwise ordered by the collector. The cartman shall notify such inspector of his inability to deliver the merchandise and the reason therefor. The inspector shall promptly report the facts to the collector (to the surveyor at New York) for instructions. (Secs. 565, 624, 46 Stat. 747, 759; 19 U. S. C. 1565, 1624)

PART 22—DRAWBACK

ARTICLES MANUFACTURED OR PRODUCED WHOLLY OR IN PART FROM IMPORTED OR SUBSTITUTED MERCHANDISE

Sec.
22.1 Drawback allowance.
22.2 Canal Zone and Guantanamo Bay.
22.3 Application for establishment of drawback rate.
22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates.
22.5 Identification of imported merchandise and ascertainment of quantities for allowance of drawback when substituted merchandise is used.
22.6 General drawback rates in effect.
22.7 Notice of intent to export; local or direct shipments from a seaboard or frontier port.
22.8 Notice of intent to export; transportation and exportation shipments.
22.9 Notice of intent to export; mail exportations.
22.10 Diversion of shipments.
22.11 Receipts for notices of intent.
22.12 Notice of intent required to complete the record.
22.13 Amendment of notices of intent.
22.14 Inspection, sampling, weighing, gauging, measuring.
22.15 Failure to obtain inspection and supervision of lading.
22.16 Completion of drawback claims.
22.17 Certificates of importation and extracts.
22.18 Certificates of delivery of imported merchandise.
22.19 Certificates of manufacture and delivery; manufactured or partly manufactured articles.
22.20 Bills of lading.
22.21 Landing certificates.
22.22 Supplies for certain vessels and aircraft.
22.23 Meats cured with imported salt.
22.24 Liquidation of drawback entries.
22.25 To whom payable.

FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

22.26 Drawback allowance.
22.27 Procedure.
22.28 Manufacturing record.
22.29 Certificate of Commissioner of Internal Revenue (Alcohol-Tax Unit) and extracts from such certificates.
22.30 Collector's statement of drawback due.

MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

22.31 Drawback allowed.
22.32 Continuous custody.
22.33 Entry and completion thereof.
22.34 Ascertainment of drawback.

MERCHANDISE NOT CONFORMING TO SAMPLES OR SPECIFICATIONS

22.35 Drawback allowance.
22.36 Application; samples and specifications.
22.37 Return of merchandise to customs custody.
22.38 Acceptance of merchandise at importer's risk and expense; time limit for exportation.
22.39 Waiver of proof where the duty is less than $25.

GENERAL REGULATIONS APPLICABLE TO ALL DRAWBACK CLAIMS

22.40 Duties subject to drawback.
22.41 Merchandise sold to United States Government.
22.41 Protests.
22.43 Signing of documents; powers of attorney.

ARTICLES MANUFACTURED OR PRODUCED WHOLLY OR IN PART FROM IMPORTED OR SUBSTITUTED MERCHANDISE

§ 22.1 *Drawback allowance.* Drawback of duties shall be allowed as provided for in section 313, Tariff Act of 1930, as amended,[1] and section 6 of the

[1] "(a) *Articles made from imported merchandise.* Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation of flour or by-products produced from wheat imported after ninety days after the date of the enactment of this act. * * *

"(b) *Substitution for drawback purposes.* If imported duty-paid sugar, or nonferrous metal, or ore containing nonferrous metal, and duty free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed one year from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation (or shipment to the Philippine Islands) of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported articles, an amount of drawback equal to that which would have been allowable had the sugar or nonferrous metal, or ore containing nonferrous metal, used therein been imported; but the total amount of drawback allowed upon the exportation of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

* * * * *

"(f) *Exportation of meats cured with imported salt.* Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than $100.

"(g) *Materials for construction and equipment of vessels built for foreigners.* The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

"(h) *Time limitation on exportation.* No drawback shall be allowed under the provisions of this section or of section 6 of the Act entitled 'An Act temporarily to provide revenue for the Philippine Islands, and for other purposes, approved March 8, 1932 (relating to drawback on shipments to the Philippine Islands), unless the completed article is exported, or shipped to the Philippine Islands, within three years after importation of the imported merchandise.

"(i) *Regulations.* The Secretary of the Treasury is authorized to prescribe regulations governing (1) the identification of imported merchandise used in the manufacture or production of articles entitled to drawback of customs duties, the ascertainment of the quantity of such merchandise used, of the time when such merchandise was received by the manufacturer or producer of the exported articles, and of the amount of duties paid thereon, the determination of the facts of the manufacture or production of

act of March 8, 1902,[2] on articles manufactured or produced in the United States wholly or in part with the use of imported or substituted merchandise, on meats cured with imported salt, and on vessels and aircraft built and equipped in the United States for foreign account and ownership,[3] subject to compliance with the regulations in this part. (Sec. 6, 32 Stat. 55, sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 152a, 1313, 1624)

§ 22.2 *Canal Zone and Guantanamo Bay.* The Panama Canal Zone and Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes.[4] Secs. 313, 624, 46 Stat. 693, 759; 19 U. S. C. 1313, 1624)

§ 22.3 *Application for establishment of drawback rate.* (a) Each manufacturer or producer of articles intended for exportation with benefit of drawback (whether he is a primary, intermediate, or final manufacturer or producer of the articles, and whether or not the articles are of a character covered by a general drawback rate) shall make application prior to the exportation of such articles for the establishment of a rate of drawback. The application shall be made on customs Form 4477 or in a substantially similar form and shall be filed with the collector or deputy collector of customs in charge at any port of entry. When it is desired to export articles before an application in such form can be delivered in the regular course of the mails, a telegraphic application will be accepted, provided it shows the name of the manufacturer or producer, the name of the merchandise used, the name of the articles being exported, and the location of the factory at which the articles are manufactured or produced, and provided it is followed promptly by an application in the form prescribed herein.

(b) In the case of a vessel or aircraft on which drawback is to be claimed under section 313 (g) Tariff Act of 1930, the application prescribed in paragraph (a) of this section shall be made by the builder of the vessel or aircraft. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759· 19 U. S. C. 1313, 1624)

§ 22.4 *Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates.* (a) Each manufacturer or producer shall keep records which will establish, as to all articles manufactured or produced for exportation with benefit of drawback, the date or inclusive dates of manufacture or production, the quantity and identity of the imported duty-paid merchandise or of articles manufactured or produced under drawback regulations (referred to hereafter in this part as drawback products) used, the quantity and description of the articles manufactured or produced, and the quantity of waste incurred. If claim for waste is waived, the manufacturer or producer shall keep records which will establish the quantity and identity of the imported duty-paid merchandise or drawback products appearing in the articles manufactured or produced, in which case records need not be kept of either the quantity of waste incurred or of the quantity of imported duty-paid merchandise or drawback products used, unless such records are necessary to enable the manufacturer or producer to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles. When the waste has a value and the manufacturer or producer has not limited his claims to the quantity of imported duty-paid merchandise or drawback products appearing in the articles, the records shall show the factory value of the imported duty-paid merchandise or drawback products used and the factory value of the waste in order that in the liquidation of the drawback entry the quantity of imported duty-paid merchandise or drawback products used may be reduced by the quantity thereof which the value of the waste will replace. The records of the manufacturer or producer shall also show the quantity, if any, of duty-free or domestic merchandise used when such records are necessary to the determination of the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing therein. In cases where two or more products result from the manipulation of the imported duty-paid merchandise, records shall be kept which will show the values of such products at the time of separation. A sworn abstract of the records kept by the manufacturer or producer shall be filed with the drawback entry.

(b) The imported duty-paid merchandise or drawback products shall be stored in a manner which will enable the manufacturer or producer to determine, in conjunction with his storage records, the import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers under which they were received, and to identify with respect to such import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers the imported duty-paid merchandise or drawback products used in the manufacture or production of the articles, and to establish whether such articles were exported within 3 years after the importation of the duty-paid merchandise.

(c) The articles manufactured or produced shall be stored or marked in a manner which will preserve the identification established by means of the storage records and the records of manufacture or production.

(d) Each person required by §§ 22.18 and 22.19 (c) to certify to the delivery of imported merchandise or drawback products shall store such merchandise or products while they are in his possession and keep records which will enable him to show the quantity, identity, and description of such merchandise or products, the date on which they were received by him, the person from whom they were received, the date on which they were delivered by him to other persons, and the persons to whom such deliveries were made. These records shall be the basis of the certificates or endorsements required under §§ 22.18 and 22.19 (c).

(e) In cases where it appears to the satisfaction of the Commissioner of Customs that it is impracticable for the manufacturer or producer to keep records of all the information required for the determination of the drawback which may accrue to the products manufactured or produced by him, complementary records covering the information not available to the manufacturer or producer may be kept by the person in the United States for whose account the products are manufactured or produced, and sworn abstracts of such records shall be filed with the drawback entry.

(f) When identification is made against two or more lots of imported merchandise of different dutiable values or subject to different rates of duty, or against two or more lots of drawback products subject to different allowances of drawback, the drawback shall be based

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such articles in the United States and their exportation therefrom, the time within which drawback entries on such articles shall be filed and completed, to entitle such articles to drawback, and the payment of drawback due thereon; (2) the identification of merchandise withdrawn for consumption and returned to customs custody for exportation, the determination of the facts of nonconformity thereof to sample or specifications and of exportation thereof from the United States, and the payment of the drawback due thereon; (3) the determination and payment of drawback of internal-revenue tax on domestic distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as the Secretary of the Treasury deems necessary; (4) the remission of duties on imported salt used in curing fish, including the production of proof that the salt has been so used; and (5) the refunding of duties paid upon imported salt used in curing exported meats, including the production of proof that the salt has been so used; and designating the person to whom refund or payment of drawback shall be made.

"(j) *Source of payment.* Any drawback of duties that may be authorized under the provisions of this Act shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico." (Tariff Act of 1930, sec. 313, as amended; 19 U. S. C. 1313)

[2] "* * * Where materials on which duties have been paid are used in the manufacture of articles manufactured or produced in the United States, there shall be allowed on the shipment of said articles to the Philippine Archipelago a drawback equal in amount to the duties paid on the material used, less 1 per centum of such duties, under such rules and regulations as the Secretary of the Treasury may prescribe." (19 U. S. C. 152a)

[3] Section 313 (g), Tariff Act of 1930, applies only to materials used in the original construction and equipment of the vessels or aircraft and not to materials used for alteration or repair. The term "foreign account and ownership" contemplates only vessels or aircraft built and equipped for the account of an owner or owners residing in a foreign country and having a bona fide intention that the vessel or aircraft shall, when completed, be owned and operated under the flag of a foreign country.

[4] There is no authority of law for the allowance of drawback of customs duty on articles manufactured or produced in the United States and shipped to Alaska, Puerto Rico, Hawaii, the Virginia Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, the island of Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

first upon the lot or lots of the lowest dutiable value, rate of duty, or drawback allowance, as the case may be, then upon the lot or lots of the next higher dutiable value, rate of duty, or drawback allowance, and so on from lower to higher until all the lots have been accounted for. The same principle shall apply in cases where the articles are commingled in storage after manufacture or production. If two or more lots of a fungible product are commingled in storage and quantities thereof are withdrawn for domestic consumption as well as for exportation with benefit of drawback, the withdrawals for domestic consumption shall be accounted for in the order in which the several lots of such product were placed in storage, exclusive of any lots in respect of which drawback has been allowed; and, in the case of the withdrawals for exportation, the drawback allowance thereon shall be based on the lot carrying the lowest allowance of drawback of any of the lots shown by the customs records to be unaccounted for at the time of withdrawal.

(g) The builder of a vessel or aircraft upon which drawback is to be claimed under section 313 (g) Tariff Act of 1930, shall keep the records provided for in this section so far as applicable. A sworn abstract of such records shall be filed with the collector of customs at the headquarters port of the collection district in which the vessel or aircraft is built in ample time prior to the first departure of the vessel or aircraft from the United States to enable that officer to have the abstract verified by examination of the vessel or aircraft and the builder's records pertaining thereto.

(h) Each manufacturer or producer shall submit to the Commissioner of Customs through the supervising customs agents a sworn statement in triplicate describing the methods which he will follow and the records which he will keep for the purpose of establishing that the articles upon which drawback will be claimed have been manufactured or produced in the United States with the use of imported duty-paid merchandise within the meaning of section 313 (a) Tariff Act of 1930, and that the records of identification, manufacture or production, and storage prescribed by this section have been maintained. The sworn statement shall contain an agreement to follow the methods and keep the records described therein with respect to all articles manufactured or produced for exportation with benefit of drawback. Provision for the use of duty-paid merchandise or drawback products, the manufacture or production of articles not specified in the application for the rate, or the use of factories not named therein may be included in the sworn statement prepared as a result of such application. The same procedure shall apply in the case of vessels built for foreign account and ownership or for the government of any foreign country.

(i) If drawback entries are to be liquidated at more than one headquarters port, two additional copies of the sworn statement and of the investigating officer's report shall be required for each additional port. The procedure outlined in this and the preceding paragraph when applications for amendments of shall be followed, so far as applicable, drawback rates or supplemental sworn statements or schedules or supplemental advisory sworn schedules are filed in accordance with paragraph (o), (p), or (q) of this section.

(j) If the sworn statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations and if the facts developed by the investigation warrant such action, the Commissioner of Customs will issue the rate of drawback on the articles described in the sworn statement.

(k) Each person who keeps complementary records as provided for in paragraph (e) of this section shall file a sworn statement describing such records in accordance with the procedure prescribed for manufacturers and producers in paragraph (h) of this section. Such statement shall be subject to the provisions of paragraphs (i) and (j) of this section.

(l) Drawback entries may be filed covering articles exported on or after the date on which the application for establishment of the drawback rate was received by the collector or deputy collector of customs, but such entries shall not be liquidated until the rate has been established.

(m) When the rate has been established, drawback may be allowed on articles manufactured or produced in accordance therewith and exported on or after the effective date named therein provided all pertinent regulations have been complied with.

(n) In no case shall drawback be allowed on articles provided for in a rate of drawback which were exported before the date of receipt by the collector or deputy collector of the application which resulted in the preparation of the sworn statement on which the rate was based.

(o) When a manufacturer or producer in whose behalf a rate of drawback has been established desires to have his rate amended to cover additional articles, to include additional factories, to permit the use of other kinds of imported duty-paid merchandise or drawback products, to provide for a different basis for the liquidation of the drawback entries, or to cover different methods of identification, manufacture, or other changes, he shall file an application therefor with the collector or deputy collector. The procedure and conditions in connection therewith shall be as prescribed in the case of original applications. No drawback shall be allowed on articles exported before the date on which the application was received by the collector or deputy collector unless specifically authorized by the Bureau.

(p) When authorized in the drawback rates, supplemental sworn statements or schedules showing changes in the kinds or quantities of imported materials used, additional articles, and different styles or capacities of containers may be filed with the collector or deputy collector of customs. Upon approvel of such a statement or schedule by the Bureau, drawback may be allowed on the articles covered thereby which were exported on or after the date on which the statement or schedule was filed with the collector or deputy collector. No drawback shall be allowed on articles exported prior to such date unless specifically authorized by the Bureau.

(q) When required by the drawback rate or requested by the collector of customs, a supplemental advisory sworn schedule for the information of liquidating officers shall be filed with the collector of customs, verified, and approved by the Bureau as in the case of supplemental sworn schedules or statements. As an advisory schedule is not used as a basis for liquidation, drawback may be allowed without specific authorization on articles covered thereby which are exported prior to the date on which such document was filed with the collector, but not until such schedule has been verified by investigating officers and approved by the Bureau. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.5 *Identification of imported merchandise and ascertainment of quantities for allowance of drawback when substituted merchandise is used.* (a) Articles manufactured or produced in accordance with section 313 (b) Tariff Act of 1930, with the use of sugar, nonferrous metal, or ore containing nonferrous metal, or with the use of articles manufactured or produced in the United States with the use of such merchandise shall be subject to the applicable provision of this part and the records of the manufacturer or producer shall show:

(1) The quantity, identity, kind, and quality of the duty-paid sugar, nonferrous metal, or ore containing nonferrous metal, or of the articles manufactured or produced under drawback regulations with the use of such merchandise (hereinafter referred to as designated merchandise) designated as the basis for the allowance of drawback on the exported articles:

(2) That such designated merchandise was used by the manufacturer or producer of the exported articles within 1 year after the date on which it was received by such manufacturer or producer:

(3) That the exported articles on which drawback is claimed were manufactured or produced with the use of sugar, nonferrous metal, ore containing nonferrous metal, or domestic products of any of the following, as the case may be, of the same kind and quality as the designated merchandise;

(4) That the exported articles were manufactured or produced within 1 year after the date on which the designated merchandise was received by the manufacturer or producer of the exported articles;

(5) That duty-free or domestic merchandise of the same kind and quality as the designated merchandise was used by the manufacturer or producer of the exported articles within 1 year after the date on which the designated merchandise was received by such manufacturer or producer; and

(6) The quantity of sugar, nonferrous metal, ore containing nonferrous metal, or domestic products of any of the foregoing, of the same kind and quality as

designated merchandise, used in the manufacture or production of the exported articles.

(b) When valuable wastes are incurred in manufacture or production and the manufacturer or producer has not limited his claims to the quantity of sugar, nonferrous metal, ore containing nonferrous metal, or domestic products of any of the foregoing appearing in the articles manufactured or produced for exportation with benefit of drawback, the records shall show the quantity and value of the merchandise used in the manufacture or production of the articles and the quantity and value of the waste incurred in order that the deduction provided for in § 22.4 (a) may be made in liquidation.

(c) Duty-paid sugar nonferrous metal, ore containing nonferrous metal, or articles manufactured or produced under drawback regulations with the use of such merchandise which have been used at one plant of a manufacturer or producer within 1 year after the date on which such material was received by such manufacturer or producer may be designated as the basis for the allowance of drawback on articles manufactured or produced in accordance with the regulations in this part at other plants of the same manufacturer or producer.

(d) Drawback shall be allowed although the exported articles are not of the same kind and quality as the articles which were manufactured or produced with the use of the designated merchandise, provided such exported articles were manufactured or produced with the use of sugar, nonferrous metal, ore containing nonferrous metal, or domestic products of any of the foregoing or the same kind and quality as the designated merchandise. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.6 *General drawback rates in effect*—(a) *Bags and meat wrappers.* Drawback may be allowed on the exportation of bags or meat wrappers manufactured with the use of imported burlap or other textile material, subject to the following special regulations:

(1) Each lot of imported material received by a manufacturer shall be given a lot number and kept separate from other lots until used. The records of the manufacturer shall show, as to each manufacturing lot or period of manufacture, the quantity of material used from each import lot and the number of each kind and size of bags or meat wrappers obtained. A certificate of manufacture shall be filed covering each manufacturing lot or period of manufacture.

(2) All bags or meat wrappers manufactured for the account of the same exporter during a specified period may be designated as one manufacturing lot and covered by one certificate of manufacture and delivery. All exported bags or meat wrappers shall be identified by the exporter with the certificate of manufacture covering their manufacture.

(3) The drawback allowance shall not exceed 99 percent of the duty paid on the imported material appearing in the exported bags or meat wrappers, unless the manufacturer desires an allowance for waste and so specifies in his sworn statement. In such cases the records of the manufacturer shall show, in addition to the above requirements, the value of the imported material, the quantity of waste incurred in the manufacture of each lot of bags or meat wrappers, or during each period of manufacture, and the value of such waste, if any; and in liquidation the quantity of imported material which may be used as the basis for the allowance of drawback shall be reduced by the quantity of imported material which the value of the waste will replace.

(b) *Sugar and sirups; substitution.* Drawback may be allowed under the provisions of section 313 (b) Tariff Act of 1930, upon the exportation of hard or soft refined sugars and sirups manufactured from raw sugar, subject to the following special regulations:

(1) The drawback allowance shall not exceed 99 percent of the duty paid on a quantity of raw sugar designated by the refiner which contains a quantity of sucrose not in excess of the quantity required to manufacture the exported sugar or sirup, ascertained in the manner hereinafter set forth.

(2) The refined sugars and sirups shall have been manufactured with the use of duty-paid, duty-free, or domestic sugar, or combinations thereof, within 1 year after the date on which the designated sugar was received by the refiner, and shall have been exported within 3 years from the date of importation of the designated sugar.

(3) Each refiner operating hereunder shall file with the Commissioner of Customs a sworn statement in triplicate, describing his methods of manufacture and storage and setting forth the refinery records which he agrees to keep for the purpose of providing all the data hereinafter specified for the proper liquidation of abstracts and drawbacks entries.

(4) All granulated sugar testing by the polariscope 99.5° and over shall be deemed hard refined sugar. All sugar testing by the polariscope less than 99.5° shall be deemed soft refined sugar. All "blackstrap," "unfiltered sirup," and "final molasses" shall be deemed sirup.

(5) The imported duty-paid sugar selected by the refiner as the basis for the drawback claim (designated sugar) shall be of the same kind and quality as that used in the manufacture of the exported refined sugar or sirup and shall have been used within 1 year after the date on which it was received by the refiner. Duty-paid sugar which has been used at a plant of a refiner within 1 year after the date on which it was received by such refiner may be designated as the basis for the allowance of drawback on refined sugars or sirups manufactured at another plant of the same refiner.

(6) For the purpose of distributing the drawback in accordance with the provisions of section 313, Tariff Act of 1930, relative values shall be established between hard refined (granulated) sugar, soft refined (various grades) sugar, and sirups at the time of separation. The entire period covered by an abstract shall be deemed the time of separation of the sugars and sirups covered by such abstract.

(7) The sucrose allowance per pound on hard refined (granulated) sugar established by the liquidation of an abstract shall be applied to hard refined sugar commercially known as loaf, cut loaf, cube, pressed, crushed, or powdered sugar manufactured from the granulated sugar covered by the abstract.

(8) The sucrose allowance per gallon on sirup established by the liquidation of an abstract shall be applied to sirup further advanced in value by filtration or otherwise, unless such sirup is the subject of a special drawback rate.

(9) As to each lot of imported or domestic sugar used in the manufacture of refined sugar or sirup on which drawback is to be claimed, the raw stock records shall show the refiner's raw lot number, the number and character of the packages, the settlement weight in pounds, and the settlement polarization. Such records covering imported sugar shall show, in addition to the foregoing, the import entry number, date of importation, name of importing carrier, country of origin, the Government weight, and the Government polarization.

(10) The melt records shall show the date of melting, the number of pounds of each lot of raw sugar melted, and the full analysis at melting.

(11) There shall be kept a daily record of final products boiled showing the date of the melt, the date of boiling, the magma filling serial number, the number of the vacuum pan or crystallizer filling, the date worked off, and the sirup filling serial number.

(12) The sirup manufacture records shall show the date of boiling, the period of the melt, the sirup filling serial number, the number of barrels in the filling, the magma filling serial number, the quantity of sirup, its disposition in tanks or barrels, and the refinery serial manufacture number.

(13) The refined sugar stock records shall show the refinery serial manufacture number, the period of the melt, the date of manufacture, the grade of sugar produced, its polarization, the number and kind of packages, and the net weight. When soft sugars are manufactured, the commercial grade number and quantity of each shall be shown.

(14) Each lot of hard or soft refined sugar and each lot of sirup manufactured, regardless of the character of the containers or vessels in which it is packed or stored, shall be marked immediately with the date of manufacture and the refinery manufacture number applied to it in the refinery records hereinbefore provided for and shown in the abstract from such records filed in the customhouse. If all the sugar or sirup contained in any lot manufactured is not intended for exportation, only such of the packages as are intended for exportation need be marked as prescribed above, provided there is filed with the collector of customs immediately after such marking a statement showing the date of manufacture, the refinery manufacture number, the number of packages marked, and the quantity of sugar or sirup contained therein. No draw-

back shall be allowed in such case on any sugar or sirup in excess of the quantity shown on the statement as having been marked If any packages of sugar or sirup so marked are repacked into other containers the new containers shall be marked with the marks which appeared on the original containers and a supplemental statement covering such repacking and remarking shall be filed with the collector If sirups from more than one lot are stored in the same tank, the refinery records shall show the refinery manufacture number and the quantity of sirup from each lot contained in such tank

(15) A sworn abstract from the foregoing records covering manufacturing periods of not less than 28 nor more than 35 days unless the Commissioner of Customs shall have authorized a different period, shall be filed when drawback is to be claimed on any part of the refined sugar or sirup manufactured during such period Such abstract shall be filed by each refiner with the collector of customs at New York, except as to refineries located in California, Louisiana Puerto Rico, or Hawaii, for which the abstracts shall be filed respectively with the collectors at San Francisco, New Orleans, San Juan or Honolulu The collectors at the ports mentioned shall liquidate the abstracts filed with them and shall keep full and complete records of the kinds and quantities of refined sugars and sirups entitled to drawback on exportation and upon proper request, shall issue extracts therefrom for use at other ports where drawback entries are filed covering exportations made of such refined sugars and sirups; and shall debit such records with the quantities covered by such extracts The abstracts filed by each refinery shall be consecutively numbered by the refiner shall be signed and sworn to by the head refiner or superintendent or his first assistant and shall be in the following form:

Abstract from the refinery records of _____ located at _____, covering sugars melted and hard and soft refined sugars and sirups manufactured therefrom during the period from _____ to _____

RAW STOCK RECORD

Refinery's raw lot No.	Import entry No.	Packages No.	Packages Kind	Pounds	Polarization	By whom imported or withdrawn	Date of importation	Date of receipt by refiner	Date of melt	Importing carrier	Country of origin

MELT RECORD

Number of pounds in each lot melted		Polarization	
Lot No	Pounds	Degrees	Pounds sucrose

SIRUP STOCK RECORDS

Date of boiling	Refinery serial manufacture No	Quantity of sirup in gallons	Pounds sucrose contained therein

REFINED SUGAR STOCK RECORD

Refinery serial production No	Date of manufacture	Hard or soft refined	Polarization and No	Net weight in pounds

RECAPITULATION

Item 1 Sucrose in process at beginning of period _____ Pounds
Item 2 Sucrose melted during period _____ Do
Item 3 Sucrose in process at end of period _____ Do
Item 4 Sucrose used in manufacture _____ Do
Item 5. Sucrose contained in manufacture _____ Do

Item 1 plus item 2 minus item 3 should equal item 4

I _____ the _____ refiner at the _____ refinery of _____, located at _____ do solemnly and truly declare that each of the statements contained in the foregoing abstract is true to the best of my knowledge and belief and can be verified by the refinery records which have been kept in accordance with § 22 6 (b) of the customs regulations and which are at all times open to the inspection of officers of the customs

Date _____

Declared before me this _____ day of _____, 19__

_____,
[SEAL] *Notary Public*

(16) The refiner shall file with each abstract a sworn statement, in the form prescribed, showing the average market values of the products specified in the abstract:

Market values of refined sugars and sirup for the period _____ to _____ covered by abstract No. _____:

Hard refined sugar (bulk) _____ Per pound
Blackstrap or unfiltered sirup (bulk) _____ Per gallon
Soft refined sugar (bulk) No 1__ Per pound
Soft refined sugar (bulk) No 2__ Do
Soft refined sugar (bulk) No 3__ Do
Soft refined sugar (bulk) No 4__ Do
Soft refined sugar (bulk) No 5__ Do
Soft refined sugar (bulk) No 6__ Do
Soft refined sugar (bulk) No 7__ Do
Soft refined sugar (bulk) No 8__ Do
Soft refined sugar (bulk) No 9__ Do
Soft refined sugar (bulk) No 10__ Do
Soft refined sugar (bulk) No 11__ Do
Soft refined sugar (bulk) No 12__ Do
Soft refined sugar (bulk) No 13__ Do
Soft refined sugar (bulk) No 14__ Do
Soft refined sugar (bulk) No 15__ Do
Soft refined sugar (bulk) No 16__ Do
Miscellaneous _____

I _____ _____
(Official capacity)
of the _____ do solemnly
(Refinery)
and truly declare that the values shown above are true to the best of my knowledge and belief and can be verified by our records

Date _____

Declared before me this _____ day of _____, 19____

_____,
[SEAL] *Notary Public*

(17) At the end of each calendar month the refiner shall furnish to the collector of customs at the port where the abstract is filed a statement showing the actual sales of sirup and the average market values of refined sugars for the calendar month

(18) In the liquidation of abstracts the following example shall be followed in determining the sucrose allowance to be applied to the various products:

EXAMPLE OF LIQUIDATION

	Pounds	Polarization	Pounds, sucrose
Stock in process at beginning of period	3,650,539	83 43	3,045,645
Raw sugar melted during period	73,180,789	99.05	70,735,032
Less stock in process at end of period	3,032,470	87 59	73 780 677 3,181,680
Sucrose actually used in manufacture			70,699 997

1 Manufacture		2 Polarization	3 Market value	4 Sucrose allowance per unit	5 Total sucrose allowance
		Degrees	*Per pound*	*Pounds*	*Pounds*
Hard refined sugar	63 192,240	100 00	$0 053	1 04051625	65,752 553
Soft refined:					
No 1	14,903	98 12	053	1 04051625	15 507
No 2	11 060	97 48	052	1 02038	11 291
No 3	5 500	94 40	0505	991435	5 453
No 4	4,500	93 84	05	981619	4 417
No 5	19,900	90 67	0495	971803	19 339
No 6	299 933	90 14	049	961987	288 532
No 7	453 762	88.82	0485	952171	432 059
No 8	1 887 936	87.66	048	942354	1 779 104
No 9	342 591	87 56	0475	932538	319 479
No 10	489 003	87 31	047	922722	451,302
No 11	130,500	86 32	0465	912906	119 408
No 12	210 100	86 41	046	90309	189 739
No 13	174 622	91 10	0455	893273	155 935
No 14	539 153	85.45	0455	893273	481 615
			Per gallon		
Sirup (gallons)	214 687	(1)	,136	2.67	573,214
Total					70 598 997

[1] 4 pounds per gallon.

Total market value of production (column 1 times column 3) $3 596 049 50 Sucrose used (70,598,997 pounds) divided by market value ($3 596,048 50) equals pounds sucrose allowable per $1 of market value, or 19,632 382 pounds sucrose; this factor multiplied by the market values in column 3 will produce the factors in column 4 which are the pounds of sucrose to be allowed per pound of sugar or gallon of sirup manufactured under this abstract less 1 percent thereof Quantities in column 1 multiplied by the quantities in column 4 should equal the quantities in column 5

TEST FOR LOSS

Sucrose in manufacture (column 1 times column 2) ____ 68,077,389
Sucrose used in manufacture ____ 70 598 998 = 96 43% or 3 57% loss

(19) The certificate of delivery shall be in the following form:

CERTIFICATE OF DELIVERY—SUGAR AND SIRUP

No _____

Certificate of delivery of _____ manufactured by _____ under abstract No _____ filed at the port of _____

Description	Quantity	Polarization

DESIGNATION OF IMPORTED SUGAR

Import entry No	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of raw sugar (pounds)	Polarization	Sucrose (pounds)

I _____ the _____ of _____ located at _____, declare that the sugar (or sirup) described in the within certificate of delivery was manufactured by said company at its refinery at _____ and is part of the sugar (or sirup) covered by abstract No _____ filed at the port of _____ and was delivered to _____, 19____ and that no other certificate of delivery has been issued covering the above merchandise; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by officers of the customs I further declare that the above designated imported sugar (upon which the duties have been paid) was received by said company on _____ and was used in the manufacture of sugar and sirup on _____.

_____
(Signature)

Declared before me this _____ day of _____ 19____

_____
[SEAL] *Notary Public*

(20) The drawback entry shall be in the following form:

Drawback Entry for Sugars and Sirups

UNITED STATES CUSTOMS SERVICE
Port of _____ *19*____

Entry for drawback on sugars and sirups exported under notices of intent to export filed by _____ said notices and the merchandise covered thereby being particularly set forth below together with the designation of imported raw sugar containing sucrose of the quantity used in the manufacture of such merchandise based on the relative value of the refined sugars and sirups manufactured during the period covered by abstract No. ____ (customs No ____) on file with the collector of customs at the port of _____ Drawback claimed under § 22 6 (b) of the customs regulations

No. of notice of intent	Exporting carrier	Date of clearance	Name of shipper	No. of packages	Quantity and description of exported merchandise

DESIGNATION OF IMPORTED SUGAR

No of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity sugar (pounds)	Polarization	Sucrose (pounds)	Certificate of delivery No

I _____ the _____ of _____, located at _____ declare that the sugar (or sirup) described in this entry, was manufactured by said company at its refinery at _____ and is part of the sugar (or sirup) covered by abstract No _____, filed at the port of _____; that the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by officers of the customs I further declare that the above designated imported sugar (upon which the duties have been paid) was received by said company on _____ and was used in the manufacture of sugar and sirup during the period covered by abstract No. _____, customs No _____ on file with the collector of customs at _____

I further declare that the sugar or sirup specified herein was delivered to the above-named shippers

_____
(Signature)

Declared before me this _____ day of _____, 19____

[SEAL] _____
Notary Public.

(21) The declaration of exportation required on customs Form 7575 shall be made a part of the drawback entry

(22) When an extract from an abstract from refinery records is required for use at a port other than the port where the abstract is liquidated the extract shall be in the following form:

Extract from Abstract from Refinery Records of Sugar or Sirup Intended for Exportation with Benefit of Drawback

UNITED STATES CUSTOMS SERVICE

District No _____ *Port of* _____,
Collector's Office _____ 19____

This is to certify that there is on record in this office an abstract from refinery record No _____ customs No _____ of _____ located at _____, covering the following-described merchandise manufactured during the period from _____ to _____, for which certificate of delivery No _____ to _____ has been filed in this office.

Description	Quantity	Sucrose allowance per unit (1 percent to be deducted in duty statement on drawback entry)

SUGAR DESIGNATED BY THE REFINER AS THE BASIS FOR THE ALLOWANCE OF DRAWBACK

No. of import entry	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of sugar (pounds)	Polarization	Sucrose	Certificate of delivery

Date of receipt by refiner of above sugar _____

Date of use by refiner of above sugar _____

Date of delivery of refined sugar or sirup _____

Delivered to _____,
Deputy Collector.

_____,
Comptroller.

To be used at the port of _____.

(23) In cases where the sugar designated on the certificate of delivery has been imported at the port where the extract is issued, the collector at that port shall issue a certificate of importation for the designated sugar on customs Form 5265 and forward it to the collector of customs at the port where the extract from the refinery abstract is to be used.

(c) *Linseed oil, linseed oil cake, and linseed oil meal.* Drawback may be allowed upon the exportation of linseed oil, linseed oil cake, and linseed oil meal, manufactured with the use of imported flaxseed, subject to the following special regulations:

(1) The mill zones hereinafter referred to embrace:

New York Mill Zone: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York (except Buffalo), New Jersey, Pennsylvania (except Pittsburgh), Delaware, Maryland, and Rhode Island.

Buffalo Mill Zone: Buffalo, N. Y., Pittsburgh, Pa., West Virginia, Ohio, Indiana, Michigan, and Kentucky.

Chicago Mill Zone: Minnesota, South Dakota, Wisconsin, Illinois, Iowa, Nebraska, Missouri, and Kansas.

West Coast Mill Zone: Washington, Idaho, Oregon, California, Nevada, Utah, and Arizona.

(2) Each crusher manufacturing linseed oil, linseed oil cake, or linseed oil meal for exportation with benefit of drawback shall file with the Commissioner of Customs a sworn statement in triplicate describing the methods used in the manufacture of the above-mentioned products and setting forth the records he agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. The sworn statement shall be prepared with the assistance of a customs agent. If drawback entries are to be liquidated at more than one headquarters port, two additional copies of the sworn statement shall be filed with the Commissioner of Customs for each such additional port, as required by § 22.4 (i). No drawback shall be allowed under this paragraph until the sworn statement has been filed and approved by the Bureau.

