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TITLE 6—AGRICULTURE CREDIT

Chapter I—Farm Credit Administration

Subchapter G—Regional Agricultural Credit Corporation

[FCA 318]

PART 96—AGRICULTURE LOANS AND ADVANCES BY THE REGIONAL AGRICULTURAL CREDIT CORPORATION OF WASHINGTON, D. C., AT KANSAS CITY, MISSOURI, FOR MAXIMUM WAR PRODUCTION

Pursuant to section 201 (e) of the Emergency Relief and Construction Act of 1932 (47 Stat. 713, 12 U.S.C. 1148); Executive Order No. 6084, dated March 27, 1933; section 33 (b) of the Farm Credit Act of 1937 (50 Stat. 717, 12 U.S.C. 1148c (b)); Executive Order No. 9280, dated December 5, 1942; Memorandum No. 1065 of the Secretary of Agriculture, dated January 20, 1943; Food Production Memorandum No. 2 signed by the Director of Food Production and approved by the Secretary of Agriculture January 22, 1943; Executive Order No. 9322, dated March 26, 1943, as amended by Executive Order No. 9334, dated April 19, 1943; and Memorandum No. 1086 of the Secretary of Agriculture, dated April 26, 1943; the following is added to Title 6 of the Code of Federal Regulations as Part 96 thereof, relating to agricultural loans and advances by the Regional Agricultural Credit Corporation of Washington, D. C., at Kansas City, Missouri, for maximum war production.

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SUBPART A—AGRICULTURAL LOANS FOR MAXIMUM WAR PRODUCTION

§ 96.100 *Introduction.* As announced by the Secretary of Agriculture on January 21, 1943, a new source of agricultural credit at the county level is now available to farmers and stockmen through the Production Loans Branch of the Food Production Administration to assist in financing increased production of needed agricultural commodities. The program will be carried out in this manner outlined below; and loans shall

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be made in accordance with the terms and conditions herein set forth.

§ 96.101 *General policies.* The following general principles and policies will serve as a guide to the Corporation's representatives, and the chairmen of the war boards and their designees in determining, according to their best judgment, whether a loan should be made in the amount applied for, or in a smaller amount, or whether the application should be declined:

(a) The purpose of the program is to provide adequate financing to assure maximum wartime production of essential agricultural commodities; therefore, no loan shall be made unless it will enable the borrower to engage in or increase his production of essential agricultural commodities. All loans made under the program are expected to be repaid. To qualify for a loan the applicant's farming operations should show a reasonable probability of successful production and, together with the collateral security offered, should afford reasonable assurance that the indebtedness will be liquidated in due course. It should be kept in mind that the success of the program depends largely upon the expeditious consideration of each application and the prompt closing of all loans which are approved.

(b) This program is not a substitute for the sources of credit, nor is it intended to compete with other lenders. Its purpose is to supplement other sources of credit where needed. Each producer will be urged to obtain his financial requirements, if possible, from any bank, production credit association, or other lender, including the Emergency Crop and Feed Loan Office if the loan is eligible. In order to assure that the foregoing policies are carried out, the county war boards in each county shall invite the county bankers' association (or the bankers in the county if there is no such association) to name a representative or a committee to meet from time to time with the chairman of the county USDA war board and representatives of other credit agencies operating in the county to discuss credit problems relating to maximum production and types of loans made by the different agencies, to coordinate loan policies, and to make sure that all legitimate credit requirements of farmers are met. Applications for loans from the Corporation will be taken only where the producer desires to be financed through this program and the loan representative of the Regional Agricultural Credit Corporation and the chairman of the county war board should satisfy themselves that each applicant for a Regional Agricultural Credit Corporation loan is not in position to obtain the credit he needs from other sources at reasonable rates and terms. The Corporation reserves the right to sell or assign, without recourse, any note acquired by it to any bank or other lending institution desiring to purchase the paper, subject to the written consent of the notemaker. A charge of one-half of one percent of the unpaid principal of the loan will be made by the corporation to the purchaser of any such notes to reimburse the Corporation for expenses incurred in making the loan.