(3) Except as provided for in subparagraph (4) of this paragraph, the manufacturing period (hereinafter referred to as the abstract period) of each crusher shall be coextensive with the withdrawal of one or more entire lots or cargoes of imported flaxseed, from the storage tanks and the manufacture into oil and cake of the flaxseed so withdrawn. A cut-off shall be made at the storage tanks after the withdrawal of one or more complete lots or cargoes, and all the seed from such lots or cargoes in process or contained in bins, screens, conveyors, cookers, presses, expellers, etc., shall be manufactured during the abstract period in order that there may be no overlapping of seed and product from one abstract period to another. If any seed withdrawn from the storage tanks during any abstract period is disposed of without being manufactured into the products specified in this paragraph, it shall be reported on the certificate of manufacture provided for in subparagraph (5) of this paragraph. The quantity of seed so withdrawn shall be stated according to its condition as imported.

(4) Should it become necessary for a crusher to terminate an abstract period before the complete withdrawal from the storage tanks of any lot or cargo of imported flaxseed contained therein, a cut-off shall be made at the storage tanks and the quantity of imported flaxseed remaining in the tanks after the cut-off shall be determined by weighing, gauging, or measuring under the supervision of a customs officer. Upon application to the collector of customs in whose district the plant of the crusher is located, a customs officer shall be assigned for this purpose. All flaxseed withdrawn from storage before the cut-off shall be manufactured into oil and cake or otherwise disposed of before a new abstract period is begun.

(5) At the conclusion of each abstract period during which a crusher manufactures oil, cake, or meal for exportation with benefit of drawback, such crusher shall file a certificate of manufacture, constituting a sworn abstract of his manufacturing records, with the collector of customs at any one of the following ports: New York, N. Y., Philadelphia, Pa., Chicago, Ill., Cleveland, Ohio; San Francisco, Calif., or Seattle, Wash.

(6) Such certificate shall show the inclusive dates of manufacture; the quantity, identity, and value (if valuable wastes occur) of the imported flaxseed or screenings, scalpings, chaff, or scourings used; the quantity by actual weight and value, if any, of the material removed from the foregoing by screening prior to crushing; the quantity and kind of domestic merchandise added, if any; the quantity by actual weight or gauge and value of the oil, cake, and meal obtained; and the quantity and value, if any, of the waste incurred. The quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used or of material removed shall not be estimated nor computed on the basis of the quantity of finished products obtained, but shall be determined by actually weighing the said flaxseed, screenings, scalpings, chaff, scourings, or other material; or, at the option of the crusher, the quantities of imported materials used may be determined from customs weights, as shown by the import entry covering such imported materials, and the Government weight certificate and certificate of analysis issued at the time of entry. The entire period covered by an abstract shall be deemed the time of separation of the oil and cake covered thereby.

(7) The drawback allowance shall not exceed 99 percent of the duty paid on the quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used in the manufacture of the exported products, less the quantity of such imported materials which the value of the waste will replace, as shown by the sworn abstract of the manufacturing records provided for above.

(8) The drawback allowance shall be distributed to the oil and cake in accordance with their relative values at the time of separation, and the drawback allowance on the processed oil and on the oil meal shall be the drawback accruing to the raw oil and to the cake from which the processed oil and the meal, respectively, were produced.

(9) In order that the relative values may be determined for use as the bases for the distribution of the drawback to the several products as prescribed in section 313 (a) Tariff Act of 1930, each crusher operating under the provisions of this paragraph shall file with the collector of customs, New York, N. Y., within 10 days after the 1st and 15th days of each month a sworn statement in duplicate showing the quantity of oil in barrels of 375 pounds each and the quantity of cake or meal in tons of 2,000 pounds delivered each day from the mill during the preceding period (that is, 1st to 15th or 16th to the last day of the month) to points in the zone in which the mill is located. The total daily quantity and value of such products delivered with drawback not reserved by

the crusher and the total daily quantity of such products delivered with drawback reserved by the crusher shall be stated separately. The value of oil shall be shown on the carload raw basis in barreled condition, that is, if the oil was processed, the processing differential shall be deducted, or, if it was delivered in tank wagons or tank cars, the barreling differential shall be added. The values of cake and meal shall be shown on the carload basis in bags. The values of oil cake, and meal, as outlined above, shall be reported on the basis of the invoices of sale, without deduction for the cost of containers and other charges.

(10) Upon receipt of the sworn statements from the crushers concerned, the collector of customs at New York shall determine and declare the daily average values of the raw linseed oil and linseed cake manufactured by the crushers in each mill zone. Such daily average values shall be ascertained in the following manner:

(i) The total quantity of oil delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such oil (the quotient to be extended to 6 decimal places) less the amount deducted for the cost of packing and other charges incurred after separation, shall be the daily average value of such oil.

(ii) The total quantity of cake delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such cake (the quotient to be extended to 6 decimal places) less the amount deducted for the cost of packing and other charges incurred after separation, shall be the daily average value of such cake.

(iii) The total quantity of meal delivered on a certain day by all crushers in a given mill zone to points within that zone, with drawback not reserved by the crushers, divided into the amount of money received by the crushers for such meal (the quotient to be extended to 6 decimal places) less the amount deducted for the cost of packing, grinding, and other charges necessary to reduce such meal to a cake basis, shall be the daily average value of the cake from which such meal was ground.

(iv) The weighted average of the two values determined in accordance with subdivisions (ii) and (iii) of this subparagraph shall be the daily average value of the cake concerned.

(v) If no deliveries of oil, cake or meal are made to a point in the mill zone on a certain day, the last daily average value established by the collector at New York for that product shall be used as the value thereof for the day on which no deliveries were made.

(vi) The amount to be deducted from the delivered value of oil cake, or meal by the collector at New York to make relative value at the point of separation shall be an average amount for each zone obtained by averaging the cost of packing and other charges of all crushers within the zone concerned. In order that this deduction may be made, each crusher shall furnish the collector at New York, from time to time as the collector may request, a statement showing such costs and charges.

(11) After the close of each calendar month the collector at New York shall prepare for each mill zone a statement showing the daily average values of cake and oil ascertained as above, and shall transmit to the collectors at Philadelphia, Chicago, Cleveland, San Francisco, and Seattle copies of such statements as cover zones in which crushers who file abstracts at the respective ports are located.

(12) To ascertain the relative values of the cake and oil for the period covered by an abstract, the collector of customs concerned shall add the daily average values for his zone of cake and oil, respectively, as furnished by the collector at New York, for each day of the period covered by the abstract and shall divide the totals thus obtained by the number of such daily average values.

(13) Upon the application of any crusher operating under this paragraph, the collector of customs at any of the above-mentioned ports is authorized to advise such crusher of the daily average values of cake and oil established by the collector of customs at New York for the zone in which the crusher is located, and of the relative values of such products as determined for the period covered by an abstract filed by such crusher with the collector to whom application has been made.

(14) If a crusher desires to file his abstract at one of the above-enumerated ports not located within the mill zone in which his plant is situated, the daily average values of the oil and cake for the zone in which the plant of the crusher is situated shall be certified by the collector at New York to the collector at the port where such abstract is to be filed, on the request of such crusher; and the collector at such port shall ascertain the relative values of the products for the period covered by the abstract in the manner prescribed in subparagraph (12) of this paragraph.

(15) If the records of the manufacturer do not show the quantity of oil cake used in the manufacture of the exported oil meal and the quantity of oil meal obtained, the net weight of the oil meal exported shall be regarded in liquidation as the weight of the oil cake used in the manufacture thereof.

(16) If various tanks are used for the storage of imported flaxseed, the mill records shall show by a definite designation the tank or tanks in which each lot or cargo is stored.

(17) If raw or processed oil manufactured during different periods of manufacture is intermixed in storage, a record shall be maintained showing the quantity, identity, and kind of oil so intermixed. Identification shall be made in accordance with § 22.4 (f) If oil so intermixed is delivered to manufacturers who use the oil in the manufacture of articles to be exported, the certificate of delivery shall show the certificates of manufacture from which such oil may have originated.

(18) If linseed cake or meal is placed in storage, it shall be segregated by abstract periods or marked to show the period in which it was manufactured. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.7 *Notice of intent to export; local or direct shipments from a seaboard or frontier port.* (a) At least 6 hours, but not more than 90 days, before the lading of merchandise which is to be exported from a seaboard or frontier port as a local or direct shipment therefrom, the drawback claimant or his agent shall file with the collector of customs at such port a notice of intent to export on customs Form 7511 in duplicate.[8] A copy of the notice of intent shall also be delivered to the customs officer in charge at the place of lading at the time the merchandise is delivered to the exporting carrier. Such notices of intent shall show the name of the exporting vessel or other carrier, the place of lading, the kind of packages and their marks and numbers, the description of the merchandise, and its weight (gross and net), gauge, measure, or number. If the merchandise is to be exported in railroad cars, a notice of intent shall be filed for each car.

(b) If the drawback entry is to be filed at another port the notice of intent shall be endorsed substantially as follows:

> After the inspector's report is made, please forward this notice to the collector of customs at ----------, where the drawback entry will be filed.

A copy of the notice of intent in addition to the copies required by paragraph (a) of this section shall be filed with the collector.

(c) When drawback is to be claimed under section 313 (a), Tariff Act of 1930 on an aircraft departing from the United States under its own power, the notice of intent shall be filed in the manner herein prescribed at the port from which, or at the port nearest the point from which it is intended that the aircraft shall last take off for its foreign destination.

(d) A failure to file a notice of intent with the collector, or a failure to deliver a copy to the customs officer at the place of lading shall not bar the allowance of drawback if either of such requirements of paragraph (a) was complied with and no other act or omission of the exporter, carrier, or agent of either resulted in a failure to obtain customs inspection. If neither a notice of intent was so filed nor a copy was so delivered, drawback shall be allowed on the involved merchandise only if specifically authorized by the Bureau.

(e) When merchandise is to be exported otherwise than by sea and drawback will be claimed, the carrier shall notify the proper customs officer at the port of exit of the arrival and point of departure of the merchandise before it leaves the United States. If such notice was not given and there was no customs

[8] If the claimant desires, he may file an extra copy of the notice of intent with the collector for numbering and return to him for use for reference or other purposes in the pursuance of his claim.

inspection of the shipment for drawback purposes, drawback shall not be allowed. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.8 *Notice of intent to export; transportation and exportation shipments.* (a) Merchandise to be transported from one customs port to another for exportation from the latter, whether or not covered by a through bill of lading to the foreign destination, may be entered for drawback at the port of origin.

(b) The notice of intent shall be filed at the port of origin in the manner prescribed for direct exportations from a seaboard or frontier port except that one additional copy shall be filed, which shall be certified by the collector for the port of origin and mailed by him to the port of exit. If the merchandise is to be exported by railroad, a notice of intent shall be filed for each car.

(c) A manifest on customs Form 7512 of the merchandise laden on each vessel, car, or other conveyance shall be filed with the collector in triplicate, signed by the proper agent of the transporting carrier, and certified by the proper customs officer, one copy to accompany the conveyance for delivery by the carrier's agent to the collector at the port of exit, one copy to be mailed to the collector for the port of exit, and one copy to be retained at the port of origin as an office record.

(d) At least 6 hours prior to the lading of the merchandise at the port of exit if it is there transhipped, or 6 hours before departure if not there transhipped, the exporter or his agent shall complete the mail copies of the notice of intent and manifest by designating to the collector of customs the conveyance in which the merchandise is to be exported and advising that officer of the place of deposit of the merchandise for inspection and lading. If the merchandise is to be transferred from one point to another within the limits of the same port, the collector of customs shall issue an order directing the inspector in charge of the station where the merchandise was received to deliver the merchandise to a bonded truck or lighter for transfer to the point of lading.

(e) The transfer, lading, and inspection of such shipments shall be in accordance with the regulations applicable to shipments in bond.

(f) Shipments transported to the seaboard or frontier port of exportation without compliance with the provisions of this section, including shipments originating at places at which no customs officer is located, shall be considered local or direct exportations from the port of exit from the United States, and notices of intent shall be filed in accordance with the provisions of § 22.7.

(g) Merchandise laden for exportation on a vessel or aircraft clearing for a domestic port outside the continental United States[6] shall be forwarded to such domestic port in accordance with the regulations governing entries in bond for transportation and exportation.

[6] Such as San Juan, P. R., or Honolulu, T. H.

(h) Failure to file a notice of intent at the port of origin or to complete the notice of intent and manifest at the port of exit, in accordance with paragraph (b) or (d) of this section, shall not bar the allowance of drawback if the merchandise was officially inspected for drawback purposes and laden under customs supervision at the other port.

(i) Failure to obtain inspection at either the port of origin or the port of exit shall not bar the allowance of drawback if an opportunity to inspect was furnished by filing a timely notice of intent and manifest at the port of origin, by delivering the manifest to the inspector at the port of exit, by completing the mail copies of the manifest and notice of intent at the port of exit in accordance with paragraph (d) of this section, or by filing a notice of intent at the port of exit as in the case of local or direct exportations, and the failure to obtain inspection was not due to any act or omission on the part of the shipper, the carrier, or an agent of either.

(j) If the shipment is not officially inspected and laden at the port of exit, the collector for that port, upon a request of the shipper or his agent specifying the exporting carrier, the name of the vessel, the identification marks of the aircraft, or the number and initials of the car, and the date of exportation, shall endorse the copy of the notice of intent received by him to show the facts of exportation as indicated by the records of the exporting carrier and return the notice of intent to the port of origin. A copy of the notice of intent so endorsed shall be accepted in lieu of the inspector's certificate of lading, provided the merchandise was officially inspected and laden at the port of origin or there was an opportunity to inspect as specified in paragraph (i) of this section.

(k) If the records of the exporting carrier do not identify the merchandise so as to satisfy the collector as to the actual exportation thereof, he may require a foreign landing certificate as additional evidence of exportation.

(l) When the merchandise is diverted en route to the port of exit by the carrier without the knowledge or consent of the exporter and leaves the United States at a place other than that named in the notice of intent and manifest, the collector for the port of actual exportation, upon the receipt of the mail copies of the notice of intent and manifest and upon being advised as to the name of the exporting carrier, name of the vessel, the identifications marks of the aircraft, or the number and initials of the car, and date of exportation, shall endorse the copies of the notice of intent and manifest to show the facts of exportation as indicated by the records of the exporting carrier or outward manifest of the exporting vessel, car, or other conveyance. In such cases the notice of intent so endorsed, together with a landing certificate signed by a foreign revenue officer at the foreign destination of the merchandise, shall be accepted in lieu of the inspector's certificate of lading, provided the merchandise was officially inspected and laden at the port of origin and remained in the continuous possession of the carrier until exported. The mail copy of the notice of intent shall be forwarded by the collector for the port where it was filed to the port of actual exportation upon the request of the exporter. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.9 *Notice of intent to export; mail exportations.* (a) If merchandise is to be exported by registered mail or parcel post, the notice of intent shall be filed in the same manner as for exportation by vessel or other conveyance. The packages shall be mailed under customs supervision, and the parcel post or registered mail receipt obtained by the shipper shall be delivered to the customs inspector to be attached by him to the notice of intent.

(b) When it is desired to export merchandise through the mails from a post office located at a point where no customs officer is stationed, the exporter shall advise the Commissioner of Customs to that effect and request that the necessary arrangements be made with the Post Office Department for official inspection and supervision of mailing of such merchandise. Upon receipt by the exporter of notification from the Commissioner of Customs that the local postmaster has been instructed regarding the procedure to be followed in such cases, the merchandise, together with notices of intent, may be presented to such postmaster. One extra copy of each notice of intent shall be filed with the postmaster to be retained as a part of his official records. The exporter shall advise the postmaster of the port to which the notices of intent are to be forwarded by the postmaster for association with the drawback entry.

(c) All packages to be exported shall have stamped or written thereon a waiver signed by the exporter on customs Form 3413, or in a substantially similar form. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.10 *Diversion of shipments.* (a) Whenever the merchandise is diverted from the conveyance or place of lading named in the notice of intent to another conveyance or to another place of lading, notice in writing of the change shall be given to the collector or the inspector before lading in ample time to obtain inspector.

(b) Notice of diversion may be waived by the Commissioner of Customs if it shall appear to his satisfaction that the merchandise was diverted from the conveyance named in the notice of intent to another conveyance of the same line or another conveyance loading at the same pier or set of piers, or to another place of lading, without the knowledge of any party in interest, or his agent or representative, in time to file notice of diversion, provided the merchandise was delivered at the pier in time for inspection and supervision of lading on the conveyance named in the original notice of intent. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.11 *Receipts for notices of intent.* When requested, a receipt for a notice of

intent shall be signed by the customs officer who receives such notice, provided such receipt is prepared by the person desiring it and is submitted to the customs officer with the notice of intent. A receipt for a shipper's copy of a notice of intent shall not be given unless the copy is accompanied by the merchandise. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.12 *Notice of intent required to complete the record.* If only a shipper's copy of a notice of intent has been filed with an inspector, no drawback shall be allowed until a notice of intent in duplicate has been filed with the collector. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.13 *Amendment of notices of intent.* Except for the purpose of correcting a manifest clerical error, or for changing the name of the exporting conveyance or place of lading, no change shall be made by the claimant in the notice of intent after filing, but a correct notice of intent for the same merchandise may be accepted when filed in time to be used for inspection purposes in substitution for an incorrect one previously filed. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.14 *Inspection, sampling, weighing, gauging, measuring.* (a) Except as otherwise provided for in this part, exporters shall in all cases provide adequate opportunity for official inspection, sampling, and ascertainment of quantities. The collector shall indicate on the notice of intent that the merchandise is to be sampled, weighed, gauged, or measured, if he desires such action.

(b) Whenever practicable, merchandise subject to sampling, weighing, gauging, or measuring shall be sampled, weighed, gauged, or measured at the place of deposit for lading after the merchandise has been placed in the custody of the exporting carrier. Inspection, sampling, weighing, gauging, or measuring shall not be made at a place other than a station, yard, pier, or other regular place of lading where customs officers are stationed for the purpose, except where it is shown to the satisfaction of the collector that such inspection, etc., at such regular place of lading is impracticable, and then only upon the condition that the applicant pay the expenses of inspection, etc.

(c) When requested, the customs officer concerned shall replace samples taken by him with like merchandise furnished by the exporter. Packages opened by customs officers for any purpose after they have been placed in the custody of the exporting carrier shall be marked, upon the request of the carrier, to show that they were opened for the purpose of customs examination.

(d) When no portion of the merchandise covered by a notice of intent is laden within 90 days after the date of receipt of such notice by the inspector, he shall return the notice to the collector with a report of the pertinent facts. If lading is begun within 90 days and is in progress at the expiration of that period, the notice shall be retained by the inspector until lading has been completed, provided such lading is not discontinued. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.15 *Failure to obtain inspection and supervision of lading.* Whenever the inspecting officer is unable to certify to the inspection and supervision of lading of the merchandise covered by a notice of intent, he shall examine the records of the delivering and exporting carriers for the purpose of verifying the particulars stated in the notice of intent and make his certificate accordingly, whether or not the notice of intent was timely. In such cases the certificate of the inspector shall be accepted as sufficient evidence of lading and the drawback shall be allowed, provided the notice of intent was timely, the regulations were otherwise complied with, and the failure to inspect was not the fault of the exporter, the carrier, or an agent of either. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759: 19 U. S. C. 1313, 1624)

§ 22.16 *Completion of drawback claims.* (a) A drawback entry and certificate of manufacture shall be filed in duplicate within 2 years after the date the articles are exported. Such entry and certificate shall be filed on customs Form 7575 except in cases covered by paragraph (c) or (e) of this section. One entry may cover several shipments. All documents necessary to the liquidation of the entry, including those issued by one customs officer to another, shall be filed or applied for, as the case may require, within the 2-year period prescribed above, except that any required landing certificate shall be filed within the time prescribed in § 22.21 (c) The Commissioner of Customs may specifically authorize an extension of the 2-year period for compliance with any of the foregoing requirements.

(b) A statement in duplicate of the papers filed, showing the dates on which official documents were applied for, may be presented with the drawback entry. When such statement has been verified as to the papers filed, one copy shall be receipted and returned to the claimant and the other copy attached to the drawback entry. When a landing certificate is required, it shall be furnished prior to the liquidation of the entry.

(c) If certificates of manufacture are filed prior to the filing of the entry, they shall be referred to in the entry by the official number in lieu of the particulars of importation and manufacture. In such cases the entry shall be on customs Form 7573.

(d) If the drawback entry is filed at a port other than that at which the certificate of manufacture is on file, the collector at the port where the certificate is on file, after liquidation and at the request of the person filing the certificate or the person to whom such merchandise was delivered, as shown by said certificate, shall issue an extract therefrom on customs Form 4537 for use at the port where the entry is filed. Such extract shall be transmitted to the collector at the latter port and, for the purpose of identification, reference may be made thereto as in the case of an original certificate.

(e) When completely manufactured articles are purchased for exportation and the drawback is to be paid to the purchaser, the entry shall be on customs Form 7573 and be accompanied by a certificate of manufacture and delivery on customs Form 7577, if such a certificate is not already on file.

(f) In the case of a vessel, or aircraft upon which drawback is to be claimed under section 313 (g), Tariff Act of 1930, there shall be filed with the drawback entry a sworn copy of the contract under which the vessel or aircraft was built or the pertinent part thereof showing that it was built for foreign account and ownership, a certificate of clearance for the foreign port if cleared from a port other than that at which the entry is filed, and a certified copy of the registry certificate, or, in lieu thereof, a certificate of the consul of the foreign nation to which the vessel belongs showing that the said vessel or aircraft has been documented under the flag of that country. In the case of warships, the certificates of clearance and foreign documentation shall not be required.

(g) A drawback entry may be corrected after filing with the collector only after permission has been granted by the collector to have the comptroller's copy of the entry withdrawn and the corrections or amendments sworn to by the appropriate parties, or by the timely filing of a supplemental entry in duplicate. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.17 *Certificates of importation and extracts.* (a) If the merchandise identified in the drawback entry or certificate of manufacture was not imported at a port within the customs collection district where the entry or certificate of manufacture is filed, the collector of customs of the district where the merchandise was imported shall issue, upon the written request of the importer or the party to whom the delivery of such merchandise has been certified to the collector at the port named a certificate of importation on customs Form 5265 bearing a notation showing the date on which the application for the issuance of the certificate was filed.

(b) If any portion of the merchandise covered by the certificate of importation is used in the manufacture of articles covered by a drawback entry or certificate of manufacture on file at a port other than that at which the certificate is on file, the collector holding the certificate, on written request, shall issue an extract on customs Form 5267 for use at such other port and transmit it to the collector at that port.

(c) In the case of articles manufactured with the use of metals withdrawn from a bonded smelting or refining establishment, the collector at the port of withdrawal shall issue, in lieu of certificates of importation, certificates showing the date of importation, date of withdrawal, name of person making the withdrawal, quantity and character of the metal, and rate and amount of duty paid.

(d) No certificate of importation shall be issued until the import entry covering the merchandise to be certified shall have been liquidated, the liquidated duties have been paid, and such liquidation shall have been made final by operation of law or by acceptance in writing by the importer. Such certificate and any extract therefrom shall show the name of the person to whom delivery has been certified and the date of delivery in case a certificate of delivery has been filed with the collector issuing such certificate or extract.

(e) When a certificate of manufacture covering bags or meat wrappers is filed showing transfer of the bags or meat wrappers after manufacture, the exporter may present an application addressed to the collector of customs at the port where the burlap or other textile material was imported, requesting the issuance of a certificate of importation, and the collector of customs at the port where the certificate of manufacture is filed shall indicate on the application, before forwarding it to the collector at the port of importation, that the proper certificate of delivery is endorsed on the certificate of manufacture to the person requesting the certificate of importation, thus obviating the necessity of filing further certificates of delivery with the collector of customs who issues the certificate of importation. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.18 *Certificates of delivery of imported merchandise.* (a) When the merchandise used in the manufacture of the exported articles was not imported by the manufacturer of the articles, no drawback shall be allowed until there has been filed with the collector at the port where the drawback entry is filed a certificate of delivery in duplicate on customs Form 7543, or official evidence of the existence of such a certificate filed at another port, fully describing the merchandise delivered and tracing it from the custody of the importer to the custody of the manufacturer. Reference may be made to this certificate by the manufacturer in his certificate of manufacture in lieu of the particulars of importation, provided the certificate covers but one importation. The duplicate of the certificate of delivery need not be signed or sworn to.

(b) If the merchandise was not delivered directly from the importer to the manufacturer, each intermediate transfer shall be shown on the certificate of delivery by an affidavit of the person through whose possession the merchandise passed.

(c) When the imported merchandise is covered by a consumption entry and the consignee named therein has declared another person to be the actual owner, such consignee shall be considered the importer for drawback purposes irrespective of whether an owner's declaration was filed in accordance with section 485 (d) Tariff Act of 1930, and a certificate of delivery from such consignee to the person to whom delivery was made shall be required.

(d) The person in whose name merchandise is withdrawn from bonded warehouse shall be considered the importer for drawback purposes, and certificates of delivery covering prior transfers of such merchandise while in bonded warehouse shall not be required. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.19 *Certificates of manufacture and delivery; manufactured or partly manufactured articles.* (a) When the imported merchandise used has passed through some process of manufacture before delivery and the wholly or partly manufactured article is used in the manufacture of some other article for exportation, or when completely manufactured articles are purchased for exportation without further manipulation, a certificate of manufacture and delivery shall be filed on customs Form 7577. Such certificate shall be required whether the drawback is claimed by the exporter or has been reserved by the manufacturer.

(b) In drawback entries covering the exported articles, reference may be made to such certificates in lieu of stating the particulars of importation and manufacture, except when the article or merchandise has been further manipulated before exportation, in which event such additional manufacturing steps shall be covered by a proper certificate of manufacture.

(c) Any intermediate transfer of such manufactured articles shall be certified on the certificate of manufacture and delivery.

(d) If the drawback entry is filed at a port other than that at which the certificate of manufacture and delivery is on file, an extract may be issued on customs Form 4537. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.20 *Bills of lading.* (a) Except as otherwise prescribed in this section, the drawback entry shall be supported by a bill of lading issued by the proper representative of the exporting carrier covering the merchandise described in the entry. The bill of lading shall show that the merchandise was shipped by or for the account of the person making the drawback entry, or shall bear an endorsement of the person in whose name or for whose account the merchandise was shipped, showing that the person making entry is authorized to make it and to receive the drawback. The terms of the bill of lading may limit and define its use by declaring it to be for customs purposes only and not negotiable. If a copy of the original bill of lading is filed, it shall bear the signature of the person issuing it.

(b) Memorandum copies of bills of lading issued by transportation companies, or bills of lading bearing merely the initials of a representative of the transportation company, shall not be accepted in lieu of the bill of lading described above.

(c) Collectors of customs may issue on customs Form 4475 extracts of bills of lading filed with drawback entries.

(d) If the person making the drawback entry cannot produce the required bill of lading, he may submit in lieu thereof through the collector to the Commissioner of Customs a sworn statement showing the cause of failure, with such evidence of exportation and of his right to make the drawback entry as may be obtainable. This procedure shall not be applicable in cases covered by paragraph (e) of this section.

(e) When a shipment is exported to Canada or Mexico from a border port of exit and no bill of lading is issued to cover the exportation, the collector shall accept a drawback entry supported by a copy of any inland bill of lading covering the transportation of the merchandise to the border port, and an affidavit of the forwarder at the border port showing the name of the person for whose account the merchandise was exported, describing the merchandise, identifying it by its notice of intent number, and certifying that he was the forwarder of the merchandise, that exportation was made by a specified conveyance, and that no bill of lading was issued to cover such exportation. The drawback entry shall be filed by the person for whose account the merchandise was exported or by one authorized by such person in writing on the beforementioned affidavit to file the entry and receive the drawback. This procedure may also be followed when articles such as aircraft, automobiles, and other vehicles are exported under their own power.

§ 22.21 *Landing certificates.* (a) A landing certificate shall be required (1) whenever the collector at the port of exportation or at the port where the drawback entry is filed shall have reason to believe that the shipment is not a bona fide exportation, (2) when the Bureau specifically directs that a landing certificate shall be produced, (3) when a landing certificate is otherwise required by law or regulation, and (4) for every aircraft which departs from the United States under its own power if drawback is claimed on the aircraft or any part thereof. Landing certificates for aircraft shall show the exact time of landing of the aircraft in the foreign country and describe the aircraft or parts thereof on which drawback is claimed in sufficient detail to enable the collector to identify them with the notice of intent.

(b) Whenever a landing certificate is required, it shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that such country has no customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of unlading and shall be sworn to before a notary public or other officer authorized to administer oaths and having an official seal.

(c) When a landing certificate is specially required by the collector or the Bureau, but not otherwise, reasonable notice in writing of such requirement shall be given by the collector to the exporter or his agent. The landing certificate shall be filed within 1 year from the date of the notice unless an extension of such period is specifically authorized by the Commissioner.

(d) When a landing certificate is required by the collector, other satisfactory

evidence of the foreign landing may be accepted in lieu of the landing certificate.

(c) When a landing certificate is required and cannot be produced, an application for its waiver may be made to the Bureau through the collector within the time required for filing the certificate, accompanied by such evidence of exportation and landing abroad as may be available. Such application will be granted if the Bureau is satisfied by the evidence submitted that the merchandise has been exported. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.22 *Supplies for certain vessels and aircraft.* (a) Drawback of duties and taxes shall be allowed on articles laden on certain vessels or aircraft as supplies or for use as equipment or in the maintenance or repair of certain aircraft, as provided for in section 309, Tariff Act of 1930, as amended,[7] and I. R. C. section 3451[8] subject to the requirements of this section.

(b) The procedure prescribed in this part as to the filing of an application for a rate of drawback, notices of intent, and other required documents shall be followed, so far as applicable, in filing claims for drawback under this section, except that notices of intent shall be filed on customs Form 7515.

(c) A receipt of the articles, showing marks, numbers and quantity, signed by the master or an authorized officer of the vessel or aircraft, or steamship or aircraft company, shall be accepted in lieu of a bill of lading.

(d) Paragraphs (e) to (g) of this section, insofar as applicable, shall apply with respect to aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions and aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

(e) Upon the lading on a vessel of supplies for which an affidavit is required under paragraph (g) of this section, they shall be entered by a representative of the vessel in a special bound stores log book of the vessel in ink or indelible pencil. The stores log shall be kept on board the vessel available for customs inspection and use at any time and shall contain the following information with respect to such supplies: Port where laden; date of lading; notice of intent number; quantity and description. After the supplies have been so entered in the stores log, the customs officer who supervised the lading thereof shall place his name and title after the entry in the log.

(f) In any case in which it is desired to land in the United States articles covered by a notice of intent, the master shall make application for a permit to land such articles under customs supervision. Except when transfer is made under the original notice of intent to another vessel entitled to the drawback privilege, the articles landed shall be treated as imported merchandise under section 309 (c) Tariff Act of 1930, as amended.

(g) An affidavit of the master or other officer of the vessel who has knowledge of the facts, showing the class of business or trade in which the vessel on which the articles were laden as supplies was engaged at the time of lading shall be furnished in support of the drawback entry. Such affidavit shall be in substantially the following form:

I, _____, of the
(Master or other officer)

S. S. _____, declare that I have knowledge of the facts set forth herein; that certain articles covered by notice of intent No. _____, filed at the port of _____, were laden on the above-named vessel at said port on _____, 19--, for use on board the vessel as supplies; and that at the time of lading of the articles, said vessel was engaged in the business or trade checked below:

1. Fisheries.
2. Whaling.
3. Trade between Atlantic and Pacific ports of the United States.
4. Trade between the United States and any of its possessions.
5. Foreign trade.

_____
(Name and title)

An affidavit as to the intended business or trade of a vessel may, in the discretion of the collector, be accepted in lieu of the affidavit prescribed above when the amount of drawback involved in a single lading is less than $50, or $100 in the case of fuel oil or lubricating oil.

(h) In the case of articles laden or installed on aircraft as equipment or claimed to have been used in the maintenance or repair of aircraft, the collector shall require such affidavits or other evidence as will satisfy him concerning the facts.

(i) Drawback entries shall be filed on customs Form 7573 or 7575, as applicable, modified to read "lade" (or "use"), "laden" (or "used"), or "lading" (or "using") instead of "export," "exported," or "exporting," and the "Declaration of exportation" shall be amended to read as follows:

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[7] "(a) *Exemption from customs duties and internal-revenue tax.* Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse free of duty or internal-revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or for supplies (not including equipment) of aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or for supplies (including equipment), maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

"(b) *Drawback.* Articles withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse and articles of domestic manufacture or production, laden as supplies upon any such foreign vessel or any such vessel or aircraft of the United States or laden as supplies (including equipment) upon, or used in the maintenance or repair of, any such foreign aircraft, shall be considered to be exported within the meaning of the drawback provisions of this Act.

"(c) *Articles removed in, or returned to, the United States.* Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

"(d) *Reciprocal privileges.* The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country." (Tariff Act of 1930, sec. 309, as amended; 19 U. S. C. 1309)

[8] "Under regulations prescribed by the Commissioner, with the approval of the Secretary, no tax under this chapter shall be imposed upon any article sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. Articles manufactured or produced with the use of articles upon the importation of which tax has been paid under this chapter, if laden for use as supplies on such vessels, shall be held to be exported for the purposes of section 3430. The term 'vessels' as used in this section includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term 'vessels of war of the United States or of any foreign nation' includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof. The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions." (I. R. C. sec. 3451; 26 U. S. C. 3451)

Import taxes collected under I. R. C. secs. 2490 and 2491 are not subject to drawback under I. R. C. sec. 3451, but drawback of such taxes may be allowed under sec. 309 or 313, Tariff Act of 1930, as amended.

DECLARATION OF LADING OR USE

I, _____ (member of firm, officer representing corporation, agent, or attorney) of _____, do solemnly and truly declare that, according to the best of my knowledge and belief, the particulars of lading (or use) stated in this entry, the notices of intent, and receipts are correct, and that such merchandise is not to be relanded in the United States or any of its possessions, but is to be (has been) used on the vessels or aircraft herein for _____

_____
(State specifically, such as supplies, equipment, maintenance, or repair)
as specified in section 309, Tariff Act of 1930, as amended, or I. R. C. section 3451.

_____,
Shipper or agent.
Declared to before me this _____ day of _____, 19__.

_____
(Notary Public or Acting Deputy Collector)

(Sec. 5 (a) 52 Stat. 1080, sec. 3, 55 Stat. 602, sec. 624, 46 Stat. 759; 19 U. S. C. 1309, 1624)

§ 22.23 *Meats cured with imported salt.* (a) All provisions of the regulations in this part relating to the allowance of drawback on articles manufactured with the use of imported merchandise, including the application for a rate of drawback and the filing of a sworn statement, shall apply to the refund of duty on salt used in curing meats, except that the duty to be refunded is not subject to the retention of 1 percent and that no refund shall be made in an amount less than $100. Claims amounting to less than $100 shall be permitted to accumulate until the sum due reaches that amount.

(b) The prescribed forms shall be modified to show that the claim is being made for refund of duties paid on salt used in curing meats. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.24 *Liquidation of drawback entries.* (a) No drawback on exported articles manufactured with the use of imported merchandise shall be allowed until the import entries covering such merchandise shall have been liquidated, the liquidated duties have been paid, and such liquidation shall have been made final by operation of law or by acceptance in writing by the importer.

(b) When the drawback claim has been completed by the filing of the entry, bills of lading, and other documents required by the regulations in this part, the landing certificate has been produced where required, and clearance of the exporting conveyance has been established by the record of clearance in the case of direct exportation or by certificate in the case of exportation at another port, the collector shall ascertain the drawback due by reference to the records of importation and the drawback rate under which the drawback claimed as allowable.

(c) Import entries, certificates of importation, and extracts from such certificates shall constitute the records from which the amount of duty paid on the merchandise used shall be determined. In order to guard against errors of identification and overallowance, all merchandise identified in certificates of manufacture and drawback entries which have been liquidated and all merchandise covered by certificates of importation and extracts from such certificates shall be charged against the records of importation to which they respectively refer.

(d) The values to be used in computing the distribution of drawback where two or more products result from the manipulation of the imported merchandise, pursuant to section 313 (a) Tariff Act of 1930,[9] shall be market values unless the special regulations under which drawback is claimed provide otherwise.