(c) This is not a program for refinancing existing indebtedness. The mere transfer of a debt from one creditor to another will not aid production. An exception is to be made where an applicant for a loan under this program is presently indebted to any regional agricultural credit corporation. In such cases the amount of any loan approved shall include an amount sufficient to retire such existing loan in order that all obligations due from any individual to a regional agricultural credit corporation will be concentrated in one corporation. All collateral securing an existing debt to a regional agricultural credit corporation shall be included in the security to the new loan.

(d) Loans will not be made for the purchase of real estate or for extensive permanent improvements upon the farm. Loans for repairs and needed minor improvements which will facilitate increased production and for the purchase of essential livestock (including dairy cattle), work stock, machinery, equipment, etc., may be made even though liquidation of that portion of the loan made for capital expenditures may require two or three years' time. Thus, the construction of a house or barn will not be financed but provision may be made for construction of facilities such as cribs or storage bins, small poultry houses, and similar structures which may be needed to assist production of essential agricultural commodities, and which do not involve heavy outlays of money. Where it is determined that the producer actually needs equipment, such as a tractor, combine, peanut picker, or similar items of machinery, and that his operations (including any custom work which may be available to him) will enable him to pay for such equipment in two or three years, purchases of such equipment may be financed.

(e) This loan program does not extend to fruit growers in Okanogan, Chelan, Douglas, and Grant Counties in the State of Washington, which area is now served by the Wenatchee, Washington, Branch of the Corporation. That office will continue to function under its present program. Any fruit grower in that area whose financial requirements (whether for fruit production or for other pur-

poses) are brought to the attention of a County War Board or the local loan representative of the Corporation should be referred to the Wenatchee Branch Office.

(f) All credit information obtained in connection with any application for a loan shall be held in strict confidence by all representatives, officials, or other employees, who have occasion to handle such applications or other papers, and shall not be released or divulged except upon the specific approval of the president, a vice president, or the secretary of the Corporation.

§ 96.102 *Loans to be made through duly authorized loan representatives of the Regional Agricultural Credit Corporation of Washington, D. C., at Kansas City, Missouri.* (a) To expedite the handling of applications and closing of loans, arrangements have been made to have a loan representative of the Regional Agricultural Credit Corporation of Washington, D. C. (hereinafter referred to as "the Corporation") located in each agricultural county in the United States. Such representatives are designated by the County War Boards; but in emergency cases where immediate change in loan representatives is essential to the effectiveness of the program the Corporation may terminate the services of a representative and designate a temporary replacement for him to serve until an acceptable representative can be appointed in the regular manner. The Corporation will provide for bonds or equivalent protection covering its representatives and custodians.

(b) The Corporation will maintain an office in each District Farm Credit Administration headquarters city, in charge of an official designated as a District Vice President. All communications and inquiries by loan representatives relative to operations of the Corporation under its food production financing programs should be addressed to the appropriate District Vice President.

(c) Each application for a loan which, if approved would cause the total of all the applicant's loans and advances outstanding from the Corporation (including any undisbursed proceeds of any loans or advances previously approved) to exceed $2,500 shall be referred to the District Vice President for approval or disapproval.

Loans which, together with all the applicant's other loans and advances outstanding from the Corporation (including any undisbursed proceeds of any loans or advances previously approved) do not exceed $2,500 will be closed upon approval by the designated loan representative of the Corporation and the Chairman of the County War Board (or by their respective alternates if such alternates have been duly designated and authorized to act).

(d) Each application referred to the District Vice President for approval or disapproval shall be accompanied by such inspection reports and other data as the District Vice President may require, and by the recommendations of the loan representative and Chairman of the County War Board.

(e) It is preferable, where an application requires approval above the county level, that the mortgage securing the proposed loan be not filed or recorded prior to advice of final approval. If the mortgage is prepared before the papers are submitted to the District Vice President for consideration, a copy thereof should accompany the papers. If the mortgage is to be drawn later, the papers submitted should include a list of the property to be covered by such mortgage. The District Vice President will return all papers to the loan representative, with advice of the action to be taken. Upon final approval by the District Vice President, the proceeds of loans will be disbursed by the loan representative and Chairman of the County War Board, in the same manner as other loans or advances are disbursed.

(f) When procedures are settled for the handling of loans which the County War Board determines require supervision of the type given by Farm Security Administration supervisors, definite instructions for the handling of such loans will be issued by the Corporation. It is anticipated that upon the issuance of such instructions, loans recommended by the War Board for such supervision will be supervised by Farm Security Administration supervisors in accordance with such instructions.