(e) The amount of drawback due having been ascertained, the collector shall certify such amount for payment to the person making the entry or to the person to whom the maker on the face of the entry directs that such payment be made. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.25 *To whom payable.* (a) The person named as shipper or consignor in the bill of lading under which domestic articles are exported shall be held to be the exporter and entitled to the drawback, unless the manufacturer or producer, on the sale or consignment of such articles, shall have reserved to himself the right to claim the drawback, in which case such manufacturer or producer may make entry for such drawback and it shall be paid to him upon the production of satisfactory evidence that such reservation was made with the knowledge and consent of the exporter.

(b) The drawback may alternatively be paid to the agent of the manufacturer, producer, or exporter, as the case may be, or to the person to whom such manufacturer, producer, exporter, or agent shall direct in writing that such drawback be paid. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

§ 22.26 *Drawback allowance.* (a) Upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic tax-paid alcohol, a drawback of the internal-revenue tax paid shall be allowed in accordance with the provisions of section 313 (d), Tariff Act of 1930, as amended.[10]

(b) Drawback of internal-revenue tax shall be allowed on such articles when shipped to the Virgin Islands, Puerto Rico, Guam, or American Samoa, in accordance with the provisions of I. R. C. sections 3351 and 3361, as amended.[11]

(c) The Panama Canal Zone shall be considered foreign territory for the purpose[12] of allowing drawback under this section. (33 Stat. 843, sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 126, 1313, 1624)

§ 22.27 *Procedure.* (a) In the allowance of drawback of internal-revenue tax under the preceding section, the regulations in this part relating to the allowance of drawback on articles manufactured with the use of imported merchandise shall be followed so far as applicable and except as otherwise specified in this and the three following sections.

(b) The notice of intent shall be filed on customs Form 7511. When it covers duty-paid imported merchandise, in addition to the tax-paid alcohol, two sets of drawback entries shall be filed, one set for customs drawback and the other for internal-revenue drawback.

(c) The following forms shall be used in lieu of the corresponding forms used in the case of articles manufactured with the use of imported merchandise:

Drawback entry, customs Form 7579.
Drawback entry and certificate of manufacture, customs Form 7583.
Certificate of manufacture and delivery, customs Form 7585.
Certificate of delivery of tax-paid alcohol, customs Form 7515.

(d) In the case of medicinal preparations and flavoring extracts there shall be filed with the drawback entry, or indorsed on the entry or certificate of manufacture, an affidavit of the manufacturer showing whether claim has been, or will be, made by the manufacturer for domestic drawback allowable on the involved alcohol under the provisions of section 3250 (1) Internal Revenue Code, as amended. Such affidavits shall not be required in the case of toilet preparations (including perfumery).

(e) No supplemental sworn schedule or supplemental advisory sworn schedule shall be required under § 22.4 (p) and (q) unless the percentage of alcohol used or appearing in a medicinal preparation or flavoring extract covered by a previously approved schedule varies by more than

[9] "* * * Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation." (Tariff Act of 1930, sec. 313 (a), as amended; 19 U. S. C. 1313 (a))

[10] "Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used. * * *" (Tariff Act of 1930, sec. 313 (d), as amended; 19 U. S. C. 1313 (d))

[11] "All provisions of law for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to the Virgin Islands." (Internal Revenue Code, sec. 3351 (c); 26 U. S. C. 3351 (c))

"All provisions of law for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to Puerto Rico, Guam, or American Samoa." (Internal Revenue Code, sec. 3361 (c); 26 U. S. C. 3361 (c))

[12] There is no authority of law for the allowance of drawback of internal-revenue tax on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced in the United States and shipped to Alaska, Hawaii, Wake Island, Midway Islands, or Kingman Reef.

5 percent from the quantity of alcohol specified in the approved schedule, but the manufacturer shall furnish the collector with a written explanation of each such variation and specify the date it went into effect. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.28 *Manufacturing record.* The description of the alcohol required to be stated in the entry may be obtained from the package containing the tax-paid alcohol. There shall be kept by the manufacturer of the flavoring extracts or medicinal or toilet preparations on which drawback is claimed a record of all such preparations manufactured, the quantity of wastage, if any, and a full description of the alcohol. This record shall be open at all times to the inspection of customs officers. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.29 *Certificate of Commissioner of Internal Revenue (Alcohol-Tax Unit) and extracts from such certificates.* (a) Upon application in writing, the Commissioner of Internal Revenue (Alcohol Tax Unit) will issue a certificate on internal-revenue Form 646, showing that the alcohol described in the application was withdrawn tax-paid, and forward it to the collector of customs. Each certificate will be given a serial number by the Bureau of Internal Revenue.

(b) When drawback is claimed on flavoring extracts or medicinal or toilet preparations manufactured with the use of rectified or redistilled alcohol, the certificate, internal-revenue Form 646, shall show, in addition to the data called for therein, the name of the rectifier, the quantity in wine gallons of rectified alcohol produced, the proof thereof, the quantity in proof gallons produced, the amount of tax paid, the date of withdrawal, and the serial numbers of the rectifier's stamps covering the alcohol.

(c) Charges shall be made on the back of the certificate by the collector of customs as the alcohol covered thereby is identified in drawback entries covering exportations of flavoring extracts, or medicinal or toilet preparations, and, if a certification as to any portion of the alcohol described in such certificate should be required for the liquidation of drawback entries filed at another port, the collector, on written application of the person who requested its issuance, shall transmit an extract from the certificate for use at such port. The extract shall be made on customs Form 4541, shall bear the Bureau of Internal Revenue serial number, and shall be charged on the back of the original certificate. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.30 *Collector's statement of drawback due.* (a) When the drawback claim has been completed by the filing of the entry, bills of lading, etc., as required by the regulations in this part, any required landing certificate has been produced, and clearance of the exporting conveyance has been established by the records of clearance in the case of direct exportation or by a certificate when the merchandise was exported at another port, the collector shall proceed to ascertain the amount of drawback due by reference to the certificate of manufacture and the drawback rate under which the drawback claimed is allowable.

(b) If the affidavit required by § 22.27 (d) shows that claim has been, or will be, made for the domestic drawback referred to in that section, the allowance of drawback under the provisions of section 313 (d) Tariff Act of 1930, as amended, shall be limited to the difference between the amount of tax paid and the amount of domestic drawback claimed. If the affidavit shows that no claim has been, or will be, made by the manufacturer for the domestic drawback, the collector shall suspend liquidation of the entry and report the facts to the Commissioner of Internal Revenue (Alcohol Tax Unit), Washington, D. C., for advice whether drawback shall be allowed of the full amount of the tax paid on the alcohol used. The collector shall be governed by the advice received from the Commissioner of Internal Revenue.

(c) The collector shall then prepare a certificate on customs Form 4539, showing, in addition to the information called for therein, the Bureau of Internal Revenue certificate number applicable to the alcohol used. The certificate on customs Form 4539, together with a written request for payment of the amount found due, signed by the claimant and addressed to the Commissioner of Internal Revenue, shall be transmitted by the collector to the Commissioner of Internal Revenue (Alcohol Tax Unit)

(d) No deduction of 1 per centum shall be made in allowing drawback claims under section 313 (d) Tariff Act of 1930, as amended. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

§ 22.31 *Drawback allowed.* (a) Merchandise on which the duties have been paid and which has remained continuously in bonded warehouse or otherwise in customs custody since importation may be entered or withdrawn at any time within 3 years after the date of importation for exportation or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Guam, and upon such exportation or shipment the duties shall be refunded in accordance with the provisions of section 557 (a), Tariff Act of 1930, as amended.[13]

(b) Such merchandise may also be entered or withdrawn for shipment to the Philippine Islands and upon such shipment the duties, less 1 percent, shall be refunded in accordance with the provisions of section 7 of the act of March 8, 1902.[14]

(c) The Panama Canal Zone and Guantanamo Bay Naval Station shall be considered foreign territory for the purpose of allowing drawback under this section.[15] (Sec. 7, 32 Stat. 55, sec. 557, 46 Stat. 744, secs. 2, 22 (a) 23 (a), 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 152b, 1624)

§ 22.32 *Continuous custody.* (a) No remission, abatement, refund, or drawback of duty shall be allowed on account of the exportation of any merchandise after its release from the custody of the Government, except as specified in section 558, Tariff Act of 1930, as amended.[16]

(b) Merchandise which has been released to an importer under the bond prescribed by § 8.28 of this chapter and returned to the appraiser's stores upon requisition of the collector, and merchandise released under 6-months' bond as provided for in section 308, Tariff Act of 1930, as amended, shall not be deemed to have been in the continuous custody of customs officers.

(c) Merchandise which remains upon the wharf by permission of the collector shall be held to be in customs custody. This custody shall be deemed to cease when the permit has been accepted by the customs officer in charge, and there is nothing further to be done by him in the way of measuring, weighing, gauging, etc.

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[13] "* * * Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody and under the control of customs officers, may be entered or withdrawn at any time within three years after the date of importation for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or the island of Guam, under such regulations as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, and exportation or shipment, the duties thereon shall be refunded." (Tariff Act of 1930, sec. 557 (a), as amended; 19 U. S. C. 1557 (a)).

[14] "Merchandise in bonded warehouse or otherwise in the custody and control of the officers of the customs upon which duties have been paid, shall be entitled, on shipment to the Philippine Islands within three years from the date of the original arrival, to a return of the duties paid less 1 per centum * * * under such rules and regulations as may be prescribed by the Secretary of the Treasury." (19 U. S. C. 152b)

[15] Imported merchandise which has remained continuously in bonded warehouse or otherwise in customs custody since importation is not entitled to drawback of duty when shipped to Alaska, Puerto Rico, Hawaii, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

[16] "(a) No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

"(1) When articles are exported with respect to which a drawback of duties is expressly provided for by law;

"(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe; and

* * * * * *

"(b) When articles are exported or destroyed under customs supervision after once having been released from customs custody, as provided for in subsection (c) of section 304 of this Act, such exportation or destruction shall not exempt such articles from the payment of duties other than the marking duty provided for in such subsection (c)." (Tariff Act of 1930, sec. 558, as amended; 19 U. S. C. 1558)

(d) In the case of merchandise entered for warehouse, customs custody shall be deemed to cease when the storekeeper with whom a delivery permit has been lodged has released the merchandise to or upon the order of the proprietor of the warehouse, as provided for in §§ 8.38 and 19.6 of this chapter.

(e) Except as stated in paragraph (c) of this section, merchandise examined elsewhere than at the public stores in accordance with the provisions of § 14.2 of this chapter shall be considered released from customs custody when final examination for purposes of appraisement has been completed. (Sec. 558, 46 Stat. 744, sec. 24, 52 Stat. 1038, sec. 624, 46 Stat. 759; 19 U. S. C. 1558, 1624)

§ 22.33 *Entry and completion thereof.* (a) At least 6 hours before the lading of any merchandise on which drawback is claimed, the importer or whomever he may designate in writing shall file with the collector an entry in triplicate on customs Form 7541.

(b) When the merchandise is to be transported to another port for exportation, the entry shall be filed in quadruplicate and shall name the transporting conveyance, the route, and the port of exit. One copy of the entry shall be certified by the collector and forwarded by him to the collector at the port of exit. The merchandise shall be transported by a bonded carrier in accordance with the regulations covering transportation in bond, and manifests shall be prepared and filed in the manner prescribed in § 18.19 of this chapter.

(c) The regulations in this part as to supervision of lading and certification of exportation of manufactured articles shall be followed, so far as applicable, except that the drawback entry shall serve in lieu of the notice of intent to export.

(d) In order to complete the entry, a bill of lading and a landing certificate, when required, shall be filed in the manner and within the time prescribed in the case of the exportation of manufactured articles. (Sec. 557, 46 Stat. 744, secs. 2, 22 (a) 23 (a) 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 1557, 1624)

§ 23.34 *Ascertainment of drawback.* (a) When the drawback entry has been completed and the bill of lading filed, together with the landing certificate when required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the collector with whom such entry and proofs are lodged shall verify the facts of importation by reference to the records in his office and ascertain the amount of duty paid on the merchandise exported. The drawback found due shall be allowed in accordance with the regulations covering manufactured articles, but there shall be no deduction of 1 percent.

(b) No drawback shall be allowed until the import entry covering the merchandise shall have been liquidated, the liquidated duties have been paid, and such liquidation has been made final by operation of law or by acceptance in writing by the importer. (Sec. 7, 32 Stat. 55, sec. 557, 46 Stat. 744, secs. 2, 22 (a), 23 (a) 52 Stat. 1077, 1087, 1088, sec. 624, 46 Stat. 759; 19 U. S. C. 162b, 1624)

Section 22.34 (a) is amended by deleting "except in the case of shipments to the Philippine Islands" from the last sentence.

MERCHANDISE NOT CONFORMING TO SAMPLE OR SPECIFICATIONS

§ 22.35 *Drawback allowance.* Upon the exportation of imported merchandise not conforming to sample or specifications, the duties paid thereon, less 1 percent, shall be refunded as drawback in accordance with the provisions of section 313 (c) Tariff Act of 1930,[11] subject to compliance with the regulations in §§ 22.36 to 22.39. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.36 *Application; samples and specifications.* (a) An importer of merchandise claimed not to conform to sample or specifications who desires to export such merchandise with benefit of drawback shall file with the collector of customs at the port where the merchandise was entered an application in duplicate on customs Form 7537, stating the quantity and description of the merchandise and identifying it with the import entry. The application shall also specify the place where the merchandise is to be deposited in customs custody. If the collector is of the opinion that the place specified is not suitable for the proper examination of the merchandise and any necessary repacking, he shall require the merchandise to be delivered to a suitable place at the expense of the applicant.

(b) The application shall be accompanied by a copy of the order for the merchandise, copies of any preliminary correspondence, and the samples or specifications on which the merchandise was ordered, and shall contain a sworn statement by the importer that the sample or specifications submitted are those on which the merchandise was ordered, showing in detail in what manner the merchandise does not conform to the sample or specifications. If no written order was placed and no sample or specifications are available, a sworn statement of the importer setting forth his oral specifications may be accepted. In doubtful cases the collector, before liquidation of the entry, may require that such oral specifications be corroborated by the shipper. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.37 *Return of merchandise to customs custody.* (a) Upon receipt of the application, the collector shall approve the place of deposit of the merchandise selected by the applicant or designate another place if that one is not deemed suitable, making appropriate notation to that effect on both copies of the application, and shall return the duplicate to the applicant for presentation with the merchandise to the customs officer at the place of deposit. The merchandise shall be delivered into customs custody at such places within 30 days from the date on which it was originally released from customs custody. A receipt showing the fact and date of such delivery shall be furnished to the applicant if he requests it. If the report of the receiving officer shows that the merchandise was not returned to customs custody within the time required by law, the application shall be disapproved.

(b) If the merchandise is to be exported through the mails, it shall be deposited with the postmaster for delivery to the collector of customs at the port where the merchandise was originally entered. The parcel in which the merchandise is packed shall be properly wrapped, stamped, and addressed for mailing to the foreign destination, and shall be enclosed in a wrapper addressed to the collector of customs at the port where such merchandise was originally entered. A waiver on customs Form 3413, or in a substantially similar form, of the right to withdraw the merchandise from the mails, signed by the exporter, shall be affixed, stamped, or written on both the inner and outer wrappers. The outside wrapper shall bear an appropriate notation to the effect that the contents are intended for examination and exportation under section 313 (c) Tariff Act of 1930. If the parcel is to be insured or registered to cover transportation from the port of original entry to the foreign destination, the exporter shall deposit with the collector of customs at such port the necessary funds to cover the charges for insurance or registry.

(c) The application fully executed in duplicate on customs Form 7537 shall accompany or be mailed simultaneously with the parcel, except that if such form is not available to the exporter or if information necessary to complete the form is not obtainable at the time of mailing, the merchandise may be returned without the application to the postmaster for delivery to the collector of customs. When the application covering the returned merchandise is not received by the collector, immediately upon receipt of such parcel he shall furnish the exporter with copies of customs Form 7537 for prompt execution and return. The dates of the delivery of the merchandise from the post office on importation and the return thereto for exportation shall be considered the dates of release from and return to customs custody, respectively, within the meaning of section 313 (c) Tariff Act of 1930. Drawback shall be refused if the merchandise was not returned to custody within 30 days after its release therefrom.

(d) The applicant shall submit for the information of the collector of customs the parcel post or registered mail receipt or other evidence from the postmaster at the depositing office showing the date

[11] "Upon the exportation of merchandise not conforming to sample or specifications upon which the duties have been paid and which have been entered or withdrawn for consumption and, within thirty days after release from customs custody, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties." (Tariff Act of 1930, sec. 313 (c), as amended; 19 U. S. C. 1313 (c))

on which the merchandise was returned to the postmaster, together with evidence of the date of delivery of the incoming package from the post office.

(e) The applicant shall be advised of the approval of his application and mailing of the merchandise or of the disapproval of his application. If the application has been approved, the applicant shall execute and deliver to the collector a drawback entry in duplicate on customs Form 7539 and the export procedure and liquidation of the entry shall be the same, so far as applicable, as that governing the exportation with benefit of drawback of merchandise in continuous customs custody. If the application has been disapproved, the applicant shall advise the collector as to the disposition to be made of the merchandise.

(f) In order to complete the drawback entry, a bill of lading and a landing certificate, when required under § 22.21 (a) shall be filed in the manner and within the time prescribed in § 22.16 (a) in the case of the exportation of manufactured articles. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.38 *Acceptance of merchandise at importer's risk and expense; time limit for exportation.* Merchandise returned to customs custody under section 313 (c) Tariff Act of 1930, shall be accepted only at the risk and expense of the party in interest and, if not exported within 60 days from the date of notification of approval of the application to export, shall be treated as unclaimed. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.39 *Waiver of proof where the duty is less than $25.* With the exception of the application of the importer, the above provisions relative to proof of nonconformity to sample or specifications may be waived in whole or in part if the duty on the merchandise to be exported is less than $25 and the collector is otherwise satisfied that the claim is well founded. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

GENERAL REGULATIONS APPLICABLE TO ALL DRAWBACK CLAIMS [18]

§ 22.40 *Duties subject to drawback.* (a) The duties subject to drawback include all ordinary customs duties, including import taxes assessed under sections 2490, 2491, 3420, 3422, 3423, 3424, and 3425, Internal Revenue Code; dumping duties assessed under the Antidumping Act, 1921, countervailing duties assessed under section 303, Tariff Act of 1930; and marking duties assessed under section 304 (c), Tariff Act of 1930, as amended.

(b) Additional duties for undervaluation assessed under section 489, Tariff Act of 1930, are not subject to drawback. (Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.41 *Merchandise sold to United States Government.* In connection with each drawback entry, except under section 313 (c) Tariff Act of 1930, the claimant shall furnish an affidavit showing whether or not the merchandise concerned was sold to any department, branch, or agency of the United States Government. If the merchandise was so sold, drawback shall be allowed only in accordance with such instructions as the Commissioner of Customs shall issue from time to time. (Sec. 313, 46 Stat. 693, sec. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

§ 22.42 *Protests.* The decision of the collector of customs refusing to pay a drawback claim is final and conclusive upon all persons unless the person filing the drawback claim or his agent, within 60 days after but not before such decision, shall file a protest in writing with the collector in the manner required in the case of protests against the liquidation of import entries. (Sec. 514, 46 Stat. 734; 19 U. S. C. 1514)

§ 22.43 *Signing of documents; powers of attorney.* Powers of attorney, in accordance with § 8.19, of this chapter, shall be required from persons signing the documents listed below in all cases where such person is not a member of the firm or is not the importer, manufacturer, or exporter, as the case may be. A power of attorney shall also be required when the person signing such a document for a corporation is not the president, vice president, treasurer, or secretary of the corporation.

Drawback entries.
Certificates of delivery.
Certificates of manufacture.
Abstracts of manufacturing records.
Sworn statements of manufacturers or producers, supplemental sworn statements, schedules, and supplemental schedules.
Sworn statements of owners.
Endorsements of exporters on bills of lading.
Authorization by manufacturer, producer, exporter, or agent to pay the drawback to another person.
Application of importer to export merchandise not conforming to sample or specifications.
Importers' acceptances of liquidations of import entries as final.
Protests.

(Sec. 313, 46 Stat. 693, secs. 402, 403, 49 Stat. 1960, sec. 624, 46 Stat. 759; 19 U. S. C. 1313, 1624)

[18] "If any person shall knowingly and willfully file any false or fraudulent entry or claim for the payment of drawback, allowance, or refund of duties upon the exportation of merchandise, or shall knowingly or willfully make or file any false affidavit, abstract, record, certificate, or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties, on the exportation of merchandise, greater than that legally due thereon, such person shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than $5,000, or by imprisonment for not more than two years, or both, and the merchandise or the value thereof to which such false entry or claim, affidavit, abstract, record, certificate, or other document relates shall be subject to forfeiture." (Tariff Act of 1930, sec. 590; 19 U. S. C. 1590)

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

Sec.
23.1 Boarding of vessels or vehicles and inspection, examination, and search of persons, baggage, and merchandise discharged from vessels.
23.2 Licensing of vessels of less than 30 net tons.
23.3 Seizure of vessels and vehicles; penalty.
23.4 Articles landed by seamen.
23.5 Baggage of passengers from foreign countries.
23.6 Entry by false invoice, declaration, other document, or statement; forfeiture incurred; liability for duties unaffected.
23.7 Undervaluation exceeding 100 percent
23.8 Merchandise imported contrary to law
23.9 Narcotic drugs and marihuana.
23.10 Maritime Commission vessels; exemption from penalty.
23.11 Seizures; who may make; search warrants.
23.12 Appraisement of property to forfeiture; determination of penalties measured by value.
23.13 Claims for seized property valued at not over $1,000; bond for costs.
23.14 Release on payment of appraised value.
23.15 Release of goods advanced over 100 percent; stipulation; petition for relief from seizure.
23.16 Notice of seizure and sale; value not exceeding $1,000; advertisement.
23.17 Disposition of goods after summary forfeiture; value not exceeding $1,000.
23.18 Summary sale of seized property.
23.19 Transfer of forfeited property to other districts for sale; destruction of forfeited property.
23.20 Disposition of proceeds of sale.
23.21 Forfeiture by court decree; reports to United States attorneys.
23.22 Bonding of seized property; petition to the court.
23.23 Fines, penalties, and forfeitures; remission of.
23.24 Petitions for the remission or mitigation of fines, penalties, and forfeitures, and restoration of proceeds of sale.
23.25 Remission or mitigation by collectors.
23.26 Compromise of claims.
23.27 Claims for compensation to informers.
23.28 Inspection of importer's books, records, etc.
23.29 Examination of importer and others.
23.30 Bribery of customs officers and employees.
23.31 Controlled exports; arms and munitions; helium.

§ 23.1 *Boarding of vessels or vehicles and inspection, examination, and search of persons, baggage, and merchandise discharged from vessels.* (a) For the purpose of examining the manifest or inspecting and searching the vessel or vehicle, any customs officer [1] at any time may go on board of:

[1] "The term 'officer of the customs' means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service." (Tariff Act of 1930, sec. 401 (1), as amended; 19 U. S. C. 1401 (1))

"The keepers of Coast Guard stations and houses of refuge shall have the powers of inspectors of customs, but shall receive no additional compensation for duties performed as such: * * *" (14 U. S. C. 104)

"Masters of lighthouse tenders shall have police powers in matters pertaining to Government property and smuggling." (33 U. S. C. 755)

(1) Any vessel at any place in the United States[2] or within the customs waters of the United States;

(2) Any American vessel on the high seas, when there is probable cause to believe that such vessel is violating or has violated the laws of the United States; or

(3) Any vessel within a customs-enforcement area,[3] but customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of a special arrangement with the foreign government concerned.

(b) Customs officers may search vessels for letters which may be on board or may have been conveyed contrary to law on board any vessel or on any post route, and shall seize such letters and deliver them to the nearest post office or detain them subject to orders of the postal authorities.

(c) If the collector believes that sufficient grounds exist to justify a search of any Army or Navy transport, the facts shall be reported to the commanding officer or master of such transport with a request that he cause a full search to be made and advise the collector of the result of such search. If, after the cargo has been discharged, passengers and

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[2] "Any of the officers or persons authorized to board or search vessels may stop, search, and examine, as well without as within their respective districts, any vehicle, beast, or person, on which or whom he or they shall suspect there is merchandise which is subject to duty, or shall have been introduced into the United States in any manner contrary to law, whether by the person in possession or charge, or by, in, or upon such vehicle or beast, or otherwise, and to search any trunk or envelope, wherever found, in which he may have a reasonable cause to suspect there is merchandise which was imported contrary to law; and if any such officer or other person so authorized shall find any merchandise on or about any such vehicle, beast, or person, or in any such trunk or envelope, which he shall have reasonable cause to believe is subject to duty, or to have been unlawfully introduced into the United States, whether by the person in possession or charge, or by, in, or upon such vehicle, beast, or otherwise, he shall seize and secure the same for trial." (19 U. S. C. 482)

"The collector for the district in which any vessel or vehicle arrives from a foreign port or place may put on board of such vessel or vehicle while within such district, and if necessary while going from one district to another, one or more inspectors or other customs officers to examine the cargo and contents of such vessel or vehicle and superintend the unlading thereof, and to perform such other duties as may be required by law or the customs regulations for the protection of the revenue. Such inspector or other customs officer may, if he shall deem the same necessary for the protection of the revenue, secure the hatches or other communications or outlets of such vessel or vehicle with customs seals or other proper fastenings while such vessel is not in the act of unlading and such fastenings shall not be removed without permission of the inspector or other customs officer. Such inspector or other customs officer may require any vessel or vehicle to discontinue or suspend unlading during the continuance of unfavorable weather or any conditions rendering the discharge of cargo dangerous or detrimental to the revenue. Any officer, owner, agent of the owner, or member of the crew of any such vessel who obstructs or hinders any such inspector or other customs officer in the performance of his duties, shall be liable to a penalty of not more than $500." (Tariff Act of 1930, sec. 455; 19 U. S. C. 1455)

"Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of $500, and if any merchandise, including sea stores, is found on board of or after having been unladen from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle or the owner of such vessel or vehicles shall be liable to a penalty equal to the value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge of such vehicle, shall be subject to forfeiture, and if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle shall be subject to a penalty of $500; *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. * * *" (Tariff Act of 1930, sec. 584; 19 U. S. C. 1581)

[3] "(a) Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under the Anti-Smuggling Act, or at any other authorized place, without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance.

"(b) Officers of the Department of Commerce and other persons authorized by such department may go on board of any vessel at any place in the United States or within the customs waters and hail, stop, and board such vessel in the enforcement of the navigation laws and arrest or, in case of escape or attempted escape, pursue and arrest any person engaged in the breach or violation of the navigation laws.

"(c) Any master of a vessel being examined as herein provided, who presents any forged, altered, or false document or paper to the examining officer, knowing the same to be forged, altered, or false and without revealing the fact shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than $5,000 nor less than $500.

"(d) Any vessel or vehicle which, at any authorized place, is required to come to a stop by any officer of the customs, or is required to come to a stop by signal made by any vessel employed in the service of the customs displaying the ensign and pennant prescribed for such vessel by the President, shall come to a stop, and upon failure to comply, a vessel so required to come to a stop shall become subject to pursuit and the master thereof shall be liable to a fine of not more than $5,000 nor less than $1,000. It shall be the duty of the several officers of the customs to pursue any vessel which may become subject to pursuit, and to board and examine the same, and to examine any person or merchandise on board, without as well as within their respective districts and at any place upon the high seas or, if permitted by the appropriate foreign authority, elsewhere where the vessel may be pursued as well as at any other authorized place.

"(e) If upon the examination of any vessel or vehicle it shall appear that a breach of the laws of the United States is being or has been committed so as to render such vessel or vehicle or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel or vehicle, liable to forfeiture or to secure any fine or penalty, the same shall be seized and any person who has engaged in such breach shall be arrested.

"(f) It shall be the duty of the several officers of the customs to seize and secure any vessel, vehicle, or merchandise which shall become liable to seizure, and to arrest any person who shall become liable to arrest, by virtue of any law respecting the revenue, as well without as within their respective districts, and to use all necessary force to seize or arrest the same.

"(g) Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

"(h) The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government." (Tariff Act of 1930, sec. 581, as amended; 19 U. S. C. 1581)

"*Section 1. Transfer of Functions of Bureau of Marine Inspection and Navigation.*

"As provided in Sections 2 and 3 of this order, there are transferred to the Bureau of Customs and the United States Coast Guard all functions of: the Bureau of Marine Inspection and Navigation, the office of the director thereof, the offices of supervising inspectors, principal traveling inspectors, traveling inspectors, local inspectors, assistant inspectors, shipping commissioners, deputy shipping commissioners, and the Board of Supervising Inspectors, the Boards of Local Inspectors, the Marine Casualty Investigation Board, the Marine Boards, and those functions of the Secretary of Commerce which pertain thereto.

"*Section 2. Functions Transferred to Bureau of Customs.*

"There functions of the Bureau, Offices and Boards specified in Section 1, and of the Secretary of Commerce, pertaining to registry, enrollment, and licensing of vessels, including the issuance of commissions to yachts, the assignment of signal letters, and the preparation of all reports and publications in connection therewith; measurement of vessels, administration of tonnage duties, and collection of tolls; entrance and clearance of vessels and aircraft, regulation of vessels in the coasting and fishing trades, and limitation of the use of foreign vessels in waters under the jurisdiction of the United States; recording of sales, conveyances, and mortgages of vessels; protection of steerage passengers; all other functions of such Bureau, Offices and Boards which are now performed by the Bureau of Customs on behalf thereof; and the power to remit and mitigate fines, penalties and forfeitures incurred under the laws governing these functions, are transferred to the Commissioner of Customs, to be exercised by him under the direction and supervision of the Secretary of the Treasury." (Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

their baggage landed, and the baggage of officers and crew members examined and passed, the collector believes that sufficient grounds exist to justify the continuance of customs supervision of the vessel, the commanding officer of the vessel shall be advised accordingly.

(d) A customs officer may stop any vehicle arriving in the United States from a foreign country for the purpose of examining the manifest or inspecting and searching the vehicle and may stop, search, and examine any vehicle or person within the limits of the United States on which or on whom he may have reasonable cause to believe there is merchandise subject to duty or which has been introduced into the United States contrary to law.

(e) Collectors of customs are hereby authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended [4] of persons, baggage, or merchandise, even though such persons, baggage, or merchandise were inspected, examined, searched, or taken on board the vessel at another port in the United States or the Virgin Islands, if such action is deemed necessary or appropriate. (R. S. 3061, sec. 11, 52 Stat. 1083, secs. 1–8, 49 Stat. 517–520; 19 U. S. C. 482, 1467, 1701–1708)

§ 23.2 *Licensing of vessels of less than 30 net tons.* (a) The application for a license to import merchandise in a vessel of less than 30 net tons in accordance with section 6, Anti-Smuggling Act of August 5, 1935,[5] shall be addressed to the Secretary of the Treasury and delivered to the collector of customs in the district in which are located the ports where foreign merchandise is to be imported in such vessel.

(b) The application shall be executed under oath or affirmation and shall contain the following information:

(1) Name of the vessel, rig, motive power, and home port.

(2) Name and address of the owner.

(3) Name and address of the master.

(4) Net tonnage of the vessel.

(5) Kind of merchandise to be imported.

(6) Country or countries of exportation.

(7) Ports of the United States where the merchandise will be imported.

(8) Whether the vessel will be used to transport and import merchandise from a hovering vessel.

(9) Kind of document under which the vessel is operating.

(c) The license, if granted, shall be delivered to the licensee through the office of the collector of customs.

(d) The master or owner shall keep the license on board the vessel at all times and exhibit it upon demand of any duly authorized officer of the United States. This license is personal to the licensee and is not transferable.

(e) The license is revocable at the discretion of the Secretary of the Treasury for any violation of its terms or for any cause which he considers prejudical to the revenue or otherwise against the interests of the United States. (R. S. 251, sec. 6, 49 Stat. 519; 19 U. S. C. 66, 1706)

§ 23.3 *Seizure of vessels and vehicles; penalty.* (a) If it shall appear to any officer authorized to board vessels and vehicles and make seizures that there has been a violation of the laws of the United States whereby a vessel, vehicle, or any merchandise on board of or imported by such vessel or vehicle is liable to forfeiture, such officer shall seize the vessel, vehicle, or merchandise and arrest any person engaged in such violation.

(b) Every vehicle or beast in or upon which there is found merchandise which has been introduced into the United States contrary to law, together with the animals or other motive power used in drawing or propelling such vehicle or conveying such merchandise, and all other appurtenances including trunks, envelopes, covers, and all means of concealment, and all the equipage, trappings, and other appurtenances of such beast, motive power, or vehicle, shall be seized and held subject to forfeiture.[6]

(c) Unless specifically authorized by law, clearance of vessels within the common carrier exception of section 594, Tariff Act of 1930,[7] shall not be refused for the purpose of collecting a fine imposed upon the master or owner, unless either of them was a party to the illegal act. The Government's remedy in such cases is limited to an action against the master or owner.

(d) If a penalty is incurred under section 460, Tariff Act of 1930, as amended, by a person in charge of a vessel or vehicle and the vessel or vehicle is not subject to seizure, such vessel or vehicle may be held by the collector of customs under section 594, Tariff Act of 1930, until the penalty incurred by the person in charge has been settled.[8] (Secs. 459,

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[4] "Whenever a vessel from a foreign port or place or from a port or place in any Territory or possession of the United States arrives at a port or place in the United States or the Virgin Islands, whether directly or via another port or place in the United States or the Virgin Islands, the collector of customs for such port or place of arrival may, under such regulations as the Secretary of the Treasury may prescribe and for the purpose of assuring compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, cause inspection, examination, and search to be made of the persons, baggage, and merchandise discharged or unladen from such vessel, whether or not any or all such persons, baggage, or merchandise has previously been inspected, examined, or searched by officers of the customs." (Tariff Act of 1930, sec. 467, as amended; 19 U. S. C. 1467)

[5] "Except into the districts adjoining to the Dominion of Canada, or into the districts adjacent to Mexico, no merchandise of foreign growth or manufacture subject to the payment of duties shall be brought into the United States from any foreign port or place, or from any hovering vessel, in any vessel of less than thirty net tons burden without special license granted by the Secretary of the Treasury under such conditions as he may prescribe, nor in any other manner than by sea, except by aircraft duly licensed in accordance with law, or landed or unladen at any other port than is directed by law, under the penalty of seizure and forfeiture of all such unlicensed vessels or aircraft and of the merchandise imported therein, landed or unladen in any manner. Marks, labels, brands, or stamp, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any such vessel or aircraft, shall be prima facie evidence of the foreign origin of such merchandise." (19 U. S. C. 1706)

[6] "All property taken or detained under any revenue law of the United States shall not be repleviable, but shall be deemed to be in the custody of the law and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof." (28 U. S. C. 2463)

It is not necessary that proceedings shall have been instituted against the master or owner personally before proceedings are instituted by libel against the vessel or vehicle.

It is immaterial whether the owner or driver of a domestic vehicle used wholly within the United States in the transportation of smuggled merchandise had or had not knowledge of its illegal use. If, however, the smuggled merchandise or the vehicle or property illegally used has been stolen, the rightful owner may interpose that fact as a defense to forfeiture.

[7] "Whenever a vessel or vehicle, or the owner or master, conductor, driver, or other person in charge thereof, has become subject to a penalty for violation of the customs revenue laws of the United States, such vessel or vehicle shall be held for the payment of such penalty and may be seized and proceeded against summarily by libel to recover the same: *Provided*, That no vessel or vehicle used by any person as a common carrier in the transaction of business as such common carrier shall be so held or subject to seizure or forfeiture under the customs laws, unless it shall appear that the owner or master of such vessel or the conductor, driver, or other person in charge of such vehicle was at the time of the alleged illegal act a consenting party or privy thereto." (Tariff Act of 1930, sec. 594; 19 U. S. C. 1594)

The immunity from seizure of vessels used as common carriers does not extend to fines imposed for the carriage of smoking opium.

[8] "The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicle shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection." (Tariff Act of 1930, sec. 459, as amended; 19 U. S. C. 1459)

"The master of any vessel or the person in charge of any vehicle who fails to report arrival in the United States as required by the preceding section, or if so reporting proceeds farther inland without a permit from the proper customs officer, shall be subject to a penalty of $100 for each offense. If any merchandise is imported or brought into the United States in any vessel or vehicle, or by any person otherwise than in a vessel or vehicle, from a contiguous country, which vessel, vehicle, or merchandise is not so reported to the proper customs officers; or if the master of such vessel or the person in charge of such vehicle fails to file a manifest for the

460, 624, 46 Stat. 717, 759, secs. 1, 3–8, 49 Stat. 517–520, sec. 10 (a) (b) 52 Stat. 1082; 18 U. S. C. 546, 19 U. S. C. 1459, 1460, 1624, 1701, 1703–1708)

§ 23.4 *Articles landed by seamen.* (a) Except as provided for in paragraph (c) of this section, any article which is to be taken ashore by a seaman or officer of a vessel shall be declared and articles which are not properly declared shall be considered as having been unladen without a permit, subjecting the offender and the master to the penalties provided for in section 453, Tariff Act of 1930.[9] When practicable, the declaration shall be made and permission to unlade obtained before the article is taken from the vessel but, if at any port or landing place the situation is such that no danger to the revenue will result therefrom, the article may be submitted for examination and the declaration made at the customs office on the pier. In the latter case, however, if the circumstances under which the articles are landed indicate an attempt to avoid customs inspection, the penalties prescribed in such section 453 shall be assessed.

(b) Articles taken ashore by an officer or seaman permanently leaving his vessel without intention to reship shall be declared on the vessel or at the customs office on the pier and any duty found due shall be collected as in the case of an arriving passenger. (See § 10.22 of this chapter.) If the declaration does not include all the articles landed, the officer or seaman shall be subject to the penalties prescribed in section 497, Tariff Act of 1930, with respect to the articles omitted. If a declaration is not made, the articles shall be considered as having been unladen without a permit and the penalties prescribed in section 453, Tariff Act of 1930, shall be assessed. Except as provided for in paragraph (a) of this section, section 453 shall not be applied if any, though not all, of the articles are declared.

(c) Articles in the possession of and exclusively for use by any officer or seaman during the voyage, such as necessary clothing, toiletries, and purely personal effects, may be brought ashore by such officer or seaman on temporary shore leave for use while in port without a written entry or declaration and without payment of duty or internal-revenue tax, provided the collector is satisfied that the articles so landed are necessary and appropriate for the officer's or seaman's accommodation while on temporary shore leave; that they will be devoted solely to his bona fide personal use; that the quantities are reasonable, depending upon the circumstances of each particular case; and that, in the case of tobacco products and alcoholic beverages, the containers shall have been opened and the total quantity brought ashore while the vessel is in port shall not exceed 50 cigars, 300 cigarettes, or 3 pounds of smoking tobacco, or a proportionate amount of each, and 1 quart of alcoholic beverages. In the case of articles possessing substantial commercial value, such as cameras, watches, razors, and other articles not consumed through use, the customs officer concerned, before passing the article free of duty, shall assure himself beyond doubt that the article brought ashore is for the actual bona fide personal use of the seaman while on shore leave and is to be returned to the vessel.[10] (Secs. 453, 497, 624, 46 Stat. 716, 728, 759; 19 U. S. C. 1453, 1497, 1624)

§ 23.5 *Baggage of passengers from foreign countries.* (a) Except as provided for in paragraph (b) of this section any article in the baggage of a passenger arriving from a foreign country which is not declared as required by § 10.19 of this chapter shall be seized if it is available for seizure at the time the violation is detected and the personal penalty prescribed by section 497, Tariff Act of 1930[11] shall be demanded from the passenger. If the article is not seized, the Government is limited to a claim for the personal penalty against the person who imported the merchandise without declaration, since section 497 does not provide for the collection of value in lieu of seizure. Since undeclared articles are treated as smuggled, no duty shall be collected.

(b) When an article not declared in accordance with § 10.20 of this chapter is found in the baggage of a person arriving in the United States and it is satisfactorily established that (1) the article would have been free of duty and internal-revenue tax if it had been properly declared, (2) that its importation is not prohibited or restricted, and (3) that the failure to declare was not due to willful negligence or fraudulent intent, the personal penalty incurred is hereby remitted pursuant to the authority of section 618, Tariff Act of 1930. In any such case, when the article would have been free of duty only because of the provisions of paragraph 1798, Tariff Act of 1930, as amended, the forfeiture incurred is hereby mitigated pursuant to the authority of the said section 618 to a sum equal to the duty and any internal-revenue tax which would have accrued upon the article had it been imported for commercial purposes, and when the article would otherwise have been free of duty and internal-revenue tax, the forfeiture incurred is hereby remitted pursuant to the same authority.

(c) A passenger who makes any false or fraudulent statement or is guilty of other conduct within the purview of section 592, Tariff Act of 1930, as amended, whereby a customs officer is or may be induced to pass an article free of duty under paragraph 1793 of the said act, as amended, or at less than the proper amount of duty, or who attempts to enter under the said paragraph 1798 any article which in fact does not belong to him, and a returning resident who, in connection with his return to the United States, claims the benefit of the $100 or $300 exemption provided for in said paragraph 1798 within the respective period during which taking advantage of the claimed exemption is prohibited, shall be deemed to have violated the said section 592. In any such case the article involved shall be seized, if it is available for seizure at the time the violation is detected and such seizure is otherwise practicable, unless the article is in the possession of an innocent holder for value who has full right to possession as against any party to the customs violation. If the article is not available for seizure or is in the hands of such an innocent holder, or if seizure is impracticable, the domestic value of the article, determined in accordance with section 606, Tariff Act of 1930, shall be demanded from the passenger. Whether the article is seized or the domestic value thereof is demanded in lieu of seizure, the duty estimated to be due thereon shall be demanded of the passenger as soon as possible after the discovery of the violation. (Secs. 497, 592, 618, 624, 46 Stat. 728, 750, 757, 759, sec. 304 (b) 49 Stat. 527; 19 U. S. C. 1497, 1592, 1618, 1624)

§ 23.6 *Entry by false invoice, declaration, other document, or statement; forfeiture incurred; liability for duties unaffected.* (a) When merchandise or the value thereof is subject to forfeiture under section 592, Tariff Act of 1930, as amended,[12] the collector may elect to

merchandise carried therein, or discharges or lands such merchandise without a permit; such merchandise and the vessel or vehicle, if any, in which it was imported or brought into the United States shall be subject to forfeiture; and the master of such vessel or the person in charge of such vehicle, or the person importing or bringing in merchandise otherwise than in a vessel or vehicle, shall, in addition to any other penalty, be liable to a penalty equal to the value of the merchandise which was not reported, or not included in the manifest, or which was discharged or landed without a permit. If any vessel or vehicle not so reported carries any passenger; or if any passenger is discharged or landed from any such vessel or vehicle before it is so reported, or after such report but without a permit; the master of the vessel or the person in charge of the vehicle shall, in addition to any other penalty, be liable to a penalty of $500 for each passenger so carried, discharged, or landed." (Tariff Act of 1930, sec. 460, as amended; 19 U. S. C. 1460)

[9] "If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the collector, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is $500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture." (Tariff Act of 1930, sec. 453; 19 U. S. C. 1453)

[10] The fact that any such article shows no evidence of use would be sufficient in most cases to raise a reasonable doubt, particularly if the article is of foreign origin.

[11] Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article. (Tariff Act of 1930, sec. 497; 19 U. S. C. 1497)

[12] If any consignor, seller, owner, importer, consignee, agent, or other person or persons enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration,

proceed against the merchandise or its domestic value. If the merchandise is in the possession of an innocent purchaser, it shall not be seized. In such cases, or when the merchandise is not available for seizure, the collector shall proceed to recover the domestic value.

(b) If a claim for forfeiture value is made by the collector and is not paid or settled as prescribed in this part, the claim shall be forwarded to the United States attorney for appropriate action.

(c) When any article is seized under the provisions of section 499, Tariff Act of 1930, as amended,[12] it shall be subject to forfeiture under section 592 of the tariff act, as amended.

(d) An entry covering merchandise subject to the provisions of such section 592 shall be liquidated and the duties collected as though no forfeiture had been incurred. Appraisement of the merchandise or liquidation of the entry shall not be withheld merely because of the pending forfeiture proceedings. When merchandise not covered by an entry is subject to such section 592, a demand shall be made on the importer for payment of the duty estimated to be due on such merchandise in addition to the seizure of the merchandise or the demand for forfeiture value. (Sec. 592, 46 Stat. 750, sec. 304 (b) 49 Stat. 527, sec. 624, 46 Stat. 759; 19 U. S. C. 1592, 1624)

§ 23.7 *Undervaluation exceeding 100 percent.* (a) The presumption of fraud established by section 489, Tariff Act of 1930,[14] shall be asserted only against imported merchandise subject to an ad valorem rate of duty or to a duty based upon or regulated in some manner by its value.

(b) The phrase "appraised value," as used in such section 489, shall mean the value found by the appraiser pursuant to section 500, Tariff Act of 1930, or, in the case of appeal for reappraisement, by the United States Customs Court pursuant to section 501 of that act.

(c) Proceedings for forfeiture for fraud presumed under such section 489 shall be instituted under sections 607–610, Tariff Act of 1930. The liability to forfeiture applies to the whole case or package containing the particular article or articles which have been advanced in value over 100 percent. (See § 23.15.)

(d) The importer is liable for regular and additional duties on merchandise which has been undervalued more than 100 percent even though such merchandise is forfeited. (Sec. 592, 46 Stat. 750, sec. 304 (b) 49 Stat. 527, secs. 489, 624, 46 Stat. 725, 759; 19 U. S. C. 1489, 1592, 1624)

§ 23.8 *Merchandise imported contrary to law.* Action shall be taken under section 545, title 18, United States Code,[15] only when there is clear indication of a violation of some specific provision of law.[16] (Sec. 624, 46 Stat. 759; 18 U. S. C. 545; 19 U. S. C. 1624)

§ 23.9 *Narcotic drugs and marihuana.* (a) The penalties prescribed in section 584, Tariff Act of 1930, as amended,[17] shall be assessed with respect to any unmanifested narcotic drug found on board of, or after having been unladen from, a vessel or vehicle. This rule is without exception and shall be applied without regard to any opinion of a customs officer as to any question of negligence or responsibility.

(b) When a package of regular cargo or a passenger's baggage otherwise prop-

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affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or makes any false statement in any declaration under the provisions of section 485 of this Act (relating to declaration on entry) without reasonable cause to believe the truth of such statement, or aids or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement; or is guilty of any willful act or omission by means whereof the United States is or may be deprived of the lawful duties or any portion thereof accruing upon the merchandise or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, such merchandise, or the value thereof, to be recovered from such person or persons, shall be subject to forfeiture, which forfeiture shall only apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles of merchandise to which such fraud or false paper or statement relates. The arrival within the territorial limits of the United States of any merchandise consigned for sale and remaining the property of the shipper or consignor and the acceptance of a false or fraudulent invoice thereof by the consignee or the agent of the consignor, or the existence of any other facts constituting an attempted fraud, shall be deemed, for the purposes of this section, to be an attempt to enter such merchandise notwithstanding no actual entry has been made or offered. (Tariff Act of 1930, sec. 592, as amended; 19 U. S. C. 1592)

Acts or omissions which constitute grounds for forfeiture under section 592 may also justify criminal prosecution under 18 U. S. C. 542, in addition to the forfeiture incurred under section 592.

[12] "* * * If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. * * *" (Tariff Act of 1930, sec. 499, as amended; 19 U. S. C. 1499)

[14] "* * * If the appraised value of any merchandise exceeds the value declared in the entry by more than 100 per centum such entry shall be presumptively fraudulent, and the collector shall seize the whole case or package containing such merchandise and proceed as in case of forfeiture for violation of the customs laws; and in any legal proceeding other than a criminal prosecution that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he rebuts such presumption of fraud by sufficient evidence.

"* * * All additional duties, penalties, or forfeiture applicable to merchandise entered in connection with a certified invoice shall be alike applicable to merchandise entered in connection with a seller's or shipper's invoice or statement in the form of an invoice. * * *" (Tariff Act of 1930, sec. 489; 19 U. S. C. 1489)

[15] "Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

"Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

"Shall be fined not more than $5,000 or imprisoned not more than two years, or both.

"Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

"Merchandise introduced into the United States in violation of this section shall be forfeited to the United States.

"The term 'United States' as used in this section, shall not include the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Guam." (18 U. S. C. 545)

[16] It is not necessary that the Government shall have been deprived of duty to warrant a conviction of forfeiture under 18 U. S. C. 545; it need only be established that merchandise has been fraudulently or knowingly introduced into the United States contrary to law.

"Contrary to law" is not confined to the customs laws but means any law. See Callahan v. United States, 285 U. S. 515.

[17] "* * * If any of such merchandise so found consists of heroin, morphine, or cocaine, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $50 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $25 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $10 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 594 of this act (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier, shall not be liable to such penalties and the vessel shall not be held subject to the lien if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law. * * *" (Tariff Act of 1930, sec. 584, as amended; 19 U. S. C. 1584)

erly manifested is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not shown as such on the manifest, the penalties prescribed in such section 584 shall be assessed with respect to such narcotic drug or marihuana.

(c) The penalties prescribed in section 453, Tariff Act of 1930, shall be assessed in every case where a narcotic drug or marihuana is unladen without a permit.

(d) When a package of regular cargo or a passenger's baggage otherwise covered by a permit to unlade is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not specifically covered by a permit to unlade, the penalties prescribed by such section 453 shall be assessed with respect to such narcotic drug or marihuana.

(e) Where a penalty has been incurred under section 584, Tariff Act of 1930, as amended, for failure to manifest narcotic drugs, clearance of the vessel involved shall be withheld until the penalty is paid or a bond satisfactory to the collector is given for the payment thereof, unless (1) the narcotics were discovered in a passenger's baggage and the collector is satisfied that neither the master nor any of the officers nor the owner of the vessel knew or had any reason to know or suspect that the narcotics had been on board the vessel, or (2) prior authority for the clearance without payment of the penalty or the furnishing of the bond is obtained from the Bureau.

(f) A written notice and demand for payment of the penalty incurred under section 584, Tariff Act of 1930, as amended, together with a copy of such section 584, shall be sent to the master of the vessel or the person in charge of the vehicle and to the owner of such vessel or vehicle. In the case of a vessel, if bond has been given, such notice shall be sent also to each surety. If the penalty is not paid or a petition filed under section 618, Tariff Act of 1930, for relief from such penalty, the collector shall refer the case to the United States attorney for appropriate action.

(g) When a petition has been filed and a decision made thereon, the collector shall send notice of such decision to the interested persons together with a demand for any payment required under the terms of such decision. If payment is not made, the collector shall refer the case to the United States attorney for collection of the full statutory penalty.

(h) Collectors may permit narcotic drugs (not including any smoking opium or opium prepared for smoking) in reasonable quantity and properly listed as medical stores of a vessel to remain on such vessel if satisfied that such drugs are adequately safeguarded and intended to be used only for medical purposes.

(i) All smoking opium or opium prepared for smoking shall be seized whenever and wherever found and shall stand forfeited without forfeiture proceedings of any character.[18]

(j) Except as provided for in this paragraph, all narcotic drugs seized under the Narcotic Drugs Import and Export Act by any Federal officer other than a customs officer shall be delivered immediately into the custody of the collector of customs in whose district the seizure is made, together with a full report of the circumstances of the seizure. When the seizure is made by a Federal narcotic inspector or agent in connection with an investigation which such inspector or agent considers may result in criminal prosecution under any Federal narcotic law, the drugs so seized shall not be delivered into the custody of the collector of customs until it is determined that they will not, or will no longer, be required as evidence.

(k) The exportation of smoking opium and opium prepared for smoking is absolutely prohibited. Other narcotic drugs or marihuana may be exported only under a permit issued by the Commissioner of Narcotics.[19]

(l) Arrests and seizures under the narcotic laws, except as specified above, shall be handled in the same manner as other customs arrests and seizures. (Sec. 584, 46 Stat. 748, sec. 204, 49 Stat. 523, sec. 624, 46 Stat. 759, R. S. 161; 19 U. S. C. 1584, 1624; 5 U. S. C. 22)

§ 23.10 *Maritime Commission vessels; exemption from penalty.* (a) When a vessel owned or chartered under bareboat charter by the United States Maritime Commission and operated for its account becomes liable for the payment of a penalty incurred for violation of the customs revenue or navigation laws, clearance of the vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(b) This exemption shall not in any way be considered to relieve the master of any such vessel or other person incurring such penalties from personal liability for payment. (R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

§ 23.11 *Seizures,*[21] *who may make; search warrants.* (a) Any customs officer having reasonable cause to believe that a violation has been committed of any law, the enforcement of which is within the jurisdiction of the Customs Service, by reason of which any property has become subject to forfeiture, shall seize such property if available. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized. A collector of customs may adopt a seizure made by a person[21] other than a customs officer if such collector has reasonable cause to believe that the property is subject to forfeiture under the customs laws.

(b) Seizures for undervaluation pursuant to section 489, Tariff Act of 1930, shall be made by the collector.

(c) If the duly constituted officials of a state have seized any merchandise, vessel, or vehicle under the provisions of the statutes of such state, such property shall not be seized by customs officers unless it is voluntarily turned over to them to be proceeded against under the Federal statutes.

(d) A customs officer to whom a warrant is issued to search for and seize merchandise is without authority to remove letters and other documents and records, unless they themselves are instruments of crime and are seized as an incident to a lawful arrest.[22]

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[18] "It is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the Commissioner of Narcotics finds to be necessary to provide for medical and legitimate uses only may be imported and brought into the United States or such territory under such regulations as the Commissioner of Narcotics shall prescribe, but no crude opium may be imported or brought in for the purpose of manufacturing heroin. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

"Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall (1) if smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or (2) if any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 514 and 515 of Title 19, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections. Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under such sections, or which is summarily forfeited as provided in this subdivision, shall be placed in the custody of the Commissioner of Narcotics and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes." (21 U. S. C. 173)

[19] "It shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country. Narcotic drugs (except smoking opium * * *) may be exported to a country only which has * * * become a party of the convention * * * commonly known as the International Opium Convention of 1912, * * *" (21 U. S. C. 182 (a))

[21] To constitute a valid seizure there must be an open visible possession claimed and authority exercised by the seizing officer. The parties must understand that they are dispossessed and that they are no longer at liberty to exercise any control over the property. A superior physical force is not necessary to be employed if there is voluntary acquiescence in the seizure and dispossession. A seizure once made, if voluntarily abandoned by the seizing officer, loses its validity.

[21] A person other than a customs officer who makes a seizure does so on his own responsibility if the seizure is not adopted by a collector of customs.

"It shall be the duty of any officer, agent, or other person authorized by law to make seizures of merchandise or baggage subject to seizure for violation of the customs laws, to report every such seizure immediately to the collector for the district in which such violation occurred, and to turn over and deliver to such collector any vessel, merchandise, or baggage seized by him, and to report immediately to such collector every violation of the customs laws." (Tariff Act of 1930, sec. 602; 19 U. S. C. 1602)

[22] "(a) *Warrant.* If any collector of customs or other officer or person authorized to make searches and seizures shall have cause to suspect the presence in any dwelling

(e) When acting under a warrant to search the rooms in a building occupied by persons named or described in the warrant, no search shall be made of any rooms in such building which are not described in the warrant as occupied by such persons.

(f) The warrant shall be served in person by the officer to whom it is issued and addressed.

(g) In serving a search warrant, the officer shall leave a copy of the warrant with the person in charge or possession of the premises, together with a receipt for the property seized thereunder. In the absence of any person, the copy and receipt shall be left in some conspicuous place on the premises searched.

(h) A customs officer who is lawfully on any premises and is able to identify merchandise which has been imported contrary to law may seize such merchandise without a warrant.

(i) This section shall be applicable to the search of buildings on the international boundary line. (See § 5.15 of this chapter.) (Sec. 624, 46 Stat. 759, R. S. 161, 19 U. S. C. 1624, 5 U. S. C. 22)

§ 23.12 *Appraisement of property subject to forfeiture; determination of penalties measured by value.* (a) Seized property shall be appraised as required by section 606, Tariff Act of 1930.[23]

(b) The term "domestic value," applied with respect to this section, shall be the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisement, such value in the principal market nearest to the place of appraisement shall be reported.

(c) Seized merchandise the importation of which is absolutely prohibited shall be appraised at its foreign-market value, since such merchandise has no domestic value.

(d) For the purpose of condemnation or forfeiture only,[24] the value of all seized merchandise the importation of which is prohibited shall be held not to exceed $1,000.

(e) If merchandise is seized for undervaluation disclosed on the original appraisement or on reappraisement, a further appraisement shall be made pursuant to section 606, Tariff Act of 1930, to ascertain the domestic value of the merchandise for forfeiture purposes.

(f) With respect to property not under seizure, the value to be used as the basis of a claim for forfeiture value or for the assessment of a penalty is the domestic value, which shall be determined or estimated by the appraiser in accordance with paragraph (b) of this section, except that the value shall be fixed as of the date of the violation. In the case of entered merchandise, the date of the violation shall be the date of the entry or the date of the filing of the document or the commission of the act forming the basis of the claim, whichever is later. (Secs. 606, 608, 624, 46 Stat. 754, 755, 759; 19 U. S. C. 1606, 1608, 1624)

§ 23.13 *Claims for seized property valued at not over $1,000; bond for costs.* (a) The bond required by section 608, Tariff Act of 1930,[25] to be filed with a claim for any seized property valued at not over $1,000 and subject to summary forfeiture shall be on customs Form 4615 and there shall be endorsed thereon a list or schedule which shall in every case be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses. The list or schedule shall be substantially as follows:

List or schedule containing a particular description of seized articles, claim for which is covered by the within bond, to-wit:

The foregoing list is correct.

----------, Claimant.

Attest:

(b) The giving of a bond covering seized property, pursuant to such section 608, shall not be construed to entitle the claimant to possession of the property, but only to stop the summary forfeiture proceedings. (See § 23.21 (c).) (Secs. 608, 624, 46 Stat. 755, 759; 19 U. S. C. 1608, 1624)

§ 23.14 *Release on payment of appraised value.* (a) When the appraised domestic value of property seized under the customs laws does not exceed $5,000 and the collector is satisfied that a claimant making a written offer to pay such value pursuant to section 614, Tariff Act of 1930,[25] has, in fact, a substantial interest therein, the collector is hereby authorized to accept such offer and to release such property, provided its entry into the commerce of the United States is not prohibited by law and the claimant or his attorney shall have executed an assent to forfeiture and a waiver of further proceedings on customs Form 4607. In any case where the collector is not satisfied that the proponent has a substantial interest in the seized property or for any other reason believes that it would not be to the interest of the United States to accept the offer, the procedure outlined in paragraph (b) of this section shall be followed.

(b) Any application not covered by the preceding paragraph shall be in writing, addressed to the Commissioner of Customs, signed by the claimant or his attorney and shall contain an assent to forfeiture and a waiver of further proceedings. It shall be submitted in duplicate to the collector for the district in which the property was seized. Proof of ownership shall be submitted with the

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house, store, or other building or place of any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States contrary to law, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any United States commissioner, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise: * * *

"(b) *Entry upon property of others.* Any person authorized by this Act to make searches and seizures, or any person assisting him or acting under his directions, may, if deemed necessary by him or them, enter into or upon or pass through the lands, inclosures, and buildings, other than the dwelling house, of any person whomsoever, in the discharge of his official duties." (Tariff Act of 1930, section 595; 19 U. S. C. 1595)

"Whoever, being an officer, agent, or employee of the United States or any department or agency thereof, engaged in the enforcement of any law of the United States, searches any private dwelling used and occupied as such dwelling without a warrant directing such search, or maliciously and without reasonable cause searches any other building or property without a search warrant, shall be fined for a first offense not more than $1,000; and, for a subsequent offense, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"This section shall not apply to any person—

"(a) serving a warrant of arrest; or

"(b) arresting or attempting to arrest a person committing or attempting to commit an offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony; or

"(c) making a search at the request or invitation or with the consent of the occupant of the premises." (18 U. S. C. 2236)

"Whoever falsely represents himself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be fined not more than $1,000 or imprisoned not more than three years, or both." (18 U. S. C. 913)

[23] "The collector shall require the appraiser to determine the domestic value, at the time and place of appraisement, of any vessel, vehicle, merchandise, or baggage seized under the customs laws." (Tariff Act of 1930, sec. 606; 19 U. S. C. 1606)

[24] See sec. 607, as amended, and secs. 610 and 612, Tariff Act of 1930.

[25] "Any person claiming such vessel, vehicle, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the collector a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of $250, with sureties to be approved by the collector, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, the collector shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law." (Tariff Act of 1930, sec. 608; 19 U. S. C. 1608)

The costs and expenses secured by the bond are such as are incurred after the filing of the bond, including storage costs, safeguarding, court fees, marshal's costs, etc.

[25] "If any person claiming an interest in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act offers to pay the value of such vessel, vehicle, merchandise, or baggage, as determined under section 606 of this Act, and it appears that such person has in fact a substantial interest therein, the collector may, subject to the approval of the Secretary of the Treasury if under the customs laws, or the Secretary of Commerce if under the navigation laws, accept such offer and release the vessel, vehicle, merchandise, or baggage seized upon the payment of such value thereof, which shall be distributed in the order provided in section 613 of this Act." (Tariff Act of 1930, sec. 614; 19 U. S. C. 1614)

application if the facts in the case make such action necessary. (Secs. 614, 624, 46 Stat. 757, 759; 19 U. S. C. 1614, 1624)

§ 23.15 *Release of goods advanced over 100 percent; stipulation; petition for relief from seizure.* (a) When merchandise is liable to seizure for undervaluation exceeding 100 percent and the importer desires immediate possession thereof pending reappraisement proceedings or a decision on a petition to the Commissioner of Customs for relief from forfeiture on the ground that the presumption of fraud existing in the case can be rebutted, the collector may release such merchandise upon the importer's depositing a sum of money equivalent to the domestic value of the entire package of goods containing the article or articles undervalued more than 100 percent, together with a sum sufficient to cover the estimated supplemental or increased duty and 75 percent additional duty accruing thereon, and entering into a stipulation in the following form:

Whereas certain merchandise contained in package No. _____, on invoice No. _____, entry No. _____, imported by _____, ex. S. S. _____, on the _____ day of _____, 19__, has been advanced in value by the appraiser more than 100 percent, and is liable to seizure; and

Whereas I (we) _____, the _____, desire to obtain possession of the merchandise contained in the said package notwithstanding such advance; and

Whereas I (we) have deposited with the collector of the port of _____ a sum of money equivalent to the domestic value of said package of merchandise, such sum to be held by the collector pending reappraisement or re-reappraisement of the merchandise, or an application to the Commission of Customs for relief.

Now, therefore I (we) do hereby stipulate and agree to abide by the result of such reappraisement or re-reappraisement on the retained samples in the same manner as if the entire package had been held for such proceedings.

It is further stipulated and agreed that, should the appraised value as finally determined exceed the entered value of the said merchandise by more than 100 percent, and the Commissioner of Customs deny relief, the money deposited may be seized and forfeited and covered into the Treasury of the United States as though received from a sale of the merchandise, and I (we) do hereby waive any and all objections which may at any time be raised by reason of the fact that the merchandise has been delivered and the cash deposited in lieu thereof.

_____

Dated, _____, 19_____.
In presence of:
_____
_____

(b) Petitions for relief from forfeiture shall be addressed to the Commissioner of Customs and submitted to the collector. (See § 17.10 of this chapter.) (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 23.16 *Notice of seizure and sale; value not exceeding $1,000; advertisement.* (a) The notice of seizure and intention to forfeit and sell property not exceeding $1,000 in value required by section 607, Tariff Act of 1930, as amended,[21] shall (1) be published in a newspaper of general circulation in the customs collection district and the judicial district where the property was seized; (2) describe the property seized; (3) state the time, cause, and place of seizure; and (4) state that any person desiring to claim the property must appear and file with the collector a claim to such property and a bond in the sum of $250 within 20 days from the date of the first publication of the notice, in default of which the property will be disposed of in accordance with law.

(b) Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by other Government agencies are sold, they shall be inspected by a representative of such agency to ascertain whether or not they meet the requirements of the law and the regulations of that agency, and, if found not to meet such requirements, they shall be destroyed forthwith. (Sec. 607, 46 Stat. 754, sec. 23 (a) 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1607, 1624)

§ 23.17 *Disposition of goods after summary forfeiture; value not exceeding $1,000.* (a) When property has been forfeited pursuant to section 609, Tariff Act of 1930, as amended,[22] the declaration of forfeiture shall be noted on the report of seizure, customs Form 5955. If no petition for relief from the forfeiture is filed or if a petition was filed and has been denied, and the property is not retained for official use, it shall be disposed of in accordance with the provisions of T. D. 48105, as amended.

(b) If the forfeited property is cleared for sale, it shall be sold in accordance with the applicable provisions of Part 20 of this chapter.

(c) The collector may postpone the sale of small seizures until he believes the proceeds of a consolidated sale will pay all expenses.

(d) If a seizure is made under a statute which provides that the property may be seized and proceeded against by libel,[23] the summary forfeiture proceedings set forth in this section and the proceedings set forth in §§ 23.13 and 23.16 do not apply. Such cases shall be referred to the United States attorney. (Sec. 609, 46 Stat. 735, sec. 23 (b), 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1609, 1624)

§ 23.18 *Summary sale of seized property.* Seized property of the kinds enumerated in section 612, Tariff Act of 1930,[24] which has not been delivered under bond and is valued at not over $1,000 shall be advertised for sale and sold at public auction at the earliest possible date. Within 24 hours after receipt of the appraiser's report the collector shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable. This notice shall be of sale only and not the notice of seizure and intention to forfeit and sell provided for in § 23.16. The proceeds of the sale shall be held subject to the claims of parties in interest in the same manner as the seized property would have been subject to such claims. (Secs. 612, 624, 46 Stat. 756, 759; 19 U. S. C. 1612, 1624)

§ 23.19 *Transfer of forfeited property to other districts for sale; destruction of forfeited property.* (a) Pursuant to the provisions of section 611, Tariff Act of 1930,[25] if the laws of a state in which

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[21] "If such value of such vessel, vehicle, merchandise, or baggage returned by the appraiser, does not exceed $1,000, the collector shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. For the purposes of this section and sections 610 and 612 of this Act merchandise the importation of which is prohibited shall be held not to exceed $1,000 in value." (Tariff Act of 1930, sec. 607, as amended; 19 U. S. C. 1607)

[22] "If no such claim is filed or bond given within the twenty days hereinbefore specified, the collector shall declare the vessel, vehicle, merchandise or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold, or otherwise dispose of the same according to law and shall deposit the proceeds of sale, after deducting the actual expenses of seizure, publication and sale in the Treasury of the United States." (Tariff Act of 1930, sec. 609, as amended; 19 U. S. C. 1609)

[23] For example: The Insecticide Act, 7 U. S. C. 133; the Federal Caustic Poison Act, 15 U. S. C. 404; the Food and Drugs Act, 21 U. S. C. 14. See Part 12 of this chapter.

[24] "Whenever it appears to the collector that any vessel, vehicle, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and the value of such vessel, vehicle, merchandise, or baggage as determined by the appraiser under section 606 of this Act, does not exceed $1,000, and such vessel, vehicle, merchandise, or baggage has not been delivered under bond, the collector shall, within twenty-four hours after the receipt by him of the appraiser's return proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. If such value of such vessel, vehicle, merchandise, or baggage exceeds $1,000 the collector shall forthwith transmit the appraiser's return and his report of the seizure to the United States district attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the collector or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, merchandise, or baggage so sold would have been subject to such claim." (Tariff Act of 1930, sec. 612; 19 U. S. C. 1612)

[25] "If the sale of any vessel, vehicle, merchandise, or baggage forfeited under the customs laws in the district in which seizure thereof was made be prohibited by the laws of the State in which such district is located, or if a sale may be made more advantageously in any other district, the Secretary of the Treasury may order such vessel, vehicle, merchandise, or baggage to be transferred for sale in any customs district in which the sale thereof may be permitted. Upon the request of the Secretary of the Treasury, any court may, in proceedings for the forfeiture of any vessel, vehicle, merchandise, or baggage under the customs laws, provide in its decree of forfeiture that the vessel, vehicle, merchandise, or baggage so forfeited, shall be delivered to the Secretary of the Treasury for disposi-

property is seized and forfeited prohibit the sale of such property, or if the Commissioner is of the opinion that the sale of forfeited property may be made more advantageously in another customs district, the property shall be moved to and sold in such other customs district as the Commissioner may direct provided it has been cleared for sale pursuant to T. D. 48105, as amended.

(b) If, after the summary forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale, the collector, with the consent of the Commissioner, may order the destruction of the property. Similarly, property forfeited under a decree of any court may be destroyed if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury for disposition in accordance with section 611, Tariff Act of 1930. (Secs. 611, 624, 46 Stat. 755, 759; 19 U. S. C. 1611, 1624)

§ 23.20 *Disposition of proceeds of sale.* (a) Expenses incurred by customs officers in connection with seizures and forfeitures shall be paid from the customs appropriation. In the event that the forfeiture property has been authorized for transfer to another Federal agency for official use, the receiving agency shall reimburse the customs appropriation for the costs incurred for moving and storing such property from the date of seizure to the date of delivery. If the property is cleared for sale, the customs appropriation shall be reimbursed from the proceds of the sale for all expenses paid from such appropriation in connection with the seizure and forfeiture of such property.

(b) If the forfeiture and sale of property is pursuant to court proceedings, or the imposition of a fine or penalty results from a prosecution instituted in a civil or criminal case under the customs laws, the sum recovered, after deducting all proper charges for marshal's fees, court costs, etc., is payable to the collector of customs. Upon receipt of such sum, the collector shall distribute it without delay in accordance with section 613, Tariff Act of 1930, as amended.[32] (Sec. 613, 46 Stat. 756, sec. 29, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1613, 1624)

§ 23.21 *Forfeiture by court decree; reports to United States attorneys.* (a) When it is necessary to institute legal proceedings in order to forfeit seized property, or to forfeit the value of property subject to forfeiture, or to prosecute by a civil or criminal action for any violation of the customs laws, the collector or the principal local officer of the Customs Agency Service shall furnish a report to the United States attorney,[33] in accordance with the provisions of section 603, Tariff Act of 1930, as amended.[34]

(b) When the appraised value of seized property exceeds $1,000 and neither an application to the Bureau for relief nor an offer to pay the domestic value thereof, as provided for in § 23.14, made within a reasonable time, the collector shall report the facts to the United States attorney for the judicial district in which the seizure was made.[35]

(c) If the appraised value of seized property is less than $1,000 and the claimant gives a bond on customs Form 4615, as provided for in § 23.13, within the statutory period, the collector shall likewise report the case to the United States attorney. (Sec. 603, 46 Stat. 754, sec. 27, 52 Stat. 1089, secs. 610, 624, 46 Stat. 755, 759; 19 U. S. C. 1603, 1610, 1624)

§ 23.22 *Bonding of seized property; petition to the court.* (a) When a claimant desires to file a bond for the release of seized property which is the subject

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tion in accordance with the provisions of this section. If the Secretary of the Treasury is satisfied that the proceeds of any sale will not be sufficient to pay the costs thereof, he may order a destruction by the customs officers: *Provided,* That any merchandise forfeited under the customs laws, the sale or use of which is prohibited under any law of the United States or of any State, may, in the discretion of the Secretary of the Treasury, be destroyed, or remanufactured into an article that is not prohibited, the resulting article to be disposed of to the profit of the United States only." (Tariff Act of 1930, sec. 611; 19 U. S. C. 1611)

[32] "* * * If no application for such remission of restoration is made within three months after such sale, or if the application be denied by the Secretary of the Treasury or the Secretary of Commerce, the proceeds of sale shall be disposed of as follows:

"(1) For the payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the property, advertising and sale, and if condemned by a decree of a district court and a bond for such costs was not given, the costs as taxed by the court;

"(2) For the satisfaction of liens for freight, charges, and contributions in general average, notice of which has been filed with the collector according to law; and

"(3) The residue shall be deposited with the Treasurer of the United States as a customs or navigation fine." (Tariff Act of 1930, sec. 613, as amended; 19 U. S. C. 1613)

[33] Judicial proceedings for the forfeiture of seized merchandise must be instituted within the judicial district in which the seizure was made.