§ 96.103 *Collection of loans.* Instructions relative to collections of loans, remittance of proceeds, and releases of collateral will be issued at a later date.

Terms, Conditions and Requirements of Loans

§ 96.104 *Eligible borrowers.* Loans may be made to actual producers only. These include any farmer, stockman, or poultry producer, including any partnership or corporation engaged in agricultural or livestock production. Canners, packers, or other processers, dealers, commission merchants, and commercial hatcheries, as such, are not eligible and loans shall not be made to finance their commercial or processing operations but may be made to finance farming or livestock production, as defined in § 96.105, in which they may be engaged. Loans also may be made to any local group of farmers or stockmen formed or the purpose of acquiring larger items of machinery or equipment, sires, etc., for common use among the group, provided all members of the group join in executing the note, mortgage, etc.

§ 96.105 *Loan purposes.* Loans may be made to finance production, harvesting, and marketing of crops, purchasing, raising, breeding, fattening, and marketing of livestock; production and marketing of poultry, poultry products, and dairy products; purchase and repair of equipment essential to the farmer's production program; and for other purposes directly related or incident to the farming or livestock enterprise, including necessary labor and farm living expenses. Such loans may include provision for payment of existing obligations incurred in connection with the current season's operations (such as the purchase of seed, feed, fertilizer, and the payment of accrued wages for farm labor performed in connection with the current year's operations); the payment of income taxes and current taxes on real and personal farm property; and the payment of current interest on mortgage indebtedness as well as current installments on any amortized farm mortgage loan.

Ordinarily, the payment of delinquent interest, delinquent taxes, or other obligations may not be included in the financing, but this may be done in special circumstances where only relatively small amounts need to be loaned for such purposes and it reasonably appears to the persons approving the loan that the existence of such obligations is likely to impede the applicant's ability to attain his maximum production of essential agricultural commodities.

In cases where funds are required to complete an operation already partially financed (for example, to complete cultivation and harvesting a crop or to finish feeding livestock, etc.), and where the crops or livestock are mortgaged to a creditor who is unable or unwilling to provide additional funds, it may be advisable to take up the existing indebtedness. In such cases, where the loan representative and chairman of the county war board agree that a loan should be made in order to attain maximum production of essential agricultural commodities the existing indebtedness may be refinanced as a part of the loan transaction, subject of course to all other provisions and limitations of these instructions.

§ 96.106 *Loans to tenant farmers and sharecroppers.* Loans to tenant farmers or sharecroppers shall be conditioned upon their furnishing, on forms prescribed by the Corporation, such waivers or subordinations of statutory or recorded liens as will afford the Corporation a first lien upon the specific crops being financed: *Provided*, That no waiver or subordination need be taken in any case in which the statutory or recorded lien is limited to a specified share of the crops and the tenant or sharecropper has an unencumbered interest in such crops which is not susceptible to the creation of a subsequent overriding lien and which is, in the opinion of the loan representative and chairman of the county war board, sufficient to secure the repayment of the loan. In this respect, the established practices of other prudent lenders operating in the territory in which the crops are grown should be followed.

§ 96.107 *Loans to corporations.* To be considered a "farmer" a corporation must be engaged in farming or in the breeding, raising, or fattening of livestock as a substantial part of its business enterprise, as distinguished from incidental farming operations. Notes of each corporate borrower shall be endorsed or guaranteed by the holder or holders of at least a majority of the outstanding shares of voting stock of such corporate borrower, or by the principal stockholder or stockholders: *Provided*, That, in lieu of endorsements upon the notes, such stockholders may execute a

continuing guaranty of all indebtedness of such borrower to the Corporation. Copies of the form of guaranty to be used may be obtained from the Kansas City, Missouri, office of the Regional Agricultural Credit Corporation of Washington, D. C.

§ 96.108 *Collateral security.* In general, the minimum collateral security required will be a first and paramount lien upon the crops to be produced, the chattels purchased, and the livestock or poultry in the production and care of which the proceeds of the loan are to be expended. If the loan includes refinancing of an existing regional agricultural credit corporation loan, the collateral securing the old obligation will be included in the security to the new loan. In those States where a crop lien cannot be obtained until actual growth has begun (such, for example, as Nebraska and Wisconsin), an agreement to execute a crop lien will be required, in form prescribed by the Corporation. Such other and additional collateral as the County War Board or the Corporation's loan representative may deem necessary or advisable to afford adequate protection for the debt may be accepted.