Such proceedings for forfeiture under any law of the United States of a seizure made on the high seas may be prosecuted in any judicial district in which the property so seized is brought and proceedings instituted.

The trial of offenses in criminal cases takes place in the judicial district in which the crime was committed, but when the offense is begun in one district and completed in another, it may be tried in either district.

Offenses committed upon the high seas, or elsewhere out of the jurisdiction of any particular state or judicial district, are tried in the judicial district in which the offender is found, or into which he is first brought.

"No suit or action to recover any pecuniary penalty or forfeiture of property accruing under the customs laws shall be instituted unless such suit or action is commenced within five years after the time when the alleged offense was discovered: *Provided,* That the time of the absence from the United States of the person subject to such penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within this period of limitation." (Tariff Act of 1930, sec. 621, as amended; 19 U. S. C. 1621)

"In all suits or actions brought for the forfeiture of any vessel, vehicle, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided,* That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

"(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel or vehicle, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

"(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

"(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel." (Tariff Act of 1930, sec. 615, as amended; 19 U. S. C. 1615)

"Upon the entry of judgment for the claimant in any proceeding to condemn or forfeit property seized under any Act of Congress, such property shall be returned forthwith to the claimant or his agent; but if it appears that there was reasonable cause for the seizure, the court shall cause a proper certificate thereof to be entered and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution." (28 U. S. C. 2465)

"Execution shall not issue against a collector or other revenue officer on a final judgment in any proceeding against him for any of his acts, or for the recovery of any money exacted by or paid to him and subsequently paid into the Treasury, in performing his official duties, if the court certifies that:

(1) probable cause existed; or

(2) the officer acted under the directions of the Secretary of the Treasury or other proper Government officer.

"When such certificate has been issued, the amount of the judgment shall be paid out of the proper appropriation by the Treasury." (28 U. S. C. 2006)

[34] "Whenever a seizure of merchandise for violation of the customs laws is made, or a violation of the customs laws is discovered, and legal proceedings by the United States attorney in connection with such seizure or discovery are required, it shall be the duty of the collector or the principal local officer of the Customs Agency Service to report such seizure or violation to the United States attorney for the district in which such violation has occurred, or in which such seizure was made, and to include in such report a statement of all the facts and circumstances of the case within his knowledge, with the names of the witnesses and a citation to the statute or statutes believed to have been violated, and on which reliance may be had for forfeiture or conviction." (Tariff Act of 1930, sec. 603, as amended; 19 U. S. C. 1603)

[35] "If the value returned by the appraiser or any vessel, vehicle, merchandise, or baggage so seized is greater than $1,000, the collector shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property." (Tariff Act of 1930, sec. 610; 19 U. S. C. 1610)

of a court proceeding[23] he shall be referred to the United States attorney. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

§ 23.23 *Fines, penalties, and forfeitures; remission of.* (a) Every offender under the customs or navigation laws shall be advised of any fine or penalty incurred by him as well as any liability to forfeiture. Whenever possible, customs officers shall inform each interested person of his right to apply for relief under section 618, Tariff Act of 1930,[24] or any other applicable statute authorizing mitigation or remission of penalties.

(b) In the case of smuggling of articles of small value, demand shall be made for an immediate deposit on account of the penalty incurred in an amount equivalent to the domestic value of the articles whether or not a petition for relief is filed. Such demand need not be made in connection with any liability incurred by the master of a vessel under the provisions of section 453, Tariff Act of 1930.

(c) Except as provided for in § 23.21 (b) if the person liable for any violation of the customs or navigation laws fails to petition for relief or pay the penalty within 60 days from the date of mailing of the notice of violation as provided for in paragraph (a) of this section, (1) the case shall be referred immediately to the United States attorney for appropriate action unless it appears that the person liable for the penalty is absent from the United States or during the said period was absent for more than 30 days, in which event the collector may withhold such action for a further reasonable time, or (2) if the person liable cannot be found, if deceased, is insolvent, is beyond the reach of legal process and likely to remain so, or if for any other reason the facts so warrant, the facts shall be reported to the Bureau with a request for authority to close the case without prejudice to further action. When a penalty is mitigated or a forfeiture remitted upon condition that a stated amount be paid, and the mitigated penalty or stated amount is not paid or a supplemental petition filed within 60 days from the date a notice of the settlement is mailed to the petitioner, the matter shall be referred immediately to the United States attorney for appropriate attention, unless other action has been directed by the Bureau.

(d) No action looking to the remission or mitigation of a fine, penalty, or forfeiture shall be taken on any petition, irrespective of the amount involved, if the case has been referred to the Department of Justice for the institution of legal proceedings.

(e) In the case of vessels or vehicles awarded for official use, a petition shall not be considered unless filed before final disposition of the property is made. (R. S. 161, secs. 618, 624, 46 Stat. 757, 759; 5 U. S. C. 22, 19 U. S. C. 1618, 1624. Sec. 102, Reorg. Plan No. 3 of 1946, 3 CFR, 1946, 3 CFR, 1946 Supp., Ch. IV)

§ 23.24 *Petitions for the remission or mitigation of fines, penalties, and forfeitures, and restoration of proceeds of sale.* (a) Any petition for the remission or mitigation of a fine, penalty, or forfeiture incurred under the customs or navigation laws or for the restoration of the proceeds of a sale of property forfeited under the customs laws shall be addressed to the Commissioner of Customs, executed under oath by the petitioner, and filed with the collector of customs of the district in which the property was seized or the fine or penalty imposed. It shall be filed in duplicate or in triplicate, as required by the collector, and shall set forth a description of the property involved; the date and place of violation or seizure; and the facts relied upon by the petitioner to justify the remission or mitigation. In addition, when the petition is for relief from forfeiture or for the restoration of the proceeds of a sale, it shall show the interest of the petitioner in the property and in appropriate cases shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence. If the property was in the possession of another person who was responsible for the act which caused the fine, penalty, or forfeiture, evidence shall be produced as to the manner in which the property came into the possession of such other person. Evidence of any investigation made by the petitioner prior to parting with the property shall also be produced, or the reason for the lack of such investigation given.

(b) A petitioner holding a chattel mortgage or conditional sale contract covering seized property shall submit with his petition evidence showing whether, prior to extending credit, he made a thorough investigation of the moral character and financial responsibility of the mortgagor or purchaser of the property and, if so, whether such investigation showed that the mortgagor or purchaser was a good credit risk or disclosed any facts indicating a probability that the property would be used in violation of law.

(c) When the petition is for the restoration of the proceeds of sale under section 613, Tariff Act of 1930, as amended,[25] it shall be filed within 3 months after the date of sale and shall be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or decree of forfeiture and was in such circumstances as prevented him from knowing it.

(d) If forfeited property the subject of a claim under such section 613 has been authorized for official use, retention or delivery shall be regarded as the sale thereof for the purposes of the above-mentioned section, and the appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of property of the kind so received is available for the granting of relief to the claimant and for the satisfaction of liens for freight, charges, and contributions in general average that may have been filed.[26] (Sec. 613, 46 Stat.

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[23] "Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States the court having jurisdiction of the subject matter, may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof. * * *" (Internal Revenue Code, sec. 3173 (d); 26 U. S. C. 3173 (d))

The bond prescribed by this section is a substitute for and in lieu of the property released, and the Government, if forfeiture is decreed, is entitled to recover the penal sum of the bond. See U. S. v. Two Trunks, Fed. Cas. 16592.

[24] "Whenever any person interested in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act, or who has incurred, or is alleged to have incurred, any fine or penalty thereunder, files with the Secretary of the Treasury if under the customs laws, and with the Secretary of Commerce if under the navigation laws, before the sale of such vessel, vehicle, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, or the Secretary of Commerce, if he finds that such fine, penalty, or forfeiture, was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine, penalty, or forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto. In order to enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any customs agent, collector, judge of the United States Customs Court, or nothing in this section shall be construed United States commissioner, to take testimony upon such petition: *Provided*, That to deprive any person of an award of compensation made before the filing of such petition." (Tariff Act of 1930, sec. 618; 19 U. S. C. 1618)

[25] "Any person claiming any vessel, vehicle, merchandise, or baggage, or any interest therein, which has been forfeited and sold under the provisions of this Act, may at any time within three months after the date of sale apply to the Secretary of the Treasury if the forfeiture and sale was under the customs laws, or to the Secretary of Commerce if the forfeiture and sale was under the navigation laws, for a remission of the forfeiture and restoration of the proceeds of such sale, or such part thereof as may be claimed by him. Upon the production of satisfactory proof that the applicant did not know of the seizure prior to the declaration or condemnation of forfeiture, and was in such circumstances as prevented him from knowing of the same, and that such forfeiture was incurred without any willful negligence or intention to defraud on the part of the applicant, the Secretary of the Treasury or the Secretary of Commerce may order the proceeds of the sale, or any part thereof, restored to the applicant, after deducting the cost of seizure and of sale, the duties, if any, accruing on the merchandise or baggage, and any sum due on a lien for freight, charges, or contribution in general average that may have been filed. * * *" (Tariff Act of 1930, sec. 613, as amended; 19 U. S. C. 1613)

[26] "The appropriation available to any agency for the purchase, hire, operation, maintenance, and repair of property of any kind shall be available for the payment of expenses of operation, maintenance, and repair of property of the same kind received by it under any provision of sections 304g to 304l of this title for official use; for the payment of any lien recognized and allowed pursuant to law, and for the payment of all moneys found to be due any person upon the duly authorized remission or mitigation of any forfeiture; and for reimbursement of other agencies as hereafter provided. The costs of hauling, transporting, towing, and storage of such property shall be paid by the agency which has seized such property or to

756, sec. 29, 52 Stat. 1089; secs. 618, 624, 46 Stat. 757, 759; secs. 305, 306, 49 Stat. 880; 19 U. S. C. 1613, 1618, 1624, 40 U. S. C. 304j, 304k. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., Ch. IV)

§ 23.25 *Remission or mitigation by collectors.* (a) Fines or other pecuniary penalties for violation of the customs laws, or of the navigation laws administered by the Bureau, aggregating less than $100 in respect of any one offense may be remitted or mitigated by the collector of customs concerned on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate.

(b) When merchandise or the value thereof has become subject to forfeiture and the duty is $100 or less, or the merchandise is nondutiable and valued at $500 or less, the forfeiture may be remitted or mitigated by the collector of customs concerned on such terms and conditions as he shall deem appropriate under the law and in view of the circumstances.

(c) When any imported spirituous, vinous, malted, or other fermented liquor has become subject to forfeiture for noncompliance with section 240 of the Criminal Code, as amended (18 U. S. C. 390), and the United States attorney has advised the collector that there is not sufficient evidence of intent to violate the law to warrant prosecution under the criminal provisions of said section 240, the forfeiture incurred is hereby remitted pursuant to the authority of section 618, Tariff Act of 1930, upon the condition that the expenses of seizure, if any, shall be paid.

(d) When an article admitted without bond under section 308 (5) Tariff Act of 1930, is not exported nor entered under bond within the time allowed by law or is exported without proper customs clearance and the collector of customs concerned is satisfied (i) that the article was properly admitted under section 308 (5) without bond, and (ii) that there was no intent to defraud the revenue or delay the payment of duty, the collector may remit the accrued forfeiture or close the case under the following circumstances subject to the conditions specified:

(1) If the article has not been exported, but the collector is satisfied that the owner intends to export it within 1 year from the date of its admission, upon the filing of a 6-months' bond entry, which the collector may extend for 6 months pursuant to § 10.37 of this chapter, as amended.

(2) If the article has not been, and will not be, exported, upon the payment of an amount equal to one and one-quarter times the duty on the article based on its value at the time of admission, or without the collection of a penalty if exportation of the article or entry under bond was prevented by destruction by casualty, or in the event of partial destruction, upon payment of an amount equal to the duty on the article based on its salvage value.

(3) If the value of the article does not exceed $2,000 and the collector is satisfied by the production of a foreign landing certificate or other convincing evidence that the article was exported within 90 days after the expiration of the time during which exaction of a bond was deferred, upon the payment of $10, or without the collection of a penalty if the collector is satisfied that the delay in exportation was due to circumstances reasonably beyond the control of the party in interest and which could not have been anticipated by a reasonably prudent person.

(4) If evidence is produced before the expiration of 90 days after the time during which exaction of a bond was deferred and such evidence satisfies the collector that the article, whether exported or not, would have been entitled to free entry as a domestic product exported and returned had it been so entered, upon the payment of $10.

(5) If the collector is satisfied by the production of a foreign landing certificate or other convincing evidence that the article was actually exported within the time limit, without the collection of a penalty.

(e) If the interested party is not satisfied with the collector's decision, he may file a petition with the collector to be forwarded to the Bureau for reconsideration of the case. (Sec. 3, 44 Stat. 1382, R. S. 251, secs. 618, 624, 46 Stat. 757, 759, 761, 5 U. S. C. 281b, 19 U. S. C. 66, 1618, 1624, 1643)

§ 23.26 *Compromise of claims.* (a) No offer pursuant to section 617, Tariff Act of 1930, as amended,[42] in which a specific sum of money is tendered in compromise of a Government claim arising under the customs laws, will be considered by the Bureau until such sum has been deposited with the Treasurer of the United States or a Federal reserve bank to the credit of the Secretary of the Treasury's Special Deposit Account No. 5 [43] and the certificate of deposit issued therefor by the Assistant Treasurer is received in the Bureau. If the offer is rejected, the money will be returned to the proponent; if accepted, it will be covered into the Treasury.

(b) The offer and the terms upon which it is made shall be stated in writing and shall be limited to the civil liability of the proponent in the matter which is the subject of the Government's claim.

(c) The amount offered shall be deposited in the name of the person submitting the offer. (Secs. 617, 624, 46 Stat. 757, 759, sec. 512, 48 Stat. 758; 19 U. S. C. 1617, 1624)

§ 23.27 *Claims for compensation to informers.* (a) Any person not an officer of the United States [44] who furnishes information in accordance with the provisions of section 619, Tariff Act of 1930, as amended,[45] may file a claim for an award of compensation.

(b) Such claim shall be in duplicate on customs Form 4623 and shall be filed with the collector. Any customs officer

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which it has been abandoned; and, if such property is later delivered to another agency or official under section 304g, 304h, or 304l of this title, the latter shall make reimbursement for all such costs incurred prior to the date of delivery to it of such property." (40 U. S. C. 304j)

"Retention or delivery of forfeited or abandoned property under sections 304g to 304l of this title shall be regarded as the sale thereof for the purpose of laws providing for informer's fees or remission or mitigation of any forfeiture. Any property so acquired when no longer needed for official use shall be disposed of in the same manner as other surplus property." (40 U. S. C. 304k)

[42] "Upon a report by a collector, district attorney, or any special attorney or customs agent, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is hereby authorized to compromise such claim, if such action shall be recommended by the General Counsel for the Department of the Treasury." (Tariff Act of 1930, sec. 617, as amended; 19 U. S. C. 1617)

[43] A proponent at a distance from a Federal reserve bank may perfect his offer by tendering a bank draft for the amount of the offer payable to the Secretary of the Treasury for collection and deposit.

[44] "Any officer of the United States who directly or indirectly receives, accepts, or contracts for any portion of the money which may accrue to any person making such detection and seizure, or furnishing such information, shall be guilty of a felony and, upon conviction thereof shall be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or both, and shall be thereafter ineligible to any office of honor, trust, or emolument. Any such person who pays to any such officer, or to any person for the use of such officer, any portion of such money, or anything of value for or because of such money, shall have a right of action against such officer, or his legal representatives, or against such person, or his legal representatives, and shall be entitled to recover the money so paid or the thing of value so given." (Tariff Act of 1930, sec. 620; 19 U. S. C. 1620)

[45] Any person not an officer of the United States who detects and seizes any vessel, vehicle, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws, and who reports the same to an officer of the customs, or who furnishes to a district attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws or the navigation laws perpetrated or contemplated, which detection and seizure or information leads to a recovery of any duties withheld, or of any fine, penalty, or forfeiture incurred, may be awarded and paid by the Secretary of the Treasury a compensation of 25 per centum of the net amount recovered, but not to exceed $50,000 in any case, which shall be paid out of any appropriations available for the collection of the revenue from customs. For the purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred. If any vessel, vehicle, merchandise, or baggage is forfeited to the United States, and is thereafter, in lieu of sale, destroyed under the customs or navigation laws or delivered to any governmental agency for official use, compensation of 25 per centum of the appraised value thereof may be awarded and paid by the Secretary of the Treasury under the provisions of this section, but not to exceed $50,000 in any case." (Tariff Act of 1930, sec. 619, as amended; 19 U. S. C. 1619)

The term "in any case," as used in the statute, has reference to the information furnished and not to the recoveries growing out of such information.

The payment of the award for information furnished concerning violations of the Narcotic Drugs Import and Export Act, as amended, will be made by the court exercising jurisdiction in cases involving violations of that law.

may receive such a claim for transmittal to the collector. Any additional copies required by the collector to complete his files shall be furnished on demand.

(c) No claim for compensation shall be forwarded to the Bureau unless a sum not less than $5 is available for an award.

(d) No claim under such section 619 shall be paid until the amount recovered has been deposited in the proper account. No such claim shall be paid out of the proceeds of a sale.

(e) Any person whose claim has not for any reason been transmitted by the collector to the Bureau may apply directly to the Commissioner of Customs. (Sec. 619, 46 Stat. 758, sec. 305, 49 Stat. 527, sec. 624, 46 Stat. 759; 19 U. S. C. 1619, 1624)

§ 23.28 *Inspection of importer's books, records, etc.* Before demanding an inspection of an importer's books, correspondence, or records pursuant to section 511, Tariff Act of 1930,[44] the investigating officer shall present a written request for such inspection signed by the Commissioner of Customs, appraiser, person acting as appraiser, collector, or judge of the United States Customs Court. (Sec. 511, 46 Stat. 733; 19 U. S. C. 1511)

§ 23.29 *Examination of importer and others.* The citation of a person pursuant to section 509, Tariff Act of 1930,[45] to appear and testify shall be in writing and signed by the proper official. It shall indicate clearly the merchandise or entries concerning which the examination will be held and the documents required to be presented. It shall be addressed to the person to be examined and shall state the specific time when and place where his personal appearance is required. Such citation shall be served in person or by registered mail. (Secs. 509, 624, 46 Stat. 733, 759; 19 U. S. C. 1509, 1624)

§ 23.30 *Bribery of customs officers and employees.* If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a customs officer or employee with a view to controlling or influencing such officer or employee in the performance of his official duties, the matter shall be referred to the United States attorney for prosecution under section 212, Title 18, United States Code.[46] (Sec. 624, 46 Stat. 759; 18 U. S. C. 212, 19 U. S. C. 1624)

§ 23.31 *Controlled exports; arms and munitions; helium.* (a) The importation and exportation of arms, ammunition, implements of war, helium gas, tinplate scrap, and other munitions of war are governed by the regulations of the Department of State set forth in the pamphlet entitled "International Traffic in Arms."

(b) Arms, ammunition, implements of war, and other munitions of war imported, or which are being exported or are intended to be exported or shipped from the United States, in violation of the regulations referred to in paragraph (a) of this section, may be seized and detained and the carrying vessel or vehicle detained by the collector of customs. (Sec. 203, 49 Stat. 526; 18 U. S. C. 545, 19 U. S. C. 483,)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Sec.
24.1 Checks receivable for duties.
24.2 Persons authorized to receive customs collections.
24.3 Bills and accounts; receipts.
24.9 Entry record.
24.11 Increased, additional, or supplemental estimated duties or taxes; notice to importer.
24.12 Customs fees; charges for storage.
24.13 Car, compartment, and package seals; kind; procurement.
24.14 Salable customs forms.
24.16 Overtime services; overtime compensation; rate of compensation.
24.17 Other services of officers; reimbursable.
24.25 Claims for surplus proceeds of sale of merchandise unclaimed.
24.31 Authority to incur expenses.
24.32 Claims; unpaid salary of deceased employees.
24.34 Vouchers; vendors' bills of sale; invoices.
24.36 Refunds of excessive duties, taxes, etc.
24.70 Claims; deceased or incompetent public contractors.
24.71 Claims for personal injury or damages to or loss of privately owned property.
24.72 Claims; set-off.
24.73 Miscellaneous claims.

§ 24.1 *Checks receivable for duties.* (a) Any certified check drawn on a national or state bank or trust company which can be cashed without cost to the Government shall be received by the collector of customs in payment of customs duties or charges. A domestic traveler's check or a United States postal, bank, express, or telegraph money order shall be accepted only when it can be cashed without expense to the Government.

(b) A bank draft or cashier's check on a domestic bank or an uncertified depositor's check may be received by the collector of customs in payment of duties or other charges, but each collector shall be accountable to the Government for the funds represented by any uncertified check accepted by him for a payment due the United States. If a collector of customs has any doubt concerning an uncertified check tendered to him, he shall require that such check be certified.[1]

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[44] "If any person importing merchandise into the United States or dealing in imported merchandise fails, at the request of the Secretary of the Treasury, or an appraiser, or person acting as appraiser, or a collector, or the United States Customs Court, or a judge of such court, as the case may be, to permit a duly accredited officer of the United States to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise, then while such failure continues the Secretary of the Treasury under regulations prescribed by him, (1) shall prohibit the importation of merchandise into the United States by or for the account of such person and (2) shall instruct the collectors to withhold delivery of merchandise imported by or for the account of such person. If such failure continues for a period of one year from the date of such instructions the collector shall cause the merchandise, unless previously exported, to be sold at public auction as in the case of forfeited merchandise." (Tariff Act of 1930, sec. 511; 19 U. S. C. 1511)

[45] "Collectors and appraisers may cite to appear before them or any of them and to examine upon oath, which said officers or any of them are hereby authorized to administer, any owner, importer, consignee, agent, or other person upon any matter or thing which they, or any of them, may deem material respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty; and they, or any of them, may require the production of any letters, accounts, contracts, invoices, or other documents relating to said merchandise, and may require such testimony to be reduced to writing, and when so taken it shall be filed and preserved, under such rules as the United States Customs Court may prescribe, and such evidence may be given consideration in subsequent proceedings relating to such merchandise." (Tariff Act of 1930, sec. 509; 19 U. S. C. 1509)

"If any person so cited to appear shall neglect or refuse to attend, or shall decline to answer, or shall refuse to answer in writing any interrogatories, and subscribe his name to his deposition, or to produce such papers when so required by a judge of the United States Customs Court, or a division of such court, or an appraiser, or a collector, he shall be liable to a penalty of not less than $20 nor more than $500; and if such person be the owner, importer, or consignee, the appraisement last made of such merchandise, whether made by an appraiser, a judge of the United States Customs Court, or a division of such court, shall be final and conclusive against such person; and any person who shall willfully and corruptly swear falsely on an examination before any judge of the United States Customs Court, or division of such court, or appraiser or collector, shall be deemed guilty of perjury; and if he is the owner, importer, or consignee, the merchandise shall be forfeited or the value thereof may be recovered from him." (Tariff Act of 1930, sec. 510; 19 U. S. C. 1510)

[46] "Whoever gives, offers, or promises any money or thing of value, directly or indirectly, to any officer or employee of the United States in consideration of or for any act or omission contrary to law in connection with or pertaining to the importation, appraisement, entry, examination, or inspection of merchandise or baggage, or of the liquidation of the entry thereof, or by threats or demands or promises of any character attempts improperly to influence or control any such officer or employee of the United States as to the performance of his official duties, shall be fined not more than $5,000 or imprisoned not more than two years, or both.

"Evidence, satisfactory to the court, of such giving, offering, or promising to give, or attempting to influence or control, shall be prima facie evidence that the same was contrary to law." (18 U. S. C. 212)

"Moneys received or tendered in evidence in any United States Court, or before any officer thereof, which have been paid to or received by any official as a bribe, shall, after the final disposition of the case, proceeding or investigation, be deposited in the registry of the court to be disposed of in accordance with the order of the court, to be subject, however, to the provisions of section 852 [now 2042] of Title 28." (18 U. S. C. 3612)

[1] "Collectors of customs may receive uncertified checks, United States notes, and circulating notes of national banking associations in payment of duties on imports, during such time and under such rules and regulations as the Secretary of the Treasury shall prescribe; but if a check so received is not paid the person by whom such check has been tendered shall remain liable for the payment of the duties and for all legal penalties and additions to the same extent as if such check had not been tendered." (Tariff Act of 1930 sec. 648; 19 U. S. C. 1643)

(c) Checks on foreign banks, foreign travelers' checks, and commercial drafts or bills of exchange subject to acceptance by the drawees shall not be accepted. (R. S. 251, sec. 1, 36 Stat. 965, 37 Stat. 733, secs. 624, 648, 46 Stat. 759, 762; 19 U. S. C. 66, 198, 1624, 1648)

§ 24.2 *Persons authorized to receive customs collections.* Deputy collectors of customs in charge of ports of entry, customs cashiers, customs inspectors, customs dock tellers, and such other officers and employees as the collector shall designate shall receive customs collections. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

§ 24.3 *Bills and accounts; receipts.* (a) Any bill or account for money due the United States shall be rendered by an authorized customs officer or employee on an official form.

(b) Any payor desiring an official receipt shall submit the original bill with his payment. If an official receipt form is provided, the receipt shall be prepared and issued on such form. When no official receipt form is provided, the original bill shall be stamped with the fact and date of payment, initialed or signed by the customs officer to whom the payment is made, and returned to the payor.

(c) Every payment which is not made in person shall be accompanied by the original bill or by a communication containing sufficient information to identify the account or accounts to which it is to be applied. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 24.9 *Entry record.* The importer shall prepare and present one copy of customs Form 5101 with each entry of the following classes: consumption, warehouse, rewarehouse, combined rewarehouse and withdrawal for consumption, temporary free importation, appraisement, equipment and repairs to vessels, and exhibition. When the importer desires a receipt for duties or taxes paid on formal or appraisement entries, an additional copy of customs Form 5101 shall be presented. If entry is made prior to the production of all documents, a further copy of the form for use as a missing document record shall be filed as required by § 25.16 (a) of this chapter. No copy of customs Form 5101 for use as an entry record need be filed in connection with an entry covering shipments declared to be for more than one actual owner. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 24.11 *Increased, additional, or supplemental estimated duties or taxes; notice to importer* Any increased or additional duties or taxes found due upon liquidation, or any supplemental estimated duties due, shall be billed on customs Form 5107 to the importer of record or to the actual owner when the latter has become liable for the duties under the provisions of section 485 (d) Tariff Act of 1930. (Secs. 483, 485 (d) 624, 46 Stat. 721, 724, 759; 19 U. S. C. 1483, 1485 (d) 1624)

§ 24.12 *Customs fees; charges for storage.*[2] (a) A table of the rates of fees prescribed by law shall be kept posted in each collector's, surveyor's, and comptroller's office. Unless otherwise prescribed by law, a fee of 20 cents shall be collected for every certificate. When payment of any fee is received by any officer or employee of the Customs Service, a receipt therefor shall be issued on customs Form 5109, or such other official receipt form as may be prescribed.

(b) Customs officers shall not make copies of dock books, weighers' reports, or other records for private parties in interest without charge. Importers shall be permitted to make copies of records pertaining only to importations made by them. If importers prefer, they may have copies of such records made by customs employee provided they reimburse the Government for the actual cost of labor and materials. The cost of such labor shall be computed in multiples of 1 minute based on an hourly rate equal to 1/1688 of the gross annual rate of regular pay of the particular employee or the amount actually payable to the employee for services outside his established basic workweek. When any such copies are certified as correct by a customs officer or employee, a fee of 20 cents for each certification shall be collected from the party in interest.

(c) The rates charged for storage in Government-owned or rented buildings shall not be less than the charges made at the port by commercial concerns for the storage and handling of merchandise. Storage shall be charged on any examination package remaining in the appraiser's store more than 2 full working days after the issuance of the permit to release or transfer, except in a case where such a package is covered by (1) an appraisement entry, (2) a free consumption entry covering merchandise found to be dutiable, or (3) a dutiable consumption entry on which it is determined that an insufficient amount of estimated duty was deposited at the time of entry, in which cases storage shall be charged for any period the package remains in the appraiser's store after 2 full working days following the day on which the importer is notified of the amount of estimated duty that shall be deposited. In computing the 2 working days, (1) the day on which the permit to release or transfer is issued or the day on which the importer is notified of the amount of estimated duty that shall be deposited, whichever is applicable, (2) Saturdays, (3) Sundays, and (4) National holidays, shall be excluded. (R. S. 161, R. S. 2635; 2654, sec. 624, 46 Stat. 759, R. S. 4383, 5 U. S. C. 22, 19 U. S. C. 58, 59, 1624, 46 U. S. C. 333)

§ 24.13 *Car, compartment, and package seals; kind, procurement.* (a) Tyden seals, manufactured by the International Seal and Lock Co., Hastings, Mich., and automatic metal seals, manufactured by the International Seal & Knot Protector Co., 109 Spring Street, New York, N. Y., shall be used in sealing openings, packages, or articles requiring the security provided by such sealing.

(b) In-bond seals used for sealing imported merchandise shipped between ports in the United States shall be colored red and stamped "U. S. Customs In Bond." In-transit seals used for sealing merchandise shipped from one port in the United States through foreign territory or waters to another port in the United States shall be colored blue and stamped "U. S. Customs In Transit." Seals used for sealing merchandise for customs purposes other than for (1) shipping in bond, (2) shipping by other than a bonded common carrier in accordance with section 553, Tariff Act of 1930, as amended, or (3) shipping in transit shall be uncolored and stamped "U. S. Customs." All seals shall be stamped with the name of the port for which they are ordered. Each Tyden seal shall be stamped with a serial number, and each automatic metal seal shall be stamped with a symbol number. These numbers will be assigned by the Bureau of Customs when orders therefor are approved.

(c) Orders for each kind of Tyden seals (in-bond, in-transit, or customs) for use in one customs district shall be assigned a series of numbers in the group of numbers running from 1 to 999,999. Symbol numbers used in connection with automatic metal seals shall be assigned to each particular collector, carrier, or person concerned. A symbol number shall cover all kinds of automatic metal seals ordered by one party whether for use in one or more than one customs district.

(d) Carriers of merchandise shall purchase quantity supplies of in-bond and in-transit seals directly from the approved manufacturers of these seals. Carriers may purchase small emergency supplies of in-bond and in-transit seals from collectors of customs, who are authorized to keep a supply of such seals on hand for this purpose. Orders for the purchase of quantity supplies of in-bond and in-transit seals shall be prepared by the carrier and shall specify the kind and quantity of seals desired, the name of the port at which they are to be used, and the name and address of the consignee to whom the seals are to be shipped. Each order shall be confined to seals for use at one port and shall be forwarded to the collector of customs at the headquarters port of the customs district in which such port is located. The collector shall submit the order with his recommendation as to the need for the seals to the Bureau for authorization and transmission to the manufacturer if approved.

(e) The manufacturer shall ship the seals to the consignee named in the order and shall advise the collector of customs for the customs district to which the seals are shipped as to the kind and quantity of seals shipped, the name of the port and the serial numbers or symbol number stamped thereon, the name and address of the consignee, and the date of shipment. When a shipment of seals is received, the consignee, if other than a collector of customs, shall immediately

[2] "Every collector, comptroller, and surveyor shall cause to be affixed, and constantly kept in some public and conspicuous place of his office, a fair table of the rates of fees * * * demandable by law, and shall give a receipt for the fees received by him, specifying the particulars whenever required so to do; and for every failure so to do, he shall be liable to a penalty of $100, recoverable to the use of the informer." (19 U. S. C. 59) See also 46 U. S. C. 333.

deliver it intact into customs custody. Only quantities of seals sufficient for immediate requirements shall be issued from the owner's stock of seals.

(f) In-bond seals may be purchased only by customs bonded carriers or by non-bonded carriers who are permitted to transport articles in accordance with section 553 of the tariff act, as amended. In-transit seals may be purchased by bonded and other carriers of merchandise. Uncolored customs seals may not be purchased by private interests and shall be furnished by collectors of customs for authorized use without charge. In-bond and in-transit seals sold by collectors of customs shall be charged for at the rate of 5 cents per seal. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 24.14 *Salable customs forms.* (a) Customs forms for sale to the general public, except unusually large forms, shall be prepared in pads containing 100 copies and shall be sold at the price indicated thereon. A receipt for each sale shall be issued on customs Form 5109 or such other official receipt as may be prescribed.

(b) A purchaser requesting special printing on customs salable forms may have his name, address, the number and name of the district, and other information required by the form printed thereon. Forms so printed will not be prepared in pads. The requisition shall show the number of forms desired and the minimum number of forms for such an order shall be 5,000. Orders shall be filed with the collector of customs at least 3 months in advance of the time the forms will be required and payment at the special price therefor shall be made at the time the order is filed with the collector. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

§ 24.16 *Overtime services; overtime compensation; rate of compensation—* (a) *General.* Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U. S. C. 267) [3] or section 451, Tariff Act of 1930, as amended,[4] shall be furnished only upon compliance with the requirements of those statutes for applying for such services and giving security for the reimbursement of the overtime compensation, unless the compensation is nonreimbursable under the said section 451. Reimbursements of overtime compensation shall be collected by the collectors from the applicants for the services. Customs employees shall not receive overtime compensation for services performed on regular tours of duty at night, but no regular tour of duty shall embrace any part of a Sunday or holiday if the services performed are such that extra compensation would be payable if performed at the request of a private interest. Reimbursable overtime services shall not be furnished to an applicant who fails to cooperate with the Customs Service by filing a seasonable application therefor during regular hours of business when the need for the services can reasonably be foreseen, nor in any case until the maximum probable reimbursement is adequately secured.