§ 96.109 *Interest.* All notes shall be drawn with interest at the rate of 5 per centum per annum payable at maturity. Interest will be charged only on the unpaid balance, from date of each advance to date of payment.

§ 96.110 *Maturity.* All notes shall be drawn with a maturity of one year or less. The maturity date should coincide as nearly as may be practicable with the usual time for marketing the crops or livestock from which liquidation is expected. Although it is recognized that in some instances a borrower may be unable to repay within one year the full amount advanced for the purchase of equipment or for other capital expenditures, the maturity date of the notes shall not be more than one year from the date of the loan. In addition to repaying funds advanced to cover current production costs, the borrower will be expected to repay in the first year at least one-third of the amount advanced for capital purposes. The unpaid balances of loans for capital expenditures may then be renewed or extended at maturity where other conditions surrounding the transaction are satisfactory. Instructions for the handling of renewals and extensions will be issued at a later date.

§ 96.111 *Forms and documents.* The Corporation, through the various production credit associations, will furnish its loan representatives and County War Boards with a supply of the following forms: (a) Application for loan; (b) promissory note; (c) chattel mortgage or comparable lien instrument; (d) agreement to give a crop lien; (e) form of waiver; (f) form of subordination agreement; (g) assignment of proceeds; and (h) blank drafts to be used in disbursing loan proceeds.

§ 96.112 *Use of forms.* The forms prescribed by the Corporation will be used as outlined below:

(a) *The application.* It is the purpose of the application to obtain in concise form a request for a loan; financial statement of the applicant; information as to the use to be made of the proceeds; the plan of repayment; and such other information as may be necessary to enable the Corporation's representative and the County War Board to pass upon the loan applied for and to determine whether such loan would enable the applicant to contribute to the production of essential agricultural commodities. The application should be prepared and signed in duplicate. The original is to accompany the note and other supporting instruments, which are to be forwarded to a designated production credit association or other custodian, to be held for the account of the Corporation, and the copy is to be retained in the office of the loan representative.

To facilitate identification of subsequent transactions, each loan representative should assign the state and county code and farm serial number to each application filed with him. Should additional applications be filed by the same borrowers, such applications should bear the same numbers as the originals, with the addition of a suffix letter. (For example, No. 37–12–145 A, B, etc.)

(b) *Promissory note.* All notes are to be drawn for the amount of the approved loan; notes are to be made payable "on or before (insert specific date)", such maturity date to be fixed by the Corporation's loan representative and to be not later than one year after date; are to be made payable to the Regional Agricultural Credit Corporation of Washington, D. C., at its office in Kansas City, Missouri; and are to provide for interest at the rate of 5 per centum per annum from date, payable at maturity. The loan representative shall have both the husband and wife execute the note and mortgage in the case of loans made to a married person in the States of Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.

All notes should bear the number assigned to the individual borrower's application. (See instructions as to numbering applications.) It is advisable to prepare the note in duplicate, one copy to serve as the record of the loan representative and County War Board. Only the original note should be signed.

One note should be taken for the full amount to be loaned, even though the proceeds are to be advanced in two or more installments. In connection with such installment advances, the loan representative will enter on the reverse side of the note, in the space provided therefor, the date and amount of the first advance, which must correspond to the amount of the draft or drafts given at the time the loan is made. Subsequent advances will be posted by the custodian and may also be entered on the copy retained in the county office.

(c) *Chattel mortgage.* The chattel or crop mortgage should be prepared in triplicate (or in quadruplicate if the borrower requests a copy or if the State law as indicated on the forms of mortgages, requires the mortgagee to furnish a copy to the mortgagor) at least two copies of which should be executed by the borrower. One copy (usually the original) shall be filed or recorded with the local official responsible for keeping the official record of such security instruments. Filing or recording fees shall be paid by the borrower, and may be paid out of the proceeds of the loan. The second (signed) copy should be endorsed to show the date and place of filing of the original and shall accompany the note and other papers to be sent to the designated custodian. The third copy is intended for the files of the Corporation's loan representative in the county office.