(b) *Night, Sunday, and holiday defined.* For the purposes of this section the word "night" shall mean the time between 5 p. m. of any day and 8 a. m. of the following day, or between the corresponding hours at ports or stations where regular hours for the transaction of the general class of customs business involved other than those from 8 a. m. to 5 p. m. have been established to agree with local prevailing working hours, but shall not include any such time within the 24 hours of a Sunday or holiday. The night hours at the end of the regular workday immediately preceding a Sunday or holiday and the night hours at the beginning of the next regular workday shall be considered for the purposes of this section as parts of a single night, but no extra compensation shall be paid pursuant to this section for any services performed by an employee at his regular post or elsewhere during a regu-

[3] "The Secretary of the Treasury shall fix a reasonable rate of extra compensation for overtime services of inspectors, storekeepers, weighers, and other customs officers and employees who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform services in connection with the lading or unlading of cargo, or the lading of cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo on or from the wharf, or in connection with the unlading, receiving, or examination of passengers' baggage, such rates to be fixed on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian), and two additional days' pay for Sunday or holiday duty. The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance whenever such special license or permit for immediate lading or unlading or for lading or unlading at night or on Sundays or holidays shall be granted to the collector of customs, who shall pay the same to the several customs officers and employees entitled thereto according to the rates fixed therefor by the Secretary of the Treasury. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual lading, unlading, receiving, delivery, or examination takes place or not. In those ports where customary working hours are other than those hereinabove mentioned, the collector of customs is vested with authority to regulate the hours of customs employees so as to agree with prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for customs employees or the overtime pay herein fixed." (19 U.S.C. 267)

[4] "Before any such special license to unlade shall be granted, the master, owner, or agent, of such vessel or vehicle shall be required to give a bond in the penal sum to be fixed by the collector conditioned to indemnify the United States for any loss or liability which might occur or be occasioned by reason of the granting of such special license and to pay the compensation and expenses of the customs officers and employees assigned to duty in connection with such unlading at night or on Sunday or a holiday, in accordance with the provisions of sections 201 and 267 of this title. In lieu of such bond the owner, or agent, of any vessel or vehicle or line of vessels or vehicles may execute a bond in a penal sum to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unlading of vessels or vehicles belonging to such line for a period of one year from the date thereof. Upon a request made by the owner, master, or person in charge of a vessel or vehicle, or by or on behalf of a common carrier or by or on behalf of the owner or consignee of any merchandise or baggage, for overtime services of customs officers or employees at night or on a Sunday or holiday, the collector shall assign sufficient customs officers or employees if available to perform any such services which may lawfully be performed by them during regular hours of business, but only if the person requesting such services gives a bond in a penal sum to be fixed by the collector, conditioned to pay the compensation and expenses of such customs officers and employees, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to duty in connection with lading or unlading at night or on Sunday or a holiday. Nothing in this section shall be construed to impair the existing authority of the Treasury Department to assign customs officers or employees to regular tours of duty at nights or on Sundays or holidays when such assignments are in the public interest: *Provided*, That the provisions of this section, sections 450 and 452 of this Act, and the provisions of section 5 of the Act of February 13, 1911, as amended (U. S. C., title 19, sec. 267), insofar as such section 5 requires payment of compensation by the master, owner, agent, or consignee of a vessel or conveyance, shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. At ports of entry and customs stations where any merchandise, baggage, or persons shall arrive in or depart from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, the collector, under such regulations as the Secretary of the Treasury may prescribe, shall assign customs officers and employees to duty at such times during the twenty-four hours of each day, including Sundays and holidays, as the Secretary of the Treasury in his discretion may determine to be necessary to facilitate the inspection and passage of such merchandise, baggage, or persons. Officers and employees assigned to such duty at night or on Sunday or a holiday shall be paid compensation in accordance with existing law as interpreted by the United States Supreme Court in the case of the United States v. Howard C. Myers (320 U. S. 561); but all compensation payable to such customs officers and employees shall be paid by the United States without requiring any license, bond, obligation, financial undertaking, or payment in connection therewith on the part of any owner, operator, or agent of any such highway vehicle, bridge, tunnel, or ferry, or other person. As used in this section, the term 'ferry' shall mean a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as above provided." (Tariff Act of 1930, sec. 451, as amended; 19 U. S. C. 1451 and section 1 of Public Law 323, 78th Cong.)

lar tour of duty of such employee. For such purpose the term "holiday" shall include only days on which customs employees generally are not required to work and which are usually observed as national holidays.[5] The time accounted for as overtime shall be computed on the basis of the regular hours for the performance of the particular work of the assignment, even though such hours differ from the regular working hours of the employee assigned,[5a] but not extra compensation shall be paid pursuant to this section for any services performed by an employee at his regular post or elsewhere during a regular tour of duty of such employee.

(c) *Application and bond.* An application for services of customs employees at night or on a Sunday or holiday, customs Form 3171 or 3853, supported by the required bond or cash deposit, shall be filed with the collector before the assignment of such employees for reimbursable overtime services. The bond to secure reimbursement shall be on customs Form 7597 or 7599 and in an amount to be fixed by the collector, unless another bond containing a provision to secure reimbursement is on file. An application on customs Form 3853 for overtime services of customs employees when supported by a bond on customs Form 7599 may be granted for any period up to 1 month or multiples of months thereafter but not longer than for 1 year nor longer than the period of the supporting bond. In such a case, the application must show the exact times when the overtime services will be needed unless arrangements are made so that the proper customs officer will be seasonably notified during official hours in advance of the services requested as to the exact times that the services will be needed.

(d) *Assignment.* Customs employees may be ordered to report for any overtime duty sufficiently in advance of the time specified by the applicant to avoid unnecessary delay, but in no case more than 1 hour in advance of the time so specified unless the specified time is subject to change without reasonable notice as in the case of some aircraft arrivals. If no time can be specified for the services to begin, the employees required and available shall be assigned to the overtime duty as soon as practicable. Customs employees shall not be deemed available to perform reimbursable overtime services at night unless the total time of service, including waiting time, will be at least one hour, but nothing in this section shall prohibit the collector or other administrative officer from requiring an employee to perform, before he leaves his duty status and without extra compensation under the act of February 13, 1911, as amended, any work which is pending at the beginning of the night and can be completed in less than 1 hour. No customs employee shall be assigned on a weekday, or for more than an aggregate of 8 hours on a Sunday or holiday, to any overtime service for which nonreimbursable extra compensation is payable, except under special authorization from the Commissioner of Customs.

(e) *Nonperformance of requested services.* If services which have been requested and for which employees have reported are not performed by reason of circumstances beyond the control of the employees concerned, extra compensation shall be paid and collected on the same basis as though the services had actually been performed during the period between the time the employees were ordered to report for duty and did so report and the time they were notified that their services would not be required, and in any case as though actual performance had continued for at least 1 hour.

(f) *Broken periods.* When overtime services at night or on a Sunday or holiday are rendered in broken periods and less than 2 hours intervene between such broken periods, the intervening waiting time, including any time required for travel between posts of overtime duty but not including any periods for meals or other time not spent at the post of duty, shall be included in the computation of overtime compensation as though the services had been continuous. If 2 hours or more intervene between periods during which services are actually performed, the collector shall determine according to the circumstances of the case whether the service shall be treated as continuous with compensable waiting time or as two or more distinct assignments with compensation to be computed separately for each assignment in accordance with the provisions of paragraph (g) of this section. In no case shall any employee be entitled to receive more than 2½ days' pay by reason of the fact that he is given two or more assignments during one night.

(g) *Rate for night service.* The reasonable rate of extra compensation for authorized overtime services performed by customs employees at night on any weekday is hereby fixed at one-half of the gross daily rate of regular pay of the employee who performs the service for each 2 hours of compensable time, any fraction of 2 hours amounting to at least 1 hour to be counted as 2 hours. The compensable time shall be the period between the beginning of the night and the conclusion of the services if the employee is assigned and reports for duty before the expiration of the first 4 hours of the night; the period between the time the employee is assigned and reports for duty and the conclusion of the services, plus 4 hours, if the time of assignment is after the expiration of the first 4 and before the beginning of the last 2 hours of the night; or 2 hours if the employee is assigned and reports for duty 2 hours or less before the end of the night. The compensable time for overtime service performed by a customs employee assigned to a regular tour of duty covering any part of a night shall be computed in accordance with this night rate as though the beginning of the regular tour of duty of such employee marked the end of a night period and the close of such tour marked the beginning of another night period, but extra compensation is not payable in accordance with this section for overtime services performed by any customs employee on a regular workday during other than the night hours of the port or station. The total extra compensation paid pursuant to this section to a customs employee for overtime services performed during one night shall not exceed 2½ times the gross daily rate of his regular pay.

(h) *Rate for Sunday or holiday service.* The reasonable rate of extra compensation for Sunday or holiday services is hereby fixed at twice the gross daily rate of regular pay of the employee who performs the service for any and all services totaling an aggregate of not more than 8 hours during the 24 hours from midnight to midnight of the Sunday or holiday, including actual waiting time and time required for travel between posts of duty but not including any periods for meals or other time not spent at the post of duty. This rate shall apply regardless of the length of time served within the aggregate of 8 hours, whether it is served continuously or in broken periods, and whether it is served for one or more applicants. Services in excess of an aggregate of 8 hours performed during the 24 hours of a Sunday or holiday shall be compensated on the same basis as overtime services performed at night on a weekday, the time between the completion of the aggregate of 8 hours and midnight being considered as the hours of a night.

(i) *Part-time employees.* The extra compensation for overtime services performed by a permanent part-time employee at night or on a Sunday or holiday shall be computed on the basis of the gross daily rate of regular pay the part-time employee would receive for full-time service in the position held by him. Customs employees who are paid on a per-diem-when-employed basis shall be paid the overtime rate but not the per-diem rate when assigned to perform overtime services on a Sunday or holiday.

(j) *Proration of charges.* If services are performed for two or more applicants during one continuous tour of overtime duty, the charge for the extra compensation earned shall be prorated equitably according to the time attributable to the services performed for each applicant. For the purpose of this paragraph the Government shall be considered the applicant for nonreimbursable overtime services.

(k) *Participation in overtime work.* In general, services for which extra compensation is payable in accordance with this section, or for which reimbursement is required in accordance with § 24.17 shall be performed by employees who are regularly assigned to perform the same class of work during their regular tours of duty, but when the collector or other

[5] The days usually observed as national holidays are: January 1, February 22, May 30, July 4, the first Monday in September, November 11, Thanksgiving Day, and December 25.

[5a] For example: At a port where the regular hours of business have been fixed at 8 a. m. to 4 p. m. for the inside force and 7 a. m. to 4 p. m. for the outside force, a clerk whose regular working hours are 8 a. m. to 4 p. m. is not entitled to reimbursable extra compensation if assigned to inspectional work from 7 a. m. to 8 a. m. on a week day, since he works within the regular hours for the service to which he is assigned.

administrative field officer concerned finds that the needs of the service so required he is hereby authorized to assign any other available and competent employee to perform such services and such employees while so assigned shall be deemed acting inspectors, acting storekeepers, etc., as the case may be. (R.S. 161, 41 Stat. 402, secs. 450, 451, 452, 624, 46 Stat. 715, 759, sec. 9, 52 Stat. 345, 1082; 58 Stat. 269; 5 U. S. C. 22, 19 U. S. C. 261, 267, 1450, 1451, 1452, 1624, 46 U. S. C. 382b)

§ 24.17 *Other services of officers; reimbursable.* (a) Amounts chargeable to private interests in connection with services rendered by customs officers or employees under one or more of the following circumstances shall be collected from such private interests and deposited by collectors of customs as repayments to the appropriations from which paid.

(1) When a customs officer or employee is assigned on board a vessel or vehicle under authority of section 457, Tariff Act of 1930, to protect the revenue, the owner or master of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(2) When a customs officer or employee is assigned on board a vessel under authority of section 458, Tariff Act of 1930, to supervise the unlading of such vessel, the master or owner of such vessel shall be charged the full compensation of such officer or employee for every day consumed in unlading after the expiration of 25 days after the date of the vessel's entry.

(3) When a customs officer or employee is assigned under authority of section 304, Tariff Act of 1930, as amended, to supervise the exportation, destruction, or marking to exempt articles from the duty provided for in such section, the importer of such merchandise shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(4) When a customs officer or employee is assigned pursuant to § 1.2 of this chapter to a customs station or other place which is not a port of entry for service in connection with the entry or clearance of a vessel, the owner, master, or agent of the vessel shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns. When a customs officer or employee is so assigned to render service in connection with the entry or delivery of merchandise only, the private interest shall be charged only for the authorized travel and subsistence expenses incurred by such officer or employee from the time he leaves his official station until he returns thereto except that no collection need be made if the total amount chargeable against one importer for one day amounts to 30 cents or less (see § 1.2 (c) of this chapter)

(5) When a customs officer or employee is assigned under authority of section 447, Tariff Act of 1930, to make entry of a vessel at a place other than a port of entry or to supervise the unlading of cargo, the private interest shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(6) When a customs officer or employee is assigned under authority of section 19 (a) of the Customs Administrative Act of June 25, 1938 (46 U. S. C. 331), to measure or certify the tonnage of a vessel at the request of the owner thereof at a place other than a port of entry or a customs station, such owner shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto.

(7) When a customs officer or employee is assigned on any vessel or vehicle, under authority of section 456, Tariff Act of 1930, while proceeding from one port to another, the master or owner of such vessel or vehicle shall be charged the full compensation and authorized travel and subsistence expenses of such officer or employee from the time he leaves his official station until he returns thereto, or, in lieu of such expenses, the master or owner may furnish such officer or employee the accommodations usually supplied to passengers.

(b) When a customs officer or employee is assigned to render services the nature of which is such that the private interest is required to reimburse the Government for his compensation and on the same assignment performs services for which compensation is not reimbursable, a charge shall be made to the private interest for the full compensation of the customs employee unless the time devoted to each class of service can be clearly segregated.

(c) When services are rendered within the port limits, no charge shall be made for transportation expenses incurred.

(d) The reimbursable compensation charge shall be computed in accordance with § 19.5 (b) of this chapter.

§ 24.25 *Claims for surplus proceeds of sale of merchandise unclaimed.* Claims for the surplus proceeds of the sale of unclaimed merchandise shall be filed with the collector of customs at whose direction the merchandise was sold. Such claims shall be supported by the original bill of lading. If only a part of a shipment is involved, either a photostatic or a certified copy of the original bill of lading may be submitted in lieu of the original bill of lading. (Sec. 491, 46 Stat. 726, sec. 14, 52 Stat. 1083, secs. 493, 624, 46 Stat. 727, 759; 19 U. S. C. 1493, 1624)

§ 24.31 *Authority to incur expenses.* (a) Field administrative officers shall not renew existing leases, enter into new leases, nor otherwise obligate the customs appropriation for the payment of rental for real property until authority therefor has been obtained from the Bureau.

(b) Prior general or individual Bureau authority to incur an expense shall be requested from the Bureau on customs Form 4801 for:

(1) Articles or services not specified in paragraphs (c) (d) and (e) of this section.

(2) Purchases of articles listed in the General Schedule of Supplies from a single contractor in an amount in excess of $100.

(3) Typewriters, adding machines and other equipment authorized to be purchased on an exchange basis (sec. 5, 38 Stat. 1161, as amended, 41 Stat. 947, 50 Stat. 64, as amended, sec. 8, Public Law 600, 79th Congress, 60 Stat. 803; 41 U. S. C. 26, 27, 5 U. S. C. 118d) where the sale price to the Government before deducting any allowance for old equipment is in excess of $100. The exchange allowance or proceeds of sale of old equipment authorized by law to be exchanged or sold may be applied in whole or in part payment for the equipment to be purchased, provided the transaction is evidenced in writing.[5] In all other cases involving the disposal of old equipment, the customs appropriation shall be charged with the full purchase price of the equipment being purchased, and any amount allowed for the old equipment shall be covered into the Treasury as miscellaneous receipts. (R. S. 3618, sec. 1, 19 Stat. 249, sec. 1, 38 Stat. 800, sec. 4, 54 Stat. 1136, as amended; 31 U. S. C. 487, 487a)

(4) Customs badges.

(5) Customs cap insignia.

(6) Customs padlocks.

(7) Impression seals.

(8) Revolvers and other firearms.

(9) Seal presses.

(10) Tyden and automatic metal seals.

(c) Vouchers covering the following shall be certified for payment without prior individual Bureau authorization if the expense has been incurred under proper authority.

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[5] "In purchasing motor-propelled or animal-drawn vehicles or tractors, or road, agricultural, manufacturing, or laboratory equipment, or boats, or parts, accessories, tires, or equipment thereof, or any other article or item the exchange of which is authorized by law, the head of any department or his duly authorized representative may exchange or sell similar items and apply the exchange allowances or proceeds of sales in such cases in whole or in part payment therefor: *Provided*, That any transaction carried out under the authority of this section shall be evidenced in writing." (Sec. 8, Public Law 600, 79th Cong., 60 Stat. 803)

"Section 3709 of the Revised Statutes of the United States is hereby amended to read as follows:

"'Unless otherwise provided in the appropriation concerned or other law, purchases and contracts for supplies or services for the Government may be made or entered into only after advertising a sufficient time previously for proposals, except (1) when the amount involved in any one case does not exceed $100, (2) when the public exigencies require the immediate delivery of the articles or performance of the services, (3) when only one source of supply is available and the Government purchasing or contracting officer shall so certify, or (4) when the services are required to be performed by the contractor in person and are (A) of a technical and professional nature or (B) under Government supervision and paid for on a time basis * * *'" (Sec. 9 (a), Public Law 600, 79th Cong., 60 Stat. 803)

(1) Travel and per diem in lieu of subsistence.
(2) Transfer of household and personal effects.
(3) Rents payable under leases.
(4) Official advertising.
(5) Allowances to officers and employees stationed in foreign countries for living quarters, including heat, fuel, and light.

(d) Expenses may be incurred and vouchers therefor certified for payment without prior individual Bureau authorization for the following:

(1) Any article or service procured under a contract approved by the Bureau or under a term contract of any Federal agency other than the Customs Service when due notice has been given by such Federal agency of authority for the Customs Service to procure articles or services thereunder.

(2) Any article or service procured from a contractor or vendor when the aggregate amount of the order covering such article or service does not exceed $100.

(3) Expenses for the securing of evidence of violations of the customs laws shall be incurred only to the extent authorized by the Bureau.

(e) Vouchers covering awards of compensation to informers under section 619, Tariff Act of 1930, shall be certified for payment only after the award has been formally made by the Department.

(f) Offices of the Customs Service in foreign countries shall make all purchases locally. When the aggregate expenditure does not exceed $100, the purchase may be made without prior Bureau authority. In all cases where the aggregate expenditure in connection with a purchase will exceed $100, competitive bids shall be solicited and prior Bureau authority to make the desired purchase shall be obtained on customs Form 4801.

(g) The provisions of this section shall not apply to the districts of Puerto Rico and the Virgin Islands, except that purchases shall be made in accordance with the provisions of paragraphs (b) and (d) of this section. (R. S. 161, 251, sec. 619, 46 Stat. 758, sec. 305, 49 Stat. 527, sec. 624, 46 Stat. 759, R. S. 3709; 5 U. S. C. 22, 19 U. S. C. 66, 1619, 1624; 41 U. S. C. 5)

§ 24.32 *Claims; unpaid salary of deceased employees.* (a) Claims for salary due a deceased employee for the payroll period during which death occurred and any unpaid salary for prior periods up to and including the date of death shall be forwarded to the Bureau, Attention. Division of Fiscal Administration, on standard Form 1055, for administrative examination prior to transmission to the General Accounting Office for settlement. Such claims shall be supported by a short certificate of letters testamentary or of administration, if issued, with a showing whether such letters are still in force and effect, and a short-form pay-roll voucher drawn in favor of the estate, which shall be approved for payment in the net amount. The pay-roll voucher shall show the gross amount earned, amounts of retirement and other deductions, net amount due, date of death, name and symbol number of the disbursing officer, and disbursing office voucher number and date of the regular pay roll on which the decedent would have been paid had he survived the payroll period, including a citation to the regular pay roll on which was included the retirement deduction for the pay-roll period during which the decedent died.

(b) If there is to be no administration of the estate, a certified copy of the public record of the death and an itemized receipted bill for services of the undertaker shall be forwarded. If the funeral expenses or any other prefered claims under the laws of the domicile of the deceased have not been paid, the bills for such expenses and a waiver to any claim on the compensation of the deceased, executed by the creditors in favor of the legal representative of the deceased, shall also be forwarded.

(c) If any checks have been issued and remain unnegotiated, they shall be forwarded to the Bureau with an application on standard Form 1055, executed by the legal representative of the deceased, for endorsement of the checks by the General Accounting Office or for other action looking to payment to the person legally entitled to the unpaid salary of the deceased.

(d) Claims for refund of the amount standing to the credit of the deceased employee in the Retirement and Disability Fund shall be executed on Civil Service Commission Form 3000 and forwarded directly to the Civil Service Commission, Washington, D. C., together with a certified copy of the public record of the death. If the application is filed by an executor, administrator, or guardian, a certified copy of the court order evidencing his appointment shall be submitted. If the claim is filed by or for the person who was designated by the deceased as his beneficiary, it shall be accompanied by the duplicate copy of Civil Service Commission Form 2806–1 with a Civil Service Commission stamp thereon.

(e) If there is any other claim for moneys due the deceased employee, such as for overtime services rendered or travel or subsistence expenses not paid, the same procedure shall be followed as in the case of a claim for unpaid salary. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

§ 24.34 *Vouchers; vendors' bills of sale; invoices.* (a) Vouchers, vendors' bills of sale, or invoices for purchases or for services other than personal and intended for payment from official funds shall contain the following certification duly signed by the claimant:

I certify that the above bill is correct and just; that payment therefor has not been received; that all statutory requirements as to American production and labor standards, and all conditions of purchase applicable to the transactions have been complied with; and that state or local taxes are not included in the amounts billed.

Only original vouchers shall contain signed certificates, approvals, and receipts.

(b) Every voucher shall be in the name of the person or persons furnishing the service or supplies, except in the case of a service or supplies paid for in an emergency by a customs officer or employee, in which case the voucher may be in the name of the officer or employee who made the payment.

(c) The signature of a claimant made by a mark shall be attested in each case by a disinterested witness.

(d) The dates appearing on vouchers and on receipts filed in support thereof shall always be the actual dates of the transactions recorded or action taken thereon. As many copies in memorandum form, duly authenticated if desired, may be prepared as administrative or other requirements demand.

(e) When an erasure, interlineation, or change of any kind is made in a voucher after it has been certified by the claimant, such correction or change shall be initialed and dated by the claimant.

(f) Vouchers for passenger transportation furnished customs officers or employees on Government transportation requests, standard Form 1030, shall be rendered on standard Form 1067 and forwarded to the Bureau, Division of Fiscal Administration, for payment. Original transportation requests shall be attached to these vouchers.

(g) Vouchers for transportation of freight and express furnished on Government bills of lading, standard Form 1058, issued by customs officers or employees, shall be rendered on standard Form 1068, Public Voucher for Transportation of Freight or Express, and forwarded to the Bureau, Division of Fiscal Administration, for payment. Original bills of lading or certificates in lieu of lost bills of lading shall be attached to these vouchers. (R. S. 161, 251, sec. 22, 26 Stat. 210, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624, 41 U. S. C. 21)

§ 24.36 *Refunds of excessive duties, taxes, etc.*[6] (a) When it is found on liquidation or reliquidation of an entry that a refund is due, a notice of refund on customs Form 5269 shall be prepared at the headquarters port in the name of the person to whom the refund is due, as determined by paragraphs (c) and (d) of this section. If an authority to mail checks to someone other than the payee, customs Form 4811, is on file with

[6] "(a) The Secretary of the Treasury is hereby authorized to refund duties or other receipts in the following cases:

"(1) *Excess deposits.* Whenever it is ascertained on liquidation or reliquidation of an entry that more money has been deposited or paid as duties than was required by law to be so deposited or paid;

"(2) *Fees, charges, and exactions.* Whenever it is determined in the manner required by law that any fees, charges, or exactions, other than duties and taxes, have been erroneously or excessively collected; and

"(3) *Fines, penalties, and forfeitures.* Whenever money has been deposited in the Treasury on account of a fine, penalty, or forfeiture which did not accrue, or which is finally determined to have accrued in an amount less than that so deposited, or which is mitigated to an amount less than that so deposited or is remitted." (Tariff Act of 1930, sec. 520 (a), as amended; 19 U. S. C. 1520 (a))

The refunding of moneys in compliance with any ruling or decision of the Customs Court is the function of the Secretary of the Treasury, and there is no foundation for a suit against the collector of customs to restrain him from disposal of such moneys.

Payment of costs and interest upon refunds in customs cases is not allowed.

the collector, the address of the payee shall be shown as in care of the address of the authorized person. If a power of attorney is on file with the collector, the address of the payee may be shown as in care of the address of such attorney if requested.

(b) No signed or unsigned notice of refund of internal-revenue tax, other than the original, shall be issued unless the original notice of refund is not received or is lost, in which case the person named on such notice may apply to the collector of customs for the issuance of a duplicate. Such application shall be by affidavit identifying the notice of refund; citing the kind, number, and date of each entry, and the amount of refund due; and definitely stating that the original notice of refund has not been and will not be included in any claim for refund and if later located will be returned to the collector of customs for cancelation. If application is acceptable to the collector of customs, he shall prepare from the retained copy an exact transcript thereof as to numbers, dates, amounts and signatures; shall certify it as to its issuance as a duplicate; and without rescheduling, shall transmit it to the applicant for use in lieu of the original. The application bearing a notation as to the date and fact of issuance of the duplicate shall be attached to the retained copy of the notice of refund from which the duplicate was prepared.

(c) Refunds of excessive duties or taxes shall be certified for payment to the importer of record unless a transferee of the right to withdraw merchandise from bonded warehouse is entitled to receive the refund under section 557 (b) Tariff Act of 1930, as amended, or an owner's declaration has been filed in accordance with section 485 (d) Tariff Act of 1930. The certification of a refund for payment to a nominal consignee may be made prior to the expiration of the 90-day period within which an owner's declaration may be filed as prescribed in section 485 (d) of the tariff act, provided the nominal consignee waives in writing his right to file such declaration. If an owner's declaration has been duly filed, the refund shall be certified for payment to the actual owner who executed the declaration, except that, whether or not an owner's declaration has been filed and regardless of any revocation of the transfer, refunds shall be certified for payment to the transferee if the moneys with respect to which the refund was allowed were paid by such transferee and the right to withdraw the involved merchandise from warehouse was transferred to him on or after July 25, 1938.

(d) If the nominal consignee has become bankrupt, refunds of duties on merchandise entered in the name of such nominal consignee for the account of the actual owner shall be withheld from payment pending the receipt of a claim therefor and the establishment of rights thereto, unless the declaration of the actual owner has been filed with the collector under section 485 (d), Tariff Act of 1930.

(e) A claim for refund of internal-revenue taxes collected in excess of the amount found due on the liquidation or reliquidation of an entry shall be filed on internal-revenue Form 843 in duplicate by the person named on the notice of refund, in his name, with the collector of internal revenue for the internal-revenue district in which the claimant resides. The notice of refund shall be attached to and filed in support of such claim. Internal-revenue Form 843 may be procured from collectors of customs or collectors of internal revenue.

(f) Each claim for refund of internal-revenue taxes shall be confined to refunds under entries filed in the same customs collection district. Item 1 shall show the number of the customs district and the name of the headquarters port of the customs district in which the notice of refund was issued. Item 3 shall show the character of the tax, for example, "Internal-Revenue Tax on Imported Distilled Spirits and Wines." Item 6 shall show the total amount of all notices of refund included in the claim. Items 2, 4, 5, 7, and 8 need not be completed. The reason why the claim should be allowed may be briefly stated in language indicating that internal-revenue taxes were paid to the collector of customs in excess of the tax found due the Government upon the liquidation or reliquidation of entries for which notices of refund were issued by the collector of customs at _____. This statement shall be followed by a tabulation of all notices of refunds included in the claim, showing the serial number and date of the notice of refund, the kind, number, and date of each entry, the amount of refund due, and the port at which the entries were filed. If the space on the claim is insufficient to list each entry on which a refund is claimed, the tabulation shall be listed or continued on letter-sized sheets which shall be securely attached to and made a part of the claim. The certificate of the collector of internal revenue on the back of the form is not required. (R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

§ 24.70 *Claims; deceased or incompetent public contractors.* Claims for payments due deceased or incompetent public contractors for articles furnished or services performed shall be submitted to the customs contracting officer at whose order the articles were furnished or the services performed. The contracting officer shall forward such claims to the Bureau of Customs, Attention: Division of Fiscal Administration, for administrative examination prior to transmission to the General Accounting Office for settlement. Applications for settlement of such claims shall be prepared on standard Form 1055. Originals or certified copies of any documents and papers necessary to establish the claimant's right to the moneys due, together with the recommendation of the customs field administrative officer concerned, shall be submitted in support of each claim. (R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

§ 24.71 *Claims for personal injury or damages to or loss of privately owned property.* Procedures for the settlement of claims arising from actions of Treasury Department employees are published in 31 CFR, Part 3. (R. S. 161, sec. 2, 42 Stat. 1066, secs. 401–424, Pub. Law 601, 70th Cong., 60 Stat. 842; 5 U. S. C. 22, 31 U. S. C. 215)

§ 24.72 *Claims; set-off.* When an importer of record has a judgment or other claim allowed by legal authority against the United States, and he is indebted to the United States either as principal or surety, the collector shall not certify for payment so much of such judgment or claim as will equal the amount of the debt due the Government and shall report the facts to the Bureau for instructions. (R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

§ 24.73 *Miscellaneous claims.* Every claim of whatever nature arising under the customs laws which is not otherwise provided for shall be forwarded directly to the Bureau, together with all supporting documents and information available. (R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

PART 25—CUSTOMS BONDS

NOTE: Executive Order 9470, Aug. 25, 1944, 3 CFR, 1944 Supp., ch. II, provides in part as follows:

1. The amount of the bond of a collector of customs shall be not less than ten *per centum*, as determined by the Secretary of the Treasury, of the average monthly collections of the respective customs district for the fiscal year next preceding that in which the bond is given: *Provided*, That the amount of such bond shall not be more than $100,000 except in the discretion of the Secretary, and shall not be less than $10,000.

2. Such bonds shall be in multiples of one thousand dollars, and any fractional part of the required amount shall be covered by an additional multiple of one thousand dollars.

3. An examination of the bonds of collectors of customs for the purpose of ascertaining the sufficiency of the sureties and adjusting the amounts of such bonds shall be made at least every two years and as much oftener as may be deemed necessary by the Secretary of the Treasury.

Sec.
25.1 Classes of bonds.
25.2 Bonds approved by the Secretary of the Treasury; form and execution.
25.3 Bonds approved by Commissioner of Customs; form and execution.
25.4 Bonds approved by collectors; form and execution.
25.5 General instructions.
25.6 Seal.
25.7 Partnerships as principals.
25.8 Corporations as principals.
25.9 Individual sureties.
25.10 Delinquent sureties.
25.11 Partners as sureties.
25.12 Corporate sureties.
25.13 Same party as principal and surety; attorney.
25.14 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.
25.15 Export bonds; cancelation.
25.16 Bonds for production of missing documents; card memorandum; time for production of documents.
25.17 Nonproduction of documents; failure to redeliver packages; sums to be collected.
25.18 Extension of periods for compliance with bond requirements.

§ 25.1 *Classes of bonds.* All bonds required to be given under the customs statutes or customs regulations shall be

known as customs bonds and shall consist of three classes; those approved by the Secretary of the Treasury, those approved by the Commissioner of Customs, and those approved by collectors of customs.[1] (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.2 *Bonds approved by the Secretary of the Treasury; form and execution.* (a) The following bonds, after execution by the principals and sureties, shall be forwarded to the Secretary of the Treasury for approval:

(1) Bonds of collectors, of comptrollers, and of the surveyor at New York, in such amounts as the Secretary of the Treasury may direct.

(2) Bond of customs field auditor, in such amount as the Secretary of the Treasury may direct.

(3) Bond of the deputy collector of customs in charge of a port of entry, in an amount to be recommended by the collector of customs and fixed by the Secretary of the Treasury.

(b) Subordinate officers and employees are not eligible as sureties on the bonds of their directing or employing officers. (R. S. 2620; sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 32, 1623, 1624)

§ 25.3 *Bonds approved by Commissioner of Customs; form and execution.* (a) The following bonds, after execution by the principals and sureties shall be forwarded to the Commissioner of Customs for approval:

(1) Proprietor's manufacturing warehouse bond, class 6, customs Form 3583, in an amount to be recommended by the collector, but not less than $5,000 on each building or area and not more than $50,000 on all buildings or areas, unless the Commissioner believes additional security necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. It shall be prepared in duplicate and, after execution by the principal and surety, delivered to the collector of customs to be forwarded to the Bureau with his recommendation, together with all reports, documents, and drawings filed in connection therewith.

(2) Cartage contract bond, customs Form 3083, in an amount to be recommended in each case by the collector. The cartage contract and bond shall be executed in quadruplicate.

(3) Carrier's bond, customs Form 3587, in an amount to be recommended by the collector. This bond shall be prepared in duplicate.

(4) General term bond for the entry of merchandise, customs Form 7595, in the amount of $100,000, or such larger amount as may be fixed by the Commissioner of Customs. A principal desiring to execute this form of bond shall file with the collector at the headquarters port named in the bond, for transmittal to the Commissioner of Customs, an application for permission to file the bond. The application shall show the ports at which it is intended to file entries; the general character of the merchandise to be entered; and the total amount of ordinary customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs. Such total amount of duties and taxes shall be that which would have been required to be deposited had the merchandise been entered for consumption, even though some of or all the merchandise may have been entered under bond. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year shall be submitted.

(5) Blanket smelting and refining bond in the form prescribed by T. D. 50267, in an amount to be recommended by the collector and fixed by the Commissioner of Customs.

(b) A blanket term bond shall be accompanied by a sufficient number of copies for transmittal, through the Bureau, to each port at which the principal seeks to conduct business. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.4 *Bonds approved by collectors; form and execution.* (a) The following bonds shall be approved by the collector and remain on file in his office, except customs Form 4615, which shall be transmitted to the United States attorney:

(1) Proprietor's warehouse bond, customs Form 3581, in the amount of $5,000 on each building or area covered, but not to exceed $50,000 on all buildings or areas unless the collector believes additional security necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. All reports, documents, and drawings submitted in connection with the bonding of the warehouse shall be filed with the bond.

(2) Bond of customs cartman or lighterman, customs Form 3855, in such amount as the collector deems necessary, but not less than $5,000, and not more than $50,000, unless the collector deems the latter amount insufficient and reports the matter to the Bureau for action, in which case the bond shall be in the amount specified by the Bureau.

(3) Bond of claimant of seized goods for costs of judicial condemnation, customs Form 4615, in the amount of $250.

(4) Bond on customs Form 7301 in the amount of $1,000 for the production of complete outward manifest or export declarations. If the manifest and export declarations are covered in one bond, it shall be in the amount of $2,000.

(5) Bond to produce shipper's export declaration for goods exported to Canada or Mexico by car, vehicle, or ferry, customs Form 7303, in such amount as the collector may deem necessary.

(6) Term bond to produce shipper's export declaration for goods exported to Canada or Mexico by car, vehicle, or ferry, in such amount as the collector may deem necessary.

(7) Special single entry carpet wool and camel's hair bond, customs Form 7547, in an amount equal to the value of the wool or hair involved plus double the estimated duty, as determined at the time of entry.

(8) Special term carpet wool and camel's hair bond, customs Form 7549, in the amount of $10,000, or such larger amount as the collector may deem necessary.

(9) Immediate delivery and consumption entry bond (single entry), customs Form 7551, in an amount equal to the value of the articles as set forth in the entry plus the estimated duty[2] (includ-

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[1] "(a) In any case in which bond or other security is not specifically required by law, the Secretary of the Treasury may by regulation or specific instruction require, or authorize collectors of customs to require, such bonds or other security as he, or they, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary of the Treasury or the Customs Service may be authorized to enforce.

"(b) Whenever a bond is required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, the Secretary of the Treasury may—

"(1) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum: *Provided*, That when a consolidated bond authorized by paragraph 4 of this subsection is taken, the Secretary of the Treasury may fix the penalty of such bond without regard to any other provision of law, regulation, or instruction.

"(2) Provide for the approval of the sureties on such bond, without regard to any general provision of law.

"(3) Authorize the execution of a term bond the conditions of which shall extend to and cover similar cases of importations over such period of time, not to exceed one year, or such longer period as he may fix when in his opinion special circumstances existing in a particular instance require such longer period.

"(4) Authorize, to the extent that he may deem necessary, the taking of a consolidated bond (single entry or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce. A consolidated bond taken pursuant to the authority contained in this subsection shall have the same force and effect in respect of every provision of law, regulation, or instruction for the purposes for which it is required as though separate bonds had been taken to assure compliance with each such provision.

"(c) The Secretary of the Treasury may authorize the cancellation of any bond provided for in this section, or of any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount or penalty or upon such other terms and conditions as he may deem sufficient.

"(d) No condition in any bond taken to assure compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce shall be held invalid on the ground that such condition is not specified in the law, regulation, or instruction authorizing or requiring the taking of such bonds. * * *" (Tariff Act of 1930, sec. 623, as amended; 19 U. S. C. 1623)

[2] When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

ing any taxes required by law to be treated as duties) as determined at the time of entry. When the bond relates to an application for immediate delivery prior to entry, the amount shall be fixed as above set forth on the basis of the information shown in the application. In the case of merchandise which appears to the satisfaction of the collector to be unconditionally free of duty and not prohibited from admission into the commerce of the United States, the amount of the bond may be in such lesser amount (disregarding the value of the articles) as, in the opinion of the collector, will be sufficient to accomplish the purpose for which the bond is given, but in no case less than $100.