(d) *Agreement to give a crop lien.* Where agreements to execute a crop lien at a later date are taken, they should be executed in duplicate, the original to accompany the note and other papers; the copy to be retained in the local office.

(e) *Waivers and subordinations.* Where an applicant has other creditors who have prior liens upon the crops or chattels which are to constitute the collateral security for a loan from the Corporation, the Corporation's loan representative will require the applicant to obtain such waivers and subordinations as will afford the Corporation a first and paramount lien upon the property involved. Where an existing lien covers property which is not to be given as security for the loan applied for, but the continued possession of which is essential to enable the producer to carry on his operations, it is suggested that consideration be given to the desirability of obtaining standstill or nondisturbance agreements executed by the holders of chattel or real estate mortgages, if deemed to be necessary to assure the use of such property during the life of the loan. Such waivers and agreements should be drawn to remain in effect for the term of the loan and, if deemed advisable, for any renewal or extension thereof. Such instruments should be executed in duplicate. The executed original should be attached to the note and other papers; the other copy to be retained in the local office.

(f) *Drafts.* When a loan has been approved, a draft or drafts on the form prescribed are to be drawn on the Regional Agricultural Credit Corporation of Washington, D. C., payable at a designated Federal Intermediate Credit Bank. Any proceeds of a loan to be paid to someone other than the borrower shall be paid by draft made payable to the borrower and such third party, jointly. Separate instructions will be issued with respect to the manner in which proceeds of loans shall be applied to retire an existing obligation to a regional agricultural credit corporation.

If a loan is to be disbursed in two or more installments, in accordance with the budget schedule incorporated in or attached to the application, the initial advance is to be disbursed at the time of closing the loan and subsequent advances may be made in accordance with the approved budget, but in no event shall drafts be drawn payable to or for the account of any borrower in an amount exceeding the amount of his

note, nor exceeding the amount approved, unless an additional loan is applied for and approved. Where total advances in excess of the original loan are to be made, a new application and note shall be obtained. Additional collateral may be required for additional loans.

Drafts will be signed by the corporation's authorized loan representative, or a designated alternate, and countersigned by the Chairman of the County War Board or by an alternate designated by him for that purpose. Specimen signatures of all persons authorized to sign and countersign such drafts shall be furnished and delivered as may be directed by the Corporation. It is contemplated that signature cards will be sent to the Chairman of the State War Board and will be forwarded by him upon instructions, to a designated Federal Intermediate Credit Bank.

All drafts shall be drawn in duplicate, the duplicate copy to be sent to the custodian designated to hold the notes and other papers. If the loan representative desires a copy of the draft for his records, a third copy may be made. It is thought, however, that it will be sufficient for the records of the county office to place an appropriate notation upon the file copy of the application showing the date, number, amount, and payee of each draft issued.

§ 96.113 *Servicing of loans.* It is expected that the Corporation's loan representative, the Chairman and members of the County War Board, and members of the County and Community A. A. A. Committees ordinarily will keep in touch with farming activities within their respective counties and may from time to time have opportunity to call upon borrowers under this program. It is the desire of the Corporation that the operations of the borrowers be given such general inspections as may be necessary to determine whether the crops and livestock being financed are being given proper care and attention; that such advice, guidance, or other assistance as may be needed to assure maximum production be given; and that, where necessary, appropriate steps be taken to protect the interests of the Corporation. Where any serious difficulty exists, a brief report of the facts should be sent to the Corporation at its office in Kansas City, Missouri,, or to such other office as may hereafter be designated.

In view of the fact that each County War Board will have in its files a copy of each producer's 1943 farm plan for war production, only such inspections (if any) as the chairman of the County War Board or the Corporation's loan representative deems necessary should be made, except in connection with problem cases that may develop, or as required by the District Vice President of the Corporation in connection with loans requiring his approval as provided in § 96.102 (d). It is contemplated that from time to time field representatives of the Kansas City office of the Corporation will visit some, or possibly all, counties in which loans are outstanding, for the purpose of making a general check up of the loan. Visits by such field representatives to the farms and ranches in a county ordinarily will be made in company with the Corporation's loan representative, or the Chairman of the County War Board, or such other person as may be designated and available.