(10) Immediate delivery and consumption entry bond (term) customs Form 7553, in the amount of $10,000, or such larger amount as the collector may deem necessary. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port. The rules prescribed in subparagraph (8) of this paragraph for determining the amount of the single immediate delivery and consumption entry bond shall be applied in making charges against immediate delivery and consumption entry term bonds.

(11) Warehouse entry bond, customs, Form 7555, in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duty[2] on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs.

(12) Single entry bond for exportation, or for transportation, or for transportation and exportation, customs Form 7557, in an amount equal to double the estimated duty.

(13) Term bond for exportation, or for transportation, or for transportation and exportation, customs Form 7559, in the amount of $10,000, or such larger amount as the collector may deem necessary to afford ample security to the revenue.

(14) Bond for articles entered or withdrawn from warehouse conditionally free of duty, customs Form 7561, in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duty[2] on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs.

(15) Bond for temporary importations, customs Form 7563, in an amount equal to one and one-quarter times the estimated duties, as determined at the time of entry.

(16) Bond for articles for exhibition, customs Form 7565, in an amount equal to one and one-quarter times the estimated duties as determined at the time of entry.

(17) Single entry vessel, vehicle, or aircraft bond, customs Form 7567, in such amount as the collector may deem necessary, but in no case less than $1,000.

(18) Vessel, vehicle, or aircraft term bond, customs Form 7569, in the amount of $10,000, or such larger amount as the collector may deem necessary.

(19) Blanket vessel, vehicle, or aircraft term bond, customs Form 7569, in the amount of $10,000, or such larger amount as may be fixed by the collector of customs at the port where the bond is filed. A carrier desiring to execute such a bond shall file an application for permission to execute the bond with the collector of customs at any headquarters port. The bond shall be accompanied by a copy for each port named therein.

(20) Bond on entry for or withdrawal from manufacturing warehouse (single entry), customs Form 7571, in an amount equal to the aggregate sum of double the estimated amount of ordinary customs duty on the merchandise, as determined at the time of entry (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the collector of customs.

(21) Single entry bond to produce bill of lading, customs Form 7581, in an amount equal to one and one-half times the invoice value.

(22) Antidumping bond, customs Form 7591, in an amount equal to the estimated value of the merchandise.

(23) Landing bond, customs Form 7593, to land spirits, wines, or other alcoholic liquors in foreign ports, in an amount equal to double the estimated duty.

(24) Single entry bond, customs Form 7597, in an amount deemed by the collector to be sufficient to secure the payment of overtime services requested by or on behalf of owners or consignees of merchandise.

(25) Term bond, customs Form 7599, in an amount deemed by the collector to be sufficient to secure the payment of overtime services requested by or on behalf of owners or consignees of merchandise.

(26) Special bond, taken under the provisions of section 337 (f) Tariff Act of 1930, in the form prescribed in T. D. 45474. The penalty on this bond shall be in an amount equal to the domestic value of the merchandise.

(27) Special bond in the form prescribed in T. D. 45474 for clearance of vessel penalized for carrying smoking opium or other narcotics under the provisions of section 584, Tariff Act of 1930, as amended. The penalty of this bond shall be in an amount satisfactory to the collector to guarantee the payment of any fine imposed against the owner or master of the vessel.

(28) Bond for entry and transportation of special delivery packages under the act of June 8, 1896, in the amount of $10,000, in the form prescribed by § 8.56 of this chapter.

(29) Special bond in the form prescribed in T. D. 45474 for exportation of convict-made goods, in an amount equal to the domestic value of the merchandise.

(30) Special bond for observance of neutrality in the form prescribed in T. D. 45474, in an amount equal to double the value of the vessel and cargo on board, including her armament.

(31) Bond for release of examined packages in the form prescribed in T. D. 50252 in an amount satisfactory to the collector to secure the payment of any increased or additional duties or taxes.

(32) Bond for an immediate liquidation of the entry of privileged merchandise in the form prescribed by § 19.31 (c) of this chapter, in an amount equal to double the estimated duty.

(b) The penalty named in any customs bond approved by the collector shall not be less than $100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar shall be disregarded in computing the penal sum, which shall be stated always as the next higher dollar. The penalty of the bond shall be stated both in words and figures. Abbreviations shall not be used, except in dates, descriptions of merchandise, and the marks and numbers on packages. Lines shall be drawn through all spaces not filled in.

(c) If a situation develops where the approved form of a bond is deemed to be inapplicable, the collector may draft a form which he believes will be sufficient, but before execution of the bond the case shall be submitted to the Bureau for its consideration and approval of the proposed form. (R. S. 161, sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759, secs. 1, 2, 52 Stat. 758, 759; 5 U. S. C. 22, 19 U. S. C. 1623, 1624, 46 U. S. C. 91, 92)

§ 25.5 *General instructions.* (a) The names of the principal and sureties and their respective places of residence shall appear in full in the body of the bond. The signature of each party to a bond executed by a non-corporate principal or surety shall be witnessed by two persons, who shall sign their names as witnesses, followed by their addresses. No witnesses are required where bonds are executed by properly authorized officers or agents of a corporate principal or a corporate surety. If the bond is executed by an authorized officer of a corporation, the officer's signature shall be properly attested under the corporate seal.

(b) When two persons signing as witnesses act for both principal and surety, they shall so indicate by stating "as to both," or a similar term.

(c) Each bond shall bear the date of the day it was actually executed. The termination date of every term bond shall be the last day of the period and not the first day of a succeeding period; for example, January 1, 1940, to and including December 31, 1940, and not January 1, 1940, to January 1, 1941.

(d) A bond in which erasures, interlineations, or alterations occur shall have placed upon it a statement by an agent of the surety company or by the personal sureties that such erasures, interlineations, or alterations were made prior to this signing of the bond. If such alterations or erasures were made after the bond was signed, the consent of all the parties thereto shall be written in the bond.

(e) No bond shall be changed in condition or extended by stipulation or otherwise after it has been approved. When such changes or extensions are desired, a new bond shall be executed. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.6 *Seal.* (a) The seal on a bond approved by the Secretary of the Treasury or the Commissioner of Customs shall be affixed adjoining the signatures of principals and sureties, if individuals, and the corporate seal shall be affixed adjoining the signatures of persons signing on behalf of the corporation.

(b) Bonds approved by collectors of customs shall be sealed in accordance with the law of the state in which executed, and when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.7 *Partnerships as principals.* (a) Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.[3]

(b) Unless written notice of the full names of all partners in the firm have been previously filed with the collector, the names of all persons composing the partnership shall appear in the body of the bond; for example, "A, B, and C, composing the firm of A, B and C." (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.8 *Corporations as principals.* (a) When a corporation is the principal, its legal designation and the address of its principal place of business shall be inserted in the body of the bond. The bond shall be signed by an authorized officer or attorney of such corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 25.6 (b) When the bond is to be approved by the Secretary of the Treasury or the Commissioner of Customs, the official character and authority of the person or persons executing the bond for the principal may be certified by the secretary, assistant secretary, or other officer of the corporation. Such certification shall be made by executing the certificate as to corporate principal appearing in the bond. In lieu of such certificate, there may be attached to the bond so much of the records of the corporation as will show the official character and authority of the officer signing, such evidence to consist of:

(1) A certificate from the proper public officer showing the legal existence of the corporation.

(2) A copy of the bylaws, or so much thereof as authorizes the execution of such bonds, certified by the secretary of the corporation and authenticated by its corporate seal.

(3) A copy of the document authorizing such officer to sign such bonds, certified by the secretary of the corporation under the corporate seal, or a power of attorney executed in accordance with § 8.19 of this chapter containing such authority.

(b) When the bond is approved by the collector, the evidence prescribed in paragraph (a) of this section shall be filed with such officer. The collector may waive the production of evidence of incorporation when such fact is a matter of common knowledge and he shall so certify.

(c) When an attorney in fact executes a bond on behalf of a corporation and the bond is to be approved by the Secretary of the Treasury or the Commissioner of Customs, there shall be attached a power of attorney executed under the corporate seal by an officer of the corporation whose authority to execute such power shall be shown as prescribed in paragraph (a) of this section. If the bond is to be approved by the collector, the power of attorney shall be filed with him on the prescribed form.

(d) The name of a corporation executing a customs bond may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.9 *Individual sureties.* (a) If individuals sign as sureties, there shall be not less than two, except that, in the case of bonds approved by the collector, one surety may be accepted if the collector is satisfied that such surety is sufficient for the protection of the Government. Every surety on a customs bond must be both a resident and a citizen of the United States. Before being accepted as surety, he shall take oath on customs Form 3579, setting forth the amount of his assets over and above all his debts and liabilities and such exemptions as may be allowed by law, the general description and the location of one or more pieces of real estate owned by him within the limits of the customs district and the value thereof over and above all encumbrances, and he shall produce such evidence of solvency and financial responsibility as the collector may require.

(b) Each individual surety must have unencumbered property liable to execution, the current market value of which must be equal to the penalty of any bond executed by him. If a single surety is accepted, he shall qualify in an amount equal to twice the penalty of the bond. The property must be located within the limits of the customs district in which the contract of suretyship is to be performed.

(c) An individual surety shall not be accepted on a bond until he has satisfied the collector as to his financial responsibility. The collector may refer the matter to the principal officer of the Customs Agency Service in his district for immediate investigation to verify the financial responsibility of the surety.

(d) In order to follow the continued solvency and sufficiency of individual sureties, the collector shall require a new oath and determine the sufficiency of each such surety as prescribed in paragraphs (a) and (c) of this section at least once every 6 months, and oftener if he deems it advisable.

(e) A married woman shall not be accepted as surety.

(f) Any individual other than a married woman may grant a power of attorney to sign as surety on customs bonds. If limited to bonds of one or several importers, the importers shall be named in the power. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.10 *Delinquent sureties.* (a) No person shall be accepted as surety on any customs bond while he is in default as principal on any other customs bond.

(b) A surety on a customs bond which is in default may be accepted as surety on other customs bonds only to the extent that his assets are unencumbered by such default. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.11 *Partners as sureties.* A person may act as surety for a business partner when such person is acting with respect to his separate property and in his individual capacity, but a member of a partnership shall not be accepted as surety on a bond executed by the firm as principal. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.12 *Corporate sureties.* (a) A list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted, will be furnished semiannually to all collectors of customs by the Secretary of the Treasury. No corporation shall be accepted as a surety on a bond unless named in the current list and no bond shall be for a greater amount than the respective limit stated in such list, unless the excess is protected as prescribed in 31 CFR 223.12.

(b) Two or more companies may be accepted as sureties on any obligation the penal sum of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. In such cases each company shall limit its liability, in terms, upon the face of the bond to a definite specified amount, using customs Form 3903 for that purpose, such amount to be in all cases within the limitation prescribed by the Secretary, unless such excess is protected as prescribed in 31 CFR 223.12.

(c) When a bond is executed by an authorized and approved corporate surety through its agent or attorney, a power of attorney on Treasury Form 272, showing the authority of such person to act for the surety company, shall be filed in the office of the collector approving such bond or shall be filed in the Treasury Department when the bond is to be approved by the Secretary of the Treasury or the Commissioner of Customs.

(d) When a bond is executed in a customs district other than the one in which it is to be filed, the bond may be approved as to surety by the collector of customs in the district in which it was executed if evidence of the authority of each officer or agent executing the bond on behalf of the surety is on file in his office. If the bond is not to be approved

[3] "When any bond is required by law or regulation to be executed by any partnership for any purpose connected with the transaction of business at any customhouse, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same." (Tariff Act of 1930, sec. 495; 19 U. S. C. 1495)

by the collector in whose district it is executed, the authority of the person or persons executing the bond on behalf of the company shall be completed, as provided for in paragraph (c) of this section, and attached to the bond unless such evidence has been submitted to the collector at the port where the bond is to be approved and filed. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.13 *Same party as principal and surety; attorney.* The same person, partnership, or corporation cannot be both principal and surety on a bond, but a person may act as attorney in fact for both principal and surety. A person acting at attorney in fact for a principal may be accepted as surety on the same bond and, when acting as attorney for the surety, may be the principal on such bond. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.14 *Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.* In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, collectors of customs are authorized to accept United States money, United States bonds, United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the penalty of the bond.[4] At the time of the deposit of any obligation of the United States, other than United States money, with the collector, the obligor shall deliver to such collector a duly executed power of attorney and agreement in favor of the collector in a form similar to that prescribed in Department Circular 154, dated February 6, 1935, authorizing such officer, in case of any default in the performance of any of the conditions or stipulations of the bond, to sell such obligation so deposited and to apply the proceeds of such sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. If cash is deposited in lieu of sureties on the bond, the collector is authorized to apply such cash, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of a default under the bond. (Sec. 30, 52 Stat. 1089; 19 U. S. C. 1623)

§ 25.15 *Export bonds; cancelation.* (a) A bond to assure the exportation[5] of merchandise may be canceled upon the specification of such merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel, and the production of a foreign landing certificate if such certificate is required by the collector; or, if exportation or destruction is not timely, upon the payment of duties imposed by law in the case of articles entered under paragraph 1747 or 1808, Tariff Act of 1930, or, in the case of articles entered under paragraph 1607 or section 308 of said act, as amended, upon the payment of liquidated damages equal to the entire sum of the bond, or upon the payment of such amount less than the full liquidated damages as may be fixed by the Commissioner of Customs or by the collector of customs in accordance with the provisions of § 10.39 (d) of this chapter. The requirements of the vessel, vehicle, or aircraft bond, customs Form 7567 or 7569, may be considered as having been complied with upon the production of such of the abovementioned documents as may be applicable thereto; but to establish the exportation of narcotic drugs or any equipment, stores (except such articles as are placed on board vessels or aircraft under the provisions of section 309 or 317, Tariff Act of 1930, as amended) or machinery for vessels, a landing certificate shall be required in every case.

(b) This landing certificate shall be produced within 6 months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that such country has no customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing and sworn to before a notary public or other officer authorized to administer oaths and having an official seal.

(c) Except as provided for in § 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Bureau through the collector, accompanied by such proofs of exportation and landing abroad as may be available.

(d) In the case of articles for which the ordinary customs duty estimated at the time of entry did not exceed $10 and which are exported within the period of the bond (including any lawful extension) but without customs supervision, the bond may be canceled upon production of evidence of a bona fide exportation satisfactory to the collector.

(e) If any customs bond, except one given only for the production of free-entry or reduced-duty documents, is unsatisfied upon the expiration of 60 days after a liability has accrued thereunder, the matter shall be reported to the United States attorney for prosecution unless measures have been taken to file an application for relief or to effect a satisfactory settlement. (Sec. 30, 52 Stat. 1039, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.16 *Bonds for production of missing documents; card memorandum; time for production of documents.* (a) When entry is made prior to the production of a required document, whether the entry is charged against a single entry or a term bond, a card memorandum on customs Form 5101 shall be prepared by the importer and presented with the entry.

(b) When a charge for the production of a missing document is made against a term bond, the charge shall be in the amount of the single entry bond that would have been taken had the transaction been covered by a single entry bond.

(c) Except when another period is fixed by law or these regulations, any document for the production of which a bond is given or charged shall be delivered to the collector of customs within 6 months from the date of the transaction in connection with which the bond was given or charged, or within any extension of such time which may be granted pursuant to paragraph (d) of this section. If the period ends on a Sunday or holiday, the next day shall be allowed.

(d) If a written application for an extension of the period of a bond given to assure the production of any document other than an invoice is received by the collector before action has been taken upon the basis of a failure to produce the document within the period of the bond, and the collector is satisfied that failure to produce the document was not due to any lack of diligence, he may extend the period of the bond for 3 months. Upon further application, a second extension of 3 months may likewise be granted by the collector. Extensions of the period of the bond beyond 1 year from the date of the transaction in connection with which the bond was given or charged are granted only by the Commissioner of Customs. No application for the extension of the period of any bond given to assure the production of a missing document shall be allowed by a collector if such application is received later than 6 months after the expiration of the period of the bond, including any prior extension. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

§ 25.17 *Nonproduction of documents; failure to redeliver packages; sums to be collected.* (a) Collectors of customs are hereby authorized to treat any bond charge for the production of a missing document as satisfied upon payment by the principal or surety of the sum of $10 as liquidated damages for each missing declaration of the consignee or other document, except shippers' export declarations and certified and commercial invoices not produced within the time prescribed by law or regulations or any lawful extension of such time.

(b) When a required certified or commercial invoice is not produced on the date of entry or within 6 months thereafter, the bond charge for the production thereof may be canceled upon the payment of $10 as liquidated damages, provided the person who made the entry

[4] "The Secretary of the Treasury is authorized to permit the deposit of money or obligations of the United States, in such amount and upon such conditions as he may by regulation prescribe, in lieu of sureties on any bond required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce." (Tariff Act of 1930, sec. 623 (e), as amended; 19 U. S. C. 1623 (e)).

[5] An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

submits an application under oath for relief from the full amount of the charge, explaining in detail why the certified or commercial invoice could not be produced within the prescribed period, and the collector of customs is satisfied by such application or otherwise that the failure to produce the invoice within the prescribed period was due to causes wholly beyond the control of the person making the entry and not to any purpose of the foreign seller or shipper to withhold information required by law, regulation, or special instruction to be shown on the invoice.

(c) For each shipper's export declaration covering goods exported to Canada or Mexico by car, vehicle, or ferry, which is not produced within the time prescribed by the regulations or any lawful extension thereof, the sum of $50 shall be collected as liquidated damages.

(d) For failure to return to the collector on demand merchandise subject to return to customs custody, an amount equal to the value as set forth in the entry of the merchandise not returned plus the estimated duties, if any, on such merchandise as determined at the time of entry shall be demanded. When the demand for return to customs custody is made in the case of merchandise entered under paragraph 1607 or section 308, Tariff Act of 1930, liquidated damages in an amount equal to one and one-quarter times the estimated duties on the merchandise not returned shall be demanded. When the demand for return to customs custody is made pursuant to the Federal Seed Act and the regulations thereunder, an amount equal to the value of the entire shipment, as set forth in the entry, plus the estimated duties, if any, as determined at the time of entry shall be demanded.

(e) When free entry or the application of a reduced rate of duty is dependent upon the production of a document which the importer fails to produce, or when a conditionally free or reduced-duty provision claimed on entry is held to be inapplicable, the claim for free entry or reduced rate of duty shall be treated as abandoned upon the assessment and payment of duty and the bond given for the production of the free-entry or reduced-duty document shall be cancelled without the collection of liquidated damages.

(f) When a customs requirement supported by a bond is waived by the Bureau, the waiver may be unconditional, in which case the importer is relieved from the payment of liquidated damages, or it may be conditioned upon prior settlement of the bond obligation by payment of such liquidated damages, or upon such other terms and conditions, as the Commissioner of Customs may deem sufficient. When such a requirement is waived by the collector of customs pursuant to authority conferred upon him in these regulations, the waiver shall be unconditional.

(g) When a bond is given for the production of any free-entry or reduced-duty document within 6 months from the time of entry and the document is produced after the expiration of the bond period but before liquidation of the entry or within such time after liquidation as will permit a valid reliquidation of the entry, it shall be accepted as satisfying the requirement that it be filed in connection with the entry and no liquidated damages shall be collected under this section. (Sec. 30, 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1623, 1624)

NOTE: Treasury Decision 51189, Feb. 10, 1945, 10 F.R. 1724, supplementing § 25.17 and superseding any provision of § 25.17 which is inconsistent therewith, provides in part as follows:

Collectors of customs may cancel without the collection of liquidated damages any liability incurred before the expiration of 1 year after the termination of the unlimited national emergency proclaimed by the President on May 27, 1941, under a single or term entry bond on account of the failure to produce a certified invoice within the 6-months' period prescribed in section 484 (b) (3) of the Tariff Act of 1930 (U.S.C., Title 19, sec. 1484 (b) (3)), *Provided*, The collector of customs concerned is satisfied that the failure to comply with the bond was due to conditions resulting from the war and not to a purpose of any person to evade any Government requirement, and:

(a) The required invoice is produced within 1 year from the date of the entry; or

(b) The information which should have been furnished by the invoice is not required for the proper appraisement or classification of the merchandise involved, or is otherwise obtained.

§ 25.18 *Extension of periods for compliance with bond requirements.* It is not necessary to secure the assent of the sureties to any extension of the period prescribed in a bond when such extension is authorized by law or these regulations. The assent of the sureties shall be obtained before any other extension of such a period is allowed. (Sec. 624, 46 Stat. 759; 19 U. S. C. 1624)

PART 26—DISCLOSURE OF INFORMATION

Sec.
26.1 Confidential information.
26.2 Customs records and documents.
26.3 Information for the press and associations.
26.4 Review of data.
26.5 Suspension of disclosure.

AUTHORITY: §§ 26.1 to 26.5 issued under R. S. 161; 5 U. S. C. 22.

§ 26.1 *Confidential information.* (a) Except as authorized hereafter in this section, no collector, appraiser, customs agent, or other customs officer or employee shall disclose details of any customs activity for publcation, except under special authority from the Bureau.

(b) Collectors and other customs officers shall refrain from disclosing facts concerning seizures, investigations, and other pending cases of public interest until the matter is completed. The collector may give the press information concerning any case involving an offense against the customs laws after he has completed his investigation and the case has been closed by final customs action, such as settlement of a civil liability or reference of a case to the United States attorney for handling. Field officers shall exercise proper restraint and judgment in disclosing local transactions. Unless specifically authorized so to do, they shall not disclose to any person not immediately concerned the text or substance of any communication from the Bureau or the Treasury involving any matter of policy.

(c) Insofar as administrative matters in Washington are concerned, statements will be issued only through the office of the Secretary or the Assistant Secretary in charge of the Customs Service.

(d) The disclosure of the information contained in customs documents (with the exception of statistical data, and data contained in vessels' manifests as heretofore provided for) or the disclosure to one importer or exporter of information relative to the business of another importer or exporter acquired by the officer or employee by reason of his official employment shall constitute grounds for dismissal from the Service; and if done for a valuable consideration will subject such person to criminal prosecution.

§ 26.2 *Customs records and documents.* (a) The information contained in invoices, entries, manifests, export declarations, official reports of investigating officers, and other papers or documents filed with customs officers for any official purpose shall be treated as confidential, except for the purpose for which such documents are required to be filed. All officers and employees of the Customs Service are prohibited, unless specially authorized to do so by the Bureau or by these regulations, from giving out information contained in such papers and documents except to the importer, exporter (in the case of export documents) or other person directly in interest, or to his authorized agent.

(b) Importers and exporters, or their duly authorized brokers, attorneys, or agents, may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or to make any copies or notations from them except with reference to the particular importation or exportation in which they have a proper and legal interest.

(c) In answer to a legal process or demand from a court issued in behalf of the United States or an officer thereof, customs officers or employees shall produce in court in customs custody, and may testify with respect to, any official customs papers or documents demanded. When any such process or demand is issued in behalf of a party other than the United States, it shall be complied with only to the extent that the party in whose behalf the papers or documents are demanded is permitted under these regulations to inspect such papers or documents at the customhouse.

(d) Except as stated in paragraph (f) of this section, nothing in this part shall preclude customs officers or employees from producing in the United States Customs Court in customs custody any customs papers or documents or from testifying or otherwise rendering all proper assistance to the court in proceedings before it when request therefor is made by the court; nor from furnishing to counsel for the United States information in, and permitting him to in-

spect, customs papers or documents requested by him, nor from testifying on behalf of the United States or otherwise assisting him in the performance of his official duties.

(e) Except as stated in paragraph (c) of this section, copies of customs documents or records desired by or on behalf of parties to a suit, whether in a court of the United States or any other, shall be furnished without prior Departmental approval only to the court on a rule of the court upon the Secretary of the Treasury requesting them, or to a person entitled under paragraph (a) of this section to obtain the information they disclose. Exceptions to this rule shall be made only on the written order of the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary. When requested, such copies may be authenticated pursuant to the provisions of 28 U. S. C. 1733.

(f) The authority granted in paragraphs (c) (d) and (e) of this section is subject to the restriction that no matters of a confidential nature or the disclosure of which would be prejudicial to the public interest shall be disclosed to any person.

(g) Upon being served with a subpoena or subpoena duces tecum from a court or officer thereof calling for testimony or the production of papers or documents in cases not covered by paragraph (c) or (d) of this section, or in cases where the testimony or documents desired would disclose matters of a confidential nature or the disclosure of which would be prejudicial to the public interest, the matter shall be referred to the Bureau for instructions with a report which shall specifically describe the testimony or documents desired; shall set forth the views of the submitting officer as to whether the giving of the testimony or the furnishing of the documents would disclose confidential information or be inimical to the public interest; and shall state in what particulars, if any, the disclosure of the information and work incidental thereto would interfere with the orderly conduct of customs business in the event instructions are not received prior to the date set for appearance or production of documents, or if the Bureau declines to permit their production or the disclosure of the information contained therein or otherwise within the knowledge of the customs officers or employee whose testimony is requested, the customs officer or employee shall appear in court or before the officer concerned in answer to the subpoena and respectfully decline to produce the documents called for or to testify, except to the extent specifically authorized elsewhere in this section, citing this regulation as authority for his refusal. If the matter has not already been referred to the Bureau for instructions, the customs officer or employee shall advise the court or officer that it will be so referred.

§ 26.3 *Information for the press and associations.* Accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications may be permitted to examine vessels' manifests and summary statistical reports of imports and exports and to copy therefrom for publication information and data not of a confidential nature, subject to the following rules:

(a) Of the information and data appearing on outward manifests, only the general character,. destination, and quantity (or value) of the commodity, name of vessel, and country of destination may be copied and published. Where the manifests show both quantity and value, either may be copied and published, but not both in any instance.

(b) Confidential information, such as the names of the shippers and consignees, marks and numbers, and both quantities and values of commodities shall not be copied from outward manifests or any other papers.

(c) Of the information shown on inward manifests, only the name of the consignee, the general character of the commodity, the quantity (or value) name of vessel, and the country of dispatch shall be copied and published. When an inward manifest shows both quantity and value of the commodity, either may be copied and published, but not both in any instance.

(d) Accredited representatives of regularly established associations, whether incorporated or not, shall be permitted to examine vessels' manifests for the purpose of securing data relative to merchandise of the kind or class in the importation of which the association is interested, subject to the foregoing rules; but this authority does not extend to attorneys or customs brokers representing individual importers.

§ 26.4 *Review of data.* All copies and notations from inward or outward manifests shall be submitted for examination by a customs officer designated for that purpose.

§ 26.5 *Suspension of disclosure.* (a) Upon written application of any importer or exporter, the collector of customs shall refuse to permit any person, except as provided for in § 26.2, to copy from manifests any information or data concerning the merchandise imported or exported by the applicant. Upon written application of the master or owner of any vessel or line of vessels, the collector of customs shall refuse to permit any person, except as provided for in § 26.2, to copy any information or data contained in manifests of merchandise carried by the vessel or vessels controlled by the applicant if the collector is satisfied, upon evidence presented to him, that the publication of the information or data has been or will be detrimental or prejudicial to the applicant.

(b) If any individual shall abuse the privilege granted him of examining inward and outward manifests or shall make any improper use of any information or data obtained from such manifests or other papers filed in the customhouse, both he and the party or publication which he represents shall thereafter be denied access to such papers.

(c) During the effective period of any proclamation of the President that a state of war exists in which the United States is a neutral or a belligerent, information concerning imports and exports shall not be disclosed except as provided for in § 26.2.

NOTE: Treasury Decision 51401, Commissioner, approved by the Acting Secretary of the Treasury, Jan. 30, 1946, 11 F.R. 1349, provides as follows:

Notwithstanding the provisions of § 26.5 (c), information from customs records may be disclosed in accordance with § 26.3 during the remainder of the period covered by any presently effective proclamation of the President that a state of war exists in which the United States is a neutral or a belligerent.

PART 51—IMPORTS AND EXPORTS SUBJECT TO THE PROVISIONS OF EXECUTIVE ORDER 8389, AS AMENDED, AND PROCLAMATION 2497, REGARDING "BLOCKED NATIONALS"

Sec.

51.1 Presentation of license before acceptance of entries for consumption, etc.

51.2 Necessity for license under the Export Control Act.

AUTHORITY: §§ 51.1 and 51.2 issued under 40 Stat. 415, as amended, 54 Stat. 714, as amended; 12 U. S. C. 95a, 50 U. S. C. App., 701. E. O. 8389, as amended, Apr. 10, 1940, and Proc. 2497, July 17, 1941; 3 CFR Cum. Supp.

§ 51.1 *Presentation of license before acceptance of entries for consumption, etc.* Except as otherwise directed, Treasury licenses shall not be required with respect to the entry, withdrawal, or exportation of merchandise notwithstanding General Ruling No. 11, as amended (31 CFR, Part 131, App. A) or that the consignee, consignor, or other person having an interest in the merchandise, or in the transaction, is a foreign country designated in Executive Order No. 8389, Apr. 16, 1940, as amended (3 CFR, Cum. Supp.) or a national thereof.

§ 51.2 *Necessity for license under the Export Control Act.* This part does not in any way affect the necessity for a license under the Export Control Act of July 2, 1940. Neither an export control license nor a Treasury license will be accepted in lieu of the other type of license.

PART 52—REGULATIONS UNDER TRADING WITH THE ENEMY ACT

Sec.

52.0 Statutory provisions; Executive order.

52.1 Communications brought into the United States; declaration; search and detention; report to United States attorney.

52.2 Communications being taken from the United States; declaration; search; seizure of communication and detention of person; license.

52.3 Examination of imports and exports for detection of communications.

52.4 Procedure for obtaining license to take or send particular communications from United States.

52.5 General licence; procedure for obtaining.

52.6 Reference of doubtful cases to Customs Agency Service for investigation and reports.

52.7 Revocation of license.

52.8 Cooperation among Government agencies.

52.9 Communications for enemy or allies of enemy not to be licensed.

52.10 Definition of "an enemy or ally of an enemy"

AUTHORITY: §§ 52.0 to 52.10 issued under sec. 3 (c), 40 Stat. 412; 50 U. S. C. App., 3 (c), and secs. XI, XIII, E. O. 2729-A, Oct. 12, 1917.

§ 52.0 *Statutory provisions; Executive order* (a) Section 3 (c) of the Trading with the Enemy Act, approved October 6, 1917, provides that it shall be unlawful—

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct), to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; * * *: *Provided, however* That any person may send, take, or transmit out of the United States anything herein forbidden, if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(b) Section XI, Executive Order No. 2729–A, dated October 12, 1917, is in part as follows:

I further hereby vest in the Secretary of the Treasury the executive administration of the provisions of subsection (c) of section 3 of the Trading with the Enemy Act relative to sending, or taking out of, or bringing into, or attempting to send, take out of, or bring into the United States any letter, writing, or tangible form of communication, except in the regular course of the mail. * * *. And said Secretary of the Treasury is hereby authorized and empowered to issue licenses to send, take, or transmit out of the United States anything otherwise forbidden by said subsection (c) and give such consent or grant such exemption in respect thereto as is not inconsistent with law or to withhold or refuse the same.

(c) Under section 16 of the Trading with the Enemy Act any person bringing, or attempting to bring, into the United States any letter or other writing or tangible form of communication, except in the regular course of the mail, is subject, upon conviction, to a fine of not more than $10,000, or to imprisonment for not more than 10 years or both, and the letter or other form of communication so brought in, or attempted to be brought in, is subject to seizure and forfeiture. Any person who sends, or takes, or attempts to send, or take from the United States any letter or other writing or tangible form of communication, except in the regular course of the mail, without a license therefor, is subject to a like penalty, and the letter or other form of communication involved is subject to seizure and forfeiture.

Pursuant to the authority conferred by sections XI and XIII of Executive Order No. 2729–A, dated October 12, 1917, the following regulations are hereby prescribed for the enforcement of the provisions of the statute and order quoted above:

§ 52.1 *Communications brought into the United States; declaration, search and detention, report to United States attorney.* Every person arriving in the United States from any foreign country (except persons in the service of the United States Government or of the Government of any nation other than Japan, Italy, and Germany and allies thereof, including Bulgaria, Rumania, Thailand, and Hungary) shall be required to declare to the customs officers, in addition to the usual customs declaration (if any) any letter or other tangible form of communication, carried on his person or in his baggage, or otherwise brought with him or under his control. Customs officers examining arriving passengers and baggage shall, in addition to the usual customs examination, make a particular search to discover any letters or other tangible forms of communication, and shall deliver to the collector of customs for disposition any such letters or other forms of communication so declared, or which may be found on the persons or in the baggage of passengers, or which may have been brought to the United States otherwise than in the regular course of the mails. If it appear that any letter or other tangible form of communication is being brought into the United States with intention to evade or violate the law, or if it appear that the effect of bringing such letter or other form of communication into the United States would be inimical to the interests of our Government, or in the interests of its enemies, the customs officers shall detain any person having such letter or other form of communication in his possession or under his control, and report the facts to the United States attorney for appropriate action. If it appear that any letter or other tangible form of communication is being brought into the United States without intention to evade or violate the law, and that the effect of bringing such letter or other form of communication into the United States would not be inimical to the interests of our Government or in the interests of its enemies, the collector of customs may license the bringing of such letter or other form of communication into the United States, in which case there shall be placed thereon the words "Examined and Passed" with the date, the name of the port, and the initials of the collector or other authorized officer and such letter or other form of communication may then be released, provided, there are affixed thereto the appropriate United States postage stamps if the transmittal of the letter or other communication outside the mails is of such nature that the laws of the United States require the use of such stamps. Any person to whom a license is refused by a collector of customs may appeal from such decision to the Secretary of the Treasury through the Commissioner of Customs, stating all the facts relied upon to show that the decision of the collector should be reversed.

§ 52.2 *Communications being taken from the United States; declaration, search; seizure of communication and detention of person; license.* Customs officers shall require every person departing from the United States (except persons in the service of the United States Government or of the Government of any nation other than Japan, Italy, and Germany and allies thereof, including Bulgaria, Rumania, and Hungary) to declare any letter or other tangible form of communication carried on his person, or contained in his baggage, or otherwise brought with him or under his control. When such action is deemed necessary, customs officers shall also search the person and baggage of any one (except persons in the service of the United States Government or of the Government of any nation other than Japan, Italy, and Germany and allies thereof, including Bulgaria, Rumania, Thailand, and Hungary) departing from the United States for any letter or other tangible form of communication. If any such letter or form of communication be declared or found which is not covered by a license issued pursuant to §§ 52.4 or 52.5 or other proper authority, the customs officers shall take possession of it and deliver it to the collector of customs for disposition. If upon investigation the collector of customs is satisfied that such letter or other form of communication was being taken out of the United States without any intention to violate or evade the law or to injure the interests of the United States or to advance the interests of is enemies, and if such letter or other form of communication is not intended for or to be delivered to an enemy or ally of an enemy, the collector may grant a license for the taking of such letter or other form of communication out of the United States, provided there are affixed thereto the appropriate United States postage stamps if the transmittal of the letter or other communication outside the mails is of such nature that the laws of the United States require the use of such stamps. If such letter or other form of communication is intended for or to be delivered to an enemy or ally of an enemy and a license therefor has not been issued pursuant to proper authority, the collector of customs shall hold it in his possession until he is instructed concerning its disposition. If the collector finds on investigation that such letter or other form of communication is being taken out of the United States with intention to violate or evade the law, or if the effect of taking it out would be to injure the United States or to advance the interests of its enemies, he shall seize such letter or other form of communication and detain the person in whose possession it was found, or who had it under his control, and shall report of the facts to the United States attorney for appropriate action.

§ 52.3 *Examination of imports and exports for detection of communications.* In connection with the examination of imports and exports for customs and control purposes, customers officers shall be alert to detect any letter or other tangible form of communication brought into or intended to be taken out of the United States contrary to law, and if any such be found, shall take possession thereof and submit it to the collector for disposition.

§ 52.4 *Procedure for obtaining license to take or send particular communications from United States.* Licenses to take or send from the United States any letter or other tangible form of communication otherwise than in the regular course of the mail may be granted, if such letter or other form of communication is not intended for or to

be delivered to an enemy or ally of an enemy, upon compliance with the following procedure:

Any person desiring to take or send from the United States such letter or other form of communication shall file an application therefor with the collector of customs at the port of entry at which such letter or other form of communication is to leave the United States, or with the collector of customs at or nearest the place of residence of such person. Such application shall state the name, nationality, residence, occupation, and place of business of the person taking, and, if sent by another person, of the person sending such letter or other form of communication, and the name, nationality, residence, occupation, and place of business of the person to whom such letter or other form of communication is to be delivered, with a full statement of the reasons why it is necessary or desired to send such communication otherwise than in the regular course of the mail. If the person sending or taking such letter or other form of communication from the United States is a citizen of this country, the application shall state whether he is a native-born or a naturalized citizen, and, if naturalized, the country of which he was a citizen or subject prior to receipt of his final naturalization papers, and the place where and the date when he was naturalized. Such application shall have attached thereto the actual letter or other form of communication which it is desired to send or take from the United States and, if in a foreign language, a translation thereof. If the collector of customs is satisfied that a good reason exists for the taking or sending of such letter or other form of communication from the United States otherwise than in the regular course of the mail, and that such action will not be inimical to the interests of the United States, he shall stamp the letter or other form of communication with the word "Licensed" and the date of the stamp and affix his official seal thereto and return it to the applicant, who shall declare and exhibit it to the customs officer who examines his baggage at the time of his departure. If the collector of customs is of the opinion that the granting of any application for a license will be inimical to the interests of the United States, he shall refuse to grant the license. Any person to whom a license is refused by any collector of customs may appeal from such decision to the Secretary of the Treasury through the Commissioner of Customs. Such appeal shall state all the facts required to be stated in the application for a license and any additional facts or reasons the applicant may consider pertinent to show why the decision of the collector of customs should be reversed.

§ 52.5 *General license; procedure for obtaining.* A general license extending over a period of time may be granted upon application made to the Secretary of the Treasury and its being shown that the granting of such a general license is necessary to the orderly transaction of the applicant's business, and is not contrary to the interests of the United States. Each application for such a license shall state all the facts required to be stated in an application for an individual license and such additional facts as may be relied upon to show why a general license should be granted, and shall be filed with the collector of customs at or nearest the place of residence of the applicant, or at the port of entry from which the communications are to be sent. Such applications shall be forwarded to the Commissioner of Customs by the collector of customs after an investigation of the facts, with his report and recommendation. Such general license, when granted, will be issued through the collector of customs at the port at which the application was filed, or at which such letters or other forms of communication are to leave the United States, and the applicant will be notified of the granting thereof.

§ 52.6 *Reference of doubtful cases to Customs Agency Service for investigation and reports.* In case of doubt, the collector of customs shall refer the application for a license to the Customs Agency Service for investigation and report.

§ 52.7 *Revocation of license.* Any license issued pursuant to the regulations in this part may be revoked at any time.

§ 52.8 *Cooperation among Government agencies.* Collectors of customs shall arrange with coordinators of Treasury agencies and the local representatives of the Immigration Service, the Federal Bureau of Investigation, the United States Secret Service, and the Intelligence Services of the Army and the Navy for mutual cooperation and exchange of information in carrying out the regulations in this part.

§ 52.9 *Communications for enemy or allies of enemy not to be licensed.* Collectors of customs shall not issue licenses for any letter or other tangible form of communication intended for or to be delivered to any enemy or ally of enemy, whether to be sent outside the regular course of the mail, or otherwise.

§ 52.10 *Definition of "an enemy or ally of an enemy"* The phrase "an enemy or ally of an enemy" wherever used herein shall mean "enemy" or "ally of enemy" as those terms are defined in section 2 of the Trading with the Enemy Act, approved October 6, 1917.

PART 53—IMPORTATION FREE OF DUTY OF FOOD, CLOTHING, AND MEDICAL, SURGICAL, AND OTHER SUPPLIES UNDER EMERGENCY PROCLAMATIONS OF THE PRESIDENT

Sec.

53.1 Jerked beef for sale or distribution to consumers in Puerto Rico.
53.2 Articles imported by the Red Cross for war relief work.
53.3 Timber, lumber, and lumber products, specified by Housing Expediter admissible free of duty and import tax.

§ 53.1 *Jerked beef for sale or distribution to consumers in Puerto Rico.* (a) Jerked beef shall be admitted free of duty, provided it is imported by or directly for the account of any public agency, relief organization not operated for profit, or dealer in foodstuffs, and there is filed in connection with the entry a declaration of such agency, organization or dealer, that the jerked beef covered by the entry will be sold or distributed solely to consumers in Puerto Rico, and the collector of customs is satisfied that it will be so sold or distributed.

(b) The free entry herein authorized shall apply only with respect to importations entered for consumption on and after the date of the approval of these regulations and prior to the date on which the President shall proclaim that the emergency has ended. (Sec. 318, 46 Stat. 696; 19 U. S. C. 1318; Proc. 2545, 3 CFR Cum. Supp., Ch. I)

§ 53.2 *Articles imported by the Red Cross for war relief work.* (a) Food, clothing, and medical, surgical, and other supplies imported by or directly for the account of The American National Red Cross shall be admitted free of duty, provided there is filed in connection with the entry a declaration by a duly authorized representative of the said Red Cross or any chapter thereof that such food, clothing, and medical, surgical, and other supplies are imported by or directly for the account of the said Red Cross and will be used by it in emergency relief work in connection with the emergency declared by the foregoing proclamation.

(b) The free entry herein authorized shall apply only with respect to importations entered for consumption or withdrawn from warehouse for consumption on and after the date of the approval of these regulations and prior to the termination of the state of war, or such earlier date as may be proclaimed by the President if he shall declare by proclamation that the emergency has terminated. (Sec. 318, 46 Stat. 696; 19 U. S. C. 1318; Proc. No. 2553, 3 CFR Cum. Supp., Ch. I)

§ 53.3 *Timber, lumber, and lumber products specified by Housing Expediter admissible free of duty and import tax.* (a) Pursuant to the authority contained in the proclamation of the President dated October 25, 1946 (Proclamation 2703, 3 CFR Cum. Supp., Ch. I) collectors of customs are hereby authorized to admit free of duty, and import taxes provided for in section 3420, Internal Revenue Code, if entered for consumption or withdrawn from warehouse for consumption on and after the date of the proclamation and until the termination of the provisions of the Veterans' Emergency Housing Act of 1946, or until the President shall have declared that the emergency declared in the proclamation has terminated, whichever shall first occur, the classes of timber, lumber, and lumber products set forth in the following list[1] which have been designated and certified by the Housing Expediter as timber, lumber, or lumber products suitable for the construction and/or completion of housing accommodations:

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[1] The fact that rates of duty on articles covered by the list have been reduced pursuant to trade agreements is immaterial for the purposes of this section.

1. Sawed lumber and timber, not specially provided for; all the foregoing, if of fir, spruce, pine, hemlock, or larch, classifiable under paragraph 401, Tariff Act of 1930, and section 3424, Internal Revenue Code.
2. Maple (except Japanese maple), birch and beech: Flooring, classifiable under paragraph 402, Tariff Act of 1930.
3. Plywood and veneers classifiable under paragraph 405, Tariff Act of 1930.
4. Packing boxes (empty), and packing box shooks, of wood, not specially provided for, classifiable under paragraph 407, Tariff Act of 1930.
5. Red cedar shingles, such as are provided for in paragraph 1760, Tariff Act of 1930, and subject to duty under the act of July 1, 1940 (19 U. S. C. 1332a).
6. Sawed lumber and timber, not further manufactured than planed, and tongued and grooved, all the foregoing not specially provided for, classifiable under paragraph 1803, Tariff Act of 1930, and section 3424, Internal Revenue Code.
7. Prefabricated houses and prefabricated panels for houses, and doors, all the foregoing in chief value of wood, classifiable under paragraph 412, Tariff Act of 1930.

(b) The Housing Expediter may designate and certify under the proclamation other articles or classes of articles, such as millwork, all the foregoing in chief value of wood. In such an event, the Housing Expediter will forward his certificate to the Secretary of the Treasury and the list in paragraph (a) of this section will be amended, or he will forward a certificate covering each entry directly to the collector of customs. Collectors of customs are hereby authorized to grant entry free of duty, and import taxes provided for in section 3420, Internal Revenue Code, to articles covered by such certificates when the articles are entered for consumption or withdrawn from warehouse for consumption during the period prescribed in paragraph (a) of this section.

(c) The usual procedure provided for in this chapter shall be followed in connection with entries covering articles within the scope of the proclamation, except that the liquidation of such entries covering articles not included in the list in paragraph (a) of this section shall be suspended for a period of 45 days after the date of filing if they bear a notation in substantially the following language: "Suspend liquidation; certification under Proclamation No. 2708 applied for." When a certificate of the Housing Expediter designating the merchandise in accordance with the proclamation is not received within the 45-day period, the entry shall be liquidated in the usual course of business, except that the collector may grant extensions of the period for such further periods and under such circumstances as he may deem appropriate, and that a certificate received after the 45-day period but before the liquidation of an entry shall be accepted as the basis for free entry under the authorization contained in paragraph (b) of this section.[2]

[2] With respect to free entry pursuant to Presidential Proclamation No. 2708 of articles in chief value of wood not provided for in § 53.3 (a), as amended, the Housing Expediter states that application should be made by sending a true, executed copy of the entry, Customs Form 7501, in duplicate, to the Office of the Housing Expediter, Washington 25, D. C. When certified, the Office of the Housing Expediter will forward one copy to the collector of customs at the port of entry for appropriate attention.

(d) The import tax prescribed in sections 3420 and 3425, Internal Revenue Code, for articles dutiable under the Tariff Act of 1930, containing 4 percent or more of copper by weight, but which are not in chief value of copper, is not applicable to articles in chief value of wood which are certified pursuant to this section.

(e) As time is an important factor in efforts to cope with the housing emergency, publication of notice and public procedure, as provided for in the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1002) are found to be impracticable. (Sec. 318, 46 Stat. 696; 19 U. S. C. 1318, Proc. 2708, Oct. 25, 1946, 3 CFR, 1946 Supp., Ch. I)

PART 54—CERTAIN IMPORTATIONS FREE OF DUTY DURING THE WAR

Sec.
54.2 Free entry of personal and household effects of certain classes of persons in the service of the United States, of their families, and of evacuees.
54.3 Bona fide gifts from a member of the armed forces of the United States.

§ 54.2 *Free entry of personal and household effects of certain classes of persons in the service of the United States, of their families, and of evacuees.* (a) Under sections 1 and 2, 56 Stat. 461, 50 U. S. C. App. 801, 802, free entry may be accorded to the personal and household effects of any person evacuated to the United States under Government orders and to the personal and household effects of any person in the service of the United States, or of his family, which are forwarded to the United States by reason of Government instructions regarding the movement of the owner or the articles, whether or not the owner returns to this country.

(b) The act does not apply to articles imported for sale, but the term "personal effects" as used therein is not confined to that class of articles described in the first provision of paragraph 1798, Tariff Act of 1930, as amended (19 U. S. C. 1201, par. 1798) nor is any period of use, such as is prescribed by paragraph 1632, Tariff Act of 1930 (19 U. S. C. 1201, par. 1632) applicable to household effects entered under this act.

(c) All articles for which free entry is claimed under the act shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930. The Bureau has not prepared forms of declarations or certificates to be filed in connection with such entries or withdrawals. Collectors of customs shall, therefore, accord free entry under the statute upon the production of satisfactory proof that the articles are entitled to the benefit thereof.

(d) Certified or other invoices shall not be required for articles accorded free entry under the act.

(e) The act is effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after December 8, 1941, and before the proclamation of peace by the President. Duties and taxes paid on articles entered or withdrawn on or after December 8, 1941, may therefore be refunded provided such refunds are not precluded by the provisions of section 514 or 520 (c) (2) Tariff Act of 1930, as amended (19 U. S. C. 1514, 1520 (c) (2)) (Secs. 481, 484, 498, 46 Stat. 719, 722, 728; 19 U. S. C. 1481, 1484, 1498)

§ 54.3 *Bona fide gifts from a member of the armed forces of the United States.* (a) Under 56 Stat. 1041, 50 U. S. C. App. 846 approved December 5, 1942, collectors of customs shall accord entry free of duty, internal-revenue taxes, and customs charges and exactions to bona fide gifts from members of the armed forces of the United States on duty outside the continental limits of the United States to the extent of $50 in value in any shipment if the gifts were purchased in or through authorized agencies of the armed forces of the United States or in accordance with regulations prescribed by the major geographical commands of the United States armed forces.

(b) Satisfactory evidence as to the status of articles under Public Law No. 790, as amended, will have been filed in connection with the entry within the meaning of the statute if (1) the shipment is accompanied by a declaration of the donor and a duly designated officer of the armed forces executed substantially in the following form:

I certify that I am a member of the armed forces of the United States on duty outside the continental limits of the United States, that the following-described articles in this parcel are being sent as bona fide gifts from me, that they were purchased in accordance with regulations prescribed by the major geographical command of the armed forces from which sent, and that the amounts listed below are the actual amounts paid for such articles:

Item	Amount paid (Indicate type of currency)

_____
(Name)

_____
(Rank) (Serial No.)

_____
(Post of duty)

I certify that the above-described articles were purchased (1) in or through an authorized agency of the armed forces of the United States in accordance with regulations prescribed by the major geographical command of the United States armed forces from which sent, or (2) in accordance with regulations prescribed by the major geographical command of the United States armed forces from which sent (Strike out inapplicable clause).

_____ _____
(Date) (Name)

_____
(Rank) (Serial No.)
(Officer designated by local commander to execute the foregoing declaration in accordance with current rules and regulations

or if (2) such a declaration, adequately describing and identifying the articles, is subsequently filed at the customhouse, and the entry, if liquidated, can be reliquidated in accordance with section 514, Tariff Act of 1930, or section 520 (c) of the tariff act, as amended, and § 16.14 of this chapter.

(c) The declaration provided for in paragraph (b) (1) of this section shall be retained by customs officers, or, if af-

fixed to the parcel in a manner which makes removal impracticable, shall be appropriately marked to prevent its further use.

(d) The entry requirements prescribed in the Tariff Act of 1930, as amended, and the Customs Regulations of 1943, as amended, are applicable to articles entitled to free entry under 50 U. S. C., App., 846.

(e) Customs invoices, including the invoices provided for in § 9.1, of this chapter, shall not be required for shipments of bona fide gifts accorded free entry under Public Law No. 790, as amended, in whole or in part. If the certificate provided for in paragraph (b) (1) of this section stating the information as to the purchase price of each article listed accompanies the parcel, it shall be accepted as a compliance with the other requirements of § 9.1 of this chapter of the customs regulations. (Secs. 498, 624, 46 Stat. 728, 759, 56 Stat. 1041, Pub. Law No. 384, 80th Cong., 19 U. S. C. 1498, 1624, 50 U. S. C. App. 846, 847)

(f) Free entry shall be accorded under the act to articles entered, or withdrawn from warehouse, for consumption on and after December 6, 1942, and before July 1, 1949. (Act of December 5, 1942, Pub. Law No. 790, 77th Cong., act of August 8, 1947, Pub. Law No. 384, 80th Cong.)

PART 55—CHANGES IN CUSTOMS REQUIREMENTS AND PROCEDURE DUE TO THE WAR

Sec.

55.1 Bonds for production of certified invoices; temporary instructions.

§ 55.1 *Bonds for production of certified invoices; temporary instructions.* Until six months after the termination of the unlimited national emergency proclaimed by the President on May 27, 1941, collectors of customs shall observe the following instructions respecting bonds for the production of certified invoices, unless such instructions are sooner amended, revoked, or superseded:

(a) Collectors of customs shall be guided by the provisions of the general customs regulations currently in effect in determining the amounts of bonds for the production of certified invoices. However, as the requirement of certified invoices in accordance with § 6.16 of this chapter (article 299 of the Customs Regulations of 1937, as amended) will not only furnish information for customs purposes but will also aid in the enforcement of import controls, such as those relating to General Imports Order M-63, as amended, of the War Production Board, and the Proclaimed List of Blocked Nationals, and will assist the Department of State in compiling certain statistical data it urgently needs, collectors of customs shall consider these factors in fixing the amounts of bonds pursuant to the authority contained in the second sentence of § 23.4 (a) (8) of this chapter (article 1254 (a) (8) of the Customs Regulations of 1937) The Bureau is of the opinion that such amount should in no case be less than $5,000 or an amount equal to the value of the merchandise, as set forth in the entry, whichever is lower. These factors shall also be considered in administering the provisions of § 23.20 (a) of this chapter (article 1270 (a) of the Customs Regulations of 1937) and no case in which liquidated damages have been incurred for failure to produce a certified invoice shall be settled by a collector under that regulation if the merchandise involved is subject to General Imports Order M-63, as amended.

(b) Upon the breach of any bond given for the production of a certified invoice covering merchandise subject to General Imports Order M-63, as amended, liquidated damages in the full amount of the bond shall be demanded, and no remission or mitigation thereof will be granted unless the importer shall produce within one month after the expiration of the bond period satisfactory evidence that the importation of the merchandise was not in violation of General Imports Order M-63, as amended, and that the failure to satisfy the conditions of the bond was not due to negligence or lack of good faith on the part of any party to the transaction. (Secs. 484, 623, 46 Stat. 722, 759, secs. 12, 30, 52 Stat. 1033, 1039; 19 U. S. C. 1484, 1623)

PART 56—EXTENSIONS OF TIME PURSUANT TO PROCLAMATION OF THE PRESIDENT UNDER SECTION 318, TARIFF ACT OF 1930

AUTHORITY: §§ 56.1 and 56.3, issued under secs. 318, 624, 46 Stat. 689, 759; 19 U. S. C. 1318, 1624. Proc. 2599, Nov. 4, 1943; Title 3, *supra*.

MERCHANDISE IN GENERAL ORDER AND BONDED WAREHOUSES

Sec.

56.1 Periods of time prescribed in sections 491, 557, and 559, Tariff Act of 1930, as amended, extended; conditions.

56.3 Extension of bonds.

MERCHANDISE IN GENERAL ORDER AND BONDED WAREHOUSES

§ 56.1 *Periods of time prescribed in sections 491, 557, and 559, Tariff Act of 1930, as amended, extended; conditions.* (a) Pursuant to the authority contained in the Proclamation 2599 of the President dated November 4, 1943, 3 CFR, 1943 Supp., Ch. I, the one-year period prescribed in section 491, Tariff Act of 1930, as amended, or the three-year period prescribed in sections 557 and 559 of the said act, as amended, as the case may be, is hereby extended for one year in each case wherein the respective period has expired on or after December 7, 1942, or shall have expired hereafter and during the continuance of the unlimited national emergency proclaimed on May 27, 1941, and wherein the collector of customs concerned shall have been furnished with:

(1) If the merchandise is charged against an entry bond, the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, or an additional bond with acceptable sureties to cover the period of the extension, or

(2) If the merchandise is charged against a carrier's bond, the agreement of the principal on such bond to the extension and the agreement of the sureties on such bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted.

(b) Pursuant to the same authority and subject to the same conditions, such one-year period or such three-year period, as the case may be, is hereby extended for an additional period of one year from and after the expiration of the immediately preceding extension if such expiration occurs during the continuance of the aforesaid national emergency.

§ 56.3 *Extension of bonds.* (a) In cases where the merchandise is covered by a warehouse entry bond, customs Form 7555, and an extension or further extension of the three-year period prescribed in sections 557 and 559, of the act, is desired, the principal on the bond shall, in order to obtain the benefit of such extension, furnish to the collector of customs at the port where the bond is on file an agreement in the following form:

EXTENSION OF WAREHOUSE ENTRY BOND

Whereas, in Treasury Decision 53337 of November 19, 1943, issued pursuant to authority contained in the President's proclamation dated November 4, 1943, the three-year warehousing period for imported merchandise prescribed in sections 557 and 559, Tariff Act of 1930, as amended, was extended for one year and further extended for additional periods of one year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case the sureties on the entry bond agree to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the warehouse entry bond described below was furnished in connection with the warehouse entry indicated, and it is now desired to extend the liability under such bond for a period of one year from the date of maturity of the bond ____[1]

Port of ____

Bond No. ____ dated ____

Warehouse entry No. ____

Merchandise ____

Date of importation ____

Now, therefore, this is to certify that ____, principal, and ____, and ____, sureties, on the warehouse entry bond referred to above, hereby stipulate and agree that their liability under said bond ____[1] shall continue unchanged and in full force and effect to the same extent as if no extension had been granted for a period of one year from the date of maturity of the bond ____[1]

Witness our hands and seals this ____ day of ____, 1943. Signed, sealed, and delivered in the presence of—

(Name)	(Address)
(Name)	(Address)
[SEAL] (Principal)	
(Name)	(Address)
(Name)	(Address)
[SEAL] (Surety)	
(Name)	(Address)
(Name)	(Address)
[SEAL] (Surety)	

[1] Here insert the words "as extended" if a previous extension has been allowed.

(b) If the principal on a warehouse entry bond desires to furnish a new bond to cover the period of extension in lieu of furnishing an agreement in the form prescribed in paragraph (a) of this section, the facts in such case shall be submitted to the Bureau by the collector for instructions as to the form in which the new bond shall be furnished.

(c) In cases in which the merchandise was entered for warehouse and charged against a General Term Bond for Entry of Merchandise, customs Form 7595, or against a Blanket Smelting and Refining Bond in the form prescribed in T. D. 50267, the agreement of the principal and sureties on the bond shall be furnished to the collector of customs in the following form and forwarded by the collector to the Bureau of Customs for approval:

EXTENSION OF GENERAL TERM BOND FOR ENTRY OF MERCHANDISE [2]

Whereas, In Treasury Decision 50967 of November 19, 1943, issued pursuant to authority contained in the President's Proclamation dated November 4, 1943, the three-year warehousing period for imported merchandise prescribed in sections 557 and 559, Tariff Act of 1930, as amended, was extended for one year and further extended for an additional period of one year from and after the expiration of the immediately preceding extension, provided, among other things, that in each case the sureties on the entry bond agree to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the bond described below was furnished by _____
(Name of principal on the bond)
and accepted by the Government of the United States to cover, among other things, the entry of imported merchandise for warehouse or rewarehouse at the port(s) of _____ during the period beginning on _____, 19____, and ending on _____, 19____, [3]

General Term Bond for Entry of Merchandise [1] in the sum of $_____, executed by _____, as principal, and _____, and _____, as sureties, under date of _____ 19____, and approved by the Commissioner of Customs under date of _____, 19____, and

Whereas, certain imported merchandise was entered for warehouse or rewarehouse at the ports and under the entries indicated below and such entries charged against the bond described above:

Name of port	*Entry No.*	*Date of entry*
_____	_____	_____
_____	_____	_____
_____	_____	_____

and

Whereas, _____
(Name of principal on the bond)
desires, as to such merchandise, to obtain an extension of the period during which it may remain in warehouse for one year from and after the expiration of the three-year period prescribed in sections 557 and 559, *supra*, as amended, and to obtain such further extensions for additional periods of one year each from and after the expiration of the immediately preceding extension as may be permissible under T. D. 50967, as amended, and to continue the liability therefor under the bond for such three-year period and to extend the liability under the bond to cover such one-year extension and any further extensions as may be permissible under T. D. 50967, as amended;

Now, therefore, this is to certify that _____, principal, and _____, and _____, sureties, on the bond described above, hereby stipulate and agree that, in consideration of the granting of an extension of one year of the three-year period during which the merchandise may remain in warehouse and the granting of such further extensions of one year each as may be permissible under T. D. 50967, as amended, their liability under the bond as to such merchandise shall cover such one-year extension and any further extensions permissible under T. D. 50967, as amended, together with the original three-year period.

Witness our hands and seals this ____ day of _____, 19____.

[SEAL] _____ (Principal)
By _____ (Name and official title)
[SEAL] _____ (Surety)
By _____ (Name and official title)
[SEAL] _____ (Surety)
By _____ (Name and official title)

Signed, sealed, and delivered in the presence of—

_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)

A sufficient number of copies of the foregoing agreement shall be furnished to permit of the retention of the original in the Bureau and the filing of one copy at each of the ports where the entries involved were filed.

(d) In those cases in which the merchandise remains charged against a carrier's bond, customs Form 3587, and an extension is desired, the agreement of the principal and sureties on such bond shall be furnished to the collector of customs at the port where the charge was made in the following form:

EXTENSION OF CARRIER'S BOND

Whereas, in Treasury Decision 50967 of November 19, 1943, issued pursuant to authority contained in the President's proclamation dated November 4, 1943, the one-year period prescribed in section 491, Tariff Act of 1930, as amended, was extended for one year and further extended for additional periods of one year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case in which the merchandise remains charged against a carrier's bond the principal on such bond shall agree to the extension and shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension had been granted, and

Whereas, the carrier's bond described below was furnished in connection with the entry for transportation in bond indicated, and it is now desired to extend the liability under such bond for a period of one year from the date of maturity of the bond_____[4]

Name of carrier:_____
Date of bond:_____
Date of approval by Bureau of Customs:_____
Class and number of transportation in bond entry:_____dated_____
Port where charge against bond was made: _____
Merchandise: _____
Date of importation:_____
Now, therefore, this is to certify that_____, principal, and _____ and _____ sureties, on the carrier's bond referred to above, hereby stipulate and agree that their liability under said bond_____[4] shall continue unchanged and in full force and effect to the same extent as if no extension had been granted for a period of one year from the date of maturity of the bond _____[4]

Witness our hands and seals this _____ day of _____, 194__. Signed, sealed, and delivered in the presence of—

_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)
[SEAL] _____ (Principal)	
_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)
[SEAL] _____ (Surety)	
_____ (Name)	_____ (Address)
_____ (Name)	_____ (Address)
[SEAL] _____ (Surety)	

[2] Substitute the words "Blanket Smelting and Refining Bond" if the merchandise was charged against such a bond.

[3] If the merchandise was charged against a Blanket Smelting and Refining Bond, delete the words "during the period beginning on _____, 19____, and ending on _____, 19____" and substitute therefor the words "on and after _____, 19____"

[4] Here insert the words "as extended" if a previous extension has been allowed.

PART 59—IMPORTATION OF SURPLUS GOVERNMENT PROPERTY

Sec.
59.1 Importation prohibited; exceptions.
59.2 Proof of use as scrap metal.

§ 59.1 *Importation prohibited, exceptions.* (a) Section 33 of the Surplus Property Act of 1944 (58 Stat. 782) [1] prohibits, to the extent specified in regulations prescribed by the Surplus Property Board,[2] the importation of surplus Gov-

[1] SEC. 33. (a) It is the policy of this Act to prohibit, so far as feasible and necessary to carry out the objectives of this Act, the importation into the United States of surplus property sold abroad or for export. The Board shall prescribe regulations to carry out such policy, and the importation of surplus property into the United States is hereby prohibited to the extent specified in such regulations. The Secretary of the Treasury is authorized and directed to provide for the enforcement of such regulations.

(b) Surplus property sold to members of the armed forces abroad may be brought into the United States without regard to the provisions of subsection (a) if brought in by the original purchaser and upon certificate by him that he is bringing the property into the United States for his personal use.

[2] An act approved September 18, 1945 (59 Stat. 533; 50 app. U. S. C. 1614a), established within the Office of War Mobilization and Reconversion the Surplus Property Adminis-

ernment property [3] sold abroad or for export. The regulations promulgated by that Board (Title 32, Part 8508) [4] provide in part as follows:

§ 8508.15 *Importations into the United States.* Surplus property which has been sold in foreign areas shall not be imported in the United States in the same or substantially the same form in which it was exported from the United States if such property was originally produced in the United States and is readily identifiable as such, except to the extent that the Secretary of State specifically authorizes such importations by order issued hereunder: [5] *Provided, however,* That the prohibition of this section shall not apply to prevent the importation of such property (a) for the purpose of reconditioning for re-export, or (b) by a veteran (or a member of the armed forces) upon certification by him that the importation is being made for his personal use, or (c) if sold primarily for and imported for use as scrap metal and the importer furnishes an undertaking in a form and an amount to be prescribed by the Treasury Department to insure that none of the property will be diverted from use as scrap metal; *Provided further,* That for the purpose of this section, foreign areas shall not include Guam or other Pacific insular possessions. Nothing in this section shall prevent surplus property which is owned by a Government agency from being brought into the continental United States, its territories or possessions.

(b) Customs officers shall exclude from entry, except as provided for in paragraphs (c) (d) and (e) of this section, any article arriving in the United States which is readily identifiable as being:

(1) Of the growth, produce, or manufacture of the United States, and

(2) Surplus property, as defined in the Surplus Property Act of 1944 and regulations thereunder, which was sold abroad.

(c) No article shall be excluded from entry under paragraph (b) of this section if there is filed in connection with the entry a certificate of the member of the armed forces by whom or for whose account the merchandise is imported that he purchased it while he was a member of the armed forces of the United States abroad and that it is for his personal or household use and was not bought on commission and is not intended for sale.

(d) No article shall be excluded from entry under paragraph (b) of this section if there are filed in connection with the entry a certificate of the importer that the importation is being made by a person or firm in the United States for the purpose of reconditioning for re-export and the regular immediate delivery and consumption entry bond (single entry), customs Form 7551, or warehouse entry bond, customs Form 7555, with the added condition set out below.

The amount of the bond, as prescribed in Part 25 of this chapter, shall be increased by an amount equal to the value of the merchandise, as set forth in the entry, in order to provide adequate security for the performance of the obligations outlined in the added condition.

For failure to comply with the added condition, the collector shall demand in writing the payment of liquidated damages in an amount equal to the value of the entire shipment, as set forth in the entry. Such demand shall be in addition to any other payment provided for under any other provision of law and regulation. The written demand shall include a statement that a written application for relief from the payment of the full liquidated damages may be filed with the collector within 60 days after the date of the demand.

The added condition referred to above shall be in the following form:

There is incorporated in and made a part of the bond No._____, dated _____, in the amount of _____, executed by _____, as principal, and _____, as surety, the following added condition:

Whereas, the principal named in the said bond has been permitted to enter merchandise subject to the provisions of the Surplus Property Act of 1944, which has been imported for reconditioning and re-export;

The obligors named in the above-mentioned bond stipulate and agree that there shall be delivered to the collector of customs at the port of entry named in this bond or to the collector of customs at another port of entry, in accordance with the provisions of law and regulations pertaining to the entry and exportation of merchandise, all the above-described merchandise for customs inspection and identification prior to exportation; and if all the merchandise shall be actually so exported within one year from the date of importation, or within any lawful extension of such period, and if the said merchandise shall not be relanded in the United States; or, in default thereof, the obligors shall pay to the collector of customs such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations, not exceeding the amount of this obligation,

Then this added condition shall be void; otherwise to remain in full force and effect.

(e) No article shall be excluded from entry under paragraph (b) of this section if there is filed in connection with the entry a certificate of an authorized representative of a Government agency that the property is owned by such Government agency at the time of importation.

(f) Within 30 days after importation any article which is excluded from entry as surplus property may be entered in bond for exportation, or for transportation and exportation, from continuous customs custody.

(g) Any article which is excluded from entry under this section shall be seized and forfeited pursuant to section 593 (b) Tariff Act of 1930, unless entered in bond within 30 days after importation for exportation, or for transportation and exportation, and exported within a reasonable time thereafter. (R. S. 161, 5 U. S. C. 22; sec. 33, 53 Stat. 782, 50 U. S. C. App. 1642)

§ 59.2 *Proof of use as scrap metal.* (a) Surplus Government property produced in the United States and sold in foreign areas which is in the same or substantially the same form in which it was exported from the United States, and is readily identifiable as such, is permitted entry into the country by Federal Liquidation Commissioner's Regulation 8, Amendment 2 (32 CFR 8503.15) if sold abroad primarily for and imported for use as scrap metal and the importer furnishes an undertaking in a form and an amount prescribed by the Treasury Department to insure that none of the property will be diverted from use as scrap metal. An importer bringing in merchandise under that regulation shall file with the collector of customs a regular immediate delivery and consumption entry bound (single entry) customs Form 7551, in an amount equal to three times the value of the merchandise, and containing the following added condition:

There is incorporated in and made a part of the bond No. _____, dated _____, in the amount of _____, executed by _____, as principal, and _____, as surety, the following added condition:

Whereas, the principal named in said bond has been permitted to enter merchandise subject to the provisions of the Surplus Property Act of 1944, for use as scrap metal;

The obligors named in the said bond stipulate and agree that all the above-described merchandise shall be used as scrap metal within 1 year from the date of importation of said merchandise, or within any lawful extension of that period, except such portions of the merchandise as are not usable as scrap metal because of their nonmetallic character; that portions of the said merchandise which are not usable as scrap metal because of their nonmetallic character shall be destroyed or so changed in condition within 1 year from the date of importation, or any lawful extension of that period, that they shall be no longer the same or substantially the same articles which were produced in the United States and are not readily identifiable as such articles; that the obligors shall produce to the collector of customs within 15 months after the date of importation of the said merchandise, or within any lawful extension of that period, satisfactory proof showing that the said merchandise was used as scrap metal, or if not usable for that purpose, was destroyed or changed in condition to the extent specified herein, within the periods prescribed;

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tration and abolished the Surplus Property Board. Executive Order 9689 of February 1, 1946 (3 CFR, 1946 Supp.) merged the domestic functions of the Surplus Property Administration into the War Assets Corporation under the Reconstruction Finance Corporation. Foreign functions were transferred to the Department of State. These transfers were made permanent by Part V of the President's Reorganization Plan No. 1 of 1947, effective July 1, 1947 (3 CFR, 1947 Supp.).

[3] Sec. 3. (d) The term "property" means any interest, owned by the United States or any Government agency, in real or personal property, of any kind wherever located, but does not include (1) the public domain, or such lands withdrawn or reserved from the public domain as the Surplus Property Board (created by section 5) determines are suitable for return to the public domain for disposition under the general land laws, or (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines.

(e) The term "surplus property" means any property which has been determined to be surplus to the needs and responsibilities of the owning agency in accordance with section 11. (Sec. 3 (d) and (e), Surplus Property Act of 1944.)

[4] Formerly Part 8308 of Chapter XXIII, Title 32; redesignated Part 8508 by Foreign Liquidation Commission Regulation 8, Order 6, effective Sept. 18, 1946 (11 F. R. 10709); revised Oct. 30, 1946, effective Nov. 9, 1946 (11 F. R. 13423) and Aug. 28, 1947, effective Sept. 9, 1947 (12 F. R. 5964); and amended Feb. 5, 1948, effective Feb. 11, 1948 (13 F. R. 614).

[5] The Secretary of State upon the request of the Office of the President has exempted from the prohibition of this section certain property found by the Office of the President to be needed for reconversion in the United States. The items presently exempted are listed in Schedule A of Order 6 under this part, Dec. 30, 1947 (12 F. R. 8868).

and that if the said merchandise is used, destroyed, or changed in condition, and the proof of such action is produced, as agreed; or, in default thereof, the obligors shall pay to the collector of customs such amounts as liquidated damages as may be demanded by him, not exceeding the amount of this obligation;

Then this added condition shall be void; otherwise, it shall remain in full force and effect.

(b) Upon failure to comply with the added condition, the collector shall demand in writing the payment of liquidated damages in the full amount of the bond. The demand shall contain a statement that a written application for relief from the payment of the full amount of the damages may be filed with the collector within 60 days after the date of the demand.

(c) Affidavits of managers or superintendents of plants or scrap yards having knowledge of the facts required to be proved under the added condition in the bond may be accepted as proof of the use or disposition made of the merchandise.

(d) The collector may grant not more than two extensions of 6 months each in connection with any period prescribed in the added condition in the bond within which an act is to be performed, provided a written application therefor is filed with him before the expiration of the period concerned. Applications not received within the time prescribed, or for extensions in addition to the two authorized in connection with a specific period shall be forwarded to the Bureau of Customs for consideration. (Sec. 33; 58 Stat. 782; 50 U. S. C. App. 1642)

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: December 16, 1948.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 48-11099; Filed, Dec. 17, 1948; 9:01 a. m.]