Inspections deemed necessary by the chairman of the County War Board or the Corporation's loan representative, or required by the District Vice President, in connection with the making or renewal of loans, shall be made by an inspector approved by and serving the production credit association operating in the county, or such other inspector as may be approved by the District Vice President. Appropriate inspection report forms of the production credit association or other forms prescribed by the District Vice President may be used for this purpose.

The cost of such inspections, but not to exceed an amount equal to one-half of one percent of the amount for which the loan is approved, shall be paid by the borrower to the corporation, and may be deducted from the proceeds of the loan. If the application is rejected, no charge will be made and the cost of the inspection will be borne by the Corporation. The procedures to be followed in compensating inspectors for their work and for remitting to the Corporation inspection fees collected from borrowers will be set forth in later instructions.

§ 96.114 *Custody of documents, handling of collections, etc.* It is contemplated that the personnel or facilities of production credit associations, and possibly other agencies of the Farm Credit Administration, will be utilized as custodians of the notes and other documents evidencing and supporting loans made under this program. Instructions with respect to the duties to be performed by such custodians will be issued at a later date, at which time the custodians will be designated and advice thereof will be sent to all loan representatives, County War Boards, and others interested.

The procedure for handling collections and remittances to the Corporation, and the channels through which such collections are to be made, are matters yet to be determined. These will be covered in subsequent instructions.

§ 96.115 *Further instructions.* These instructions may be supplemented or superseded by other instructions issued by the Corporation from time to time as conditions may warrant. [Food Production Financing Bullein F–1]

SUBPART B—ADVANCES TO FINANCE EXTRAORDINARY PRODUCTION OF ESSENTIAL AGRICULTURAL COMMODITIES

§ 96.200 *Introduction.* (a) In cases where the County War Board finds that a farmer has capacity to produce essential crops and when such production can be related definitely to the use of the proceeds of the advance, the Regional Agricultural Credit Corporation through its local representative may advance to such farmer the amount determined by the War Board to be necessary to finance such production.

(b) Such advances may be made on the following terms, which shall be stated in the note or notes evidencing such advances: The borrower shall undertake production of a specified quantity of essential crops and shall be personally liable for the full amount of the advance; except that, if the County War Board certifies that:

(1) The borrower has used the amount advanced for producing the crops for the production of which the advance was made;

(2) The borrower in good faith has diligently applied principles of good husbandry to the production of such crops;

(3) The borrower has applied an amount equal to all proceeds of such crops to the repayment of the advance; and

(4) Such amount has been insufficient to repay the advance in full,

then the Regional Agricultural Credit Corporation will not look to other assets of the borrower for the repayment of that part of the advance which exceeds such proceeds but will cancel the borrower's obligation for the balance of the advance.

(c) No such advance shall be made except upon determination by the County War Board, evidenced in accordance with instructions of the Regional Agricultural Credit Corporation, that the proceeds of the production would be adequate to repay the advance, assuming reasonably expectable growing conditions and taking into consideration evident factors indicative of the price to be expected for the crops when produced, including support prices and other similar factors.

(d) Advances under Subpart B will be made by the designated loan representatives of the Regional Agricultural Credit Corporation of Washington, D. C. In approving such advances the loan representatives shall take into consideration determinations and recommendations made by the County War Boards as required in Subpart B. Such advances shall be made only to finance the production of crops designated as essential war crops and shall be subject to the following terms and conditions:

§ 96.201 *Essential war crops.* The following crops have been designated by the Food Production Administration as "essential war crops" the production of which may be financed under this program:

Soybeans for beans
Flax for seed or fiber
Peanuts to be harvested and picked
Irish potatoes where farm goal is 3 acres or more
Sweet potatoes on farms with goals determined
American Egyptian cotton
Hemp for seed or fiber
Dry beans
Dry peas (excluding wrinkled varieties)
Castor beans
Tomatoes, snap beans, lima beans, peas, and carrots for processing or sale fresh
Cabbage, sweet corn, and table beets for processing only.

§ 96.202 *Eligible borrowers.* Advances shall be made only to farmers who are actual producers. These include any

farmer (individual, partnership, or corporation) engaged in agricultural production who proposes to engage in the year 1943 in the production of designated essential war crops and who has land suitable to the production of such crops and has, or will be able to procure, other facilities necessary for such production. To be considered a "farmer" a corporation must be engaged in farming as a substantial part of its business enterprise, as distinguished from incidental farming operations. Canners, packers, or other processors, dealers, or commission merchants, as such, are not eligible and advances shall not be made to finance their commercial or processing operations; but advances may be made to finance their actual production (including harvesting and delivery for sale or for processing) of designated essential war crops.

§ 96.203 *Purposes of advances.* Advances may be made to finance the actual current cash cost of producing and harvesting designated essential war crops and delivering such crops for sale or for processing. Such cash costs may include the cost of feed for workstock, seed, fertilizer, packages, insecticides and spraying, labor, motor fuel and oil, the repair of equipment, insurance on the essential war crop for the production of which the advance is made and other current expenses necessary or directly incidental to the production, harvesting, and disposition of such crops by the producer. Advances will not be made under the provisions of Subpart B for the purchase of major items of farming equipment or other capital expenditures such as extensive improvements, etc., nor for the purpose of making payments for the use or ownership of land, such as cash rent, taxes, interest, installments or mortgage debts, etc., nor for the payment of existing debts, except that provision may be made for the payment of obligations incurred prior to the application in connection with the production of the crop being financed, such as prior purchase of feed for workstock, seed, fertilizer, etc., and the payment of wages for farm labor performed in the production of the current year's crop. No other outstanding obligations will be refinanced under this plan.

Applications for advances which are not eligible to be made hereunder such, for example, as applications involving the financing of major items of farming equipment, cash rent, or interest or installments on mortgage debts, but which meet the requirements set forth in Subpart A may be handled through loans under Subpart A, using the forms therein prescribed.

§ 96.204 *Collateral security.* In all cases advances made hereunder must be secured by a first and paramount lien upon the specific crop to be produced. In the case of all designated essential war crops on which Federal crop insurance is available, the advances shall be secured also by such insurance on the crops for the production of which the advances are made, and in the case of all designated essential war crops, the Corporation may require that the borrower provide for such other insurance upon the crops for the production of which the advances are made, as it determines to be necessary for the protection of its interest in such crops.

It shall be a condition of the release of the borrower's obligation to the Corporation for any part of the amount of any advances made under Subpart B that there shall have been paid to the Corporation for application against such advances the proceeds of any incentive or other similar payments made by the United States on the crops for the production of which the advances were made and the proceeds of any insurance on such crops, and that he shall have executed such documents as the Corporation may have required in order to provide for the payment to it of the proceeds of such payments and the proceeds of any insurance on such crops.

Except as provided in this section, no other collateral security will be required.

§ 96.205 *Advances to tenant farmers and sharecroppers.* Advances to tenant farmers or sharecroppers shall be conditioned upon their furnishing, on forms prescribed by the Corporation, such waivers or subordinations of statutory or recorded liens as will afford the Corporation a first lien upon the specific crop being financed.

§ 96.206 *Special review of applications.* (a) Each application for an advance which, if approved would cause the total of all the applicant's loans and advances outstanding from the Corporation (including any undisbursed proceeds of any loans or advances previously approved) to exceed $2,500 shall be referred to the District Vice President for approval or disapproval.

Advances which, together with all the applicant's other loans or advances outstanding from the Corporation (including any undisbursed proceeds of any loans or advances previously approved) do not exceed $2,500 will be closed upon approval by the designated loan representative (or by his alternate if an alternate has been duly designated and authorized to act) and by the County War Board.

(b) Each application referred to the District Vice President for approval or disapproval shall be accompanied by such inspection reports and other data as the District Vice President may require and by the recommendations of the loan representative and the County War Board.

(c) It is preferable, where an application requires approval above the county level, that the mortgage securing the proposed advance be not filed or recorded prior to advice of final approval. If the mortgage is prepared before the papers are submitted to the District Vice President for consideration, a copy thereof should accompany the papers. If the mortgage is to be drawn later, the papers submitted should include a list of the property to be covered by such mortgage. The District Vice President will return all papers to the loan representative, with advice of the action to be taken. Upon final approval by the District Vice President the proceeds of the advance will be disbursed by the loan representative and Chairman of the County War Board, in the same manner as other loans or advances are disbursed.

(d) When procedures are settled for the handling of advances which the County War Board determines require supervision of the type given by Farm Security Administration supervisors, definite instructions for the handling of such advances will be issued by the Corporation. It is anticipated that upon the issuance of such instructions, advances recommended by the War Board for such supervision will be supervised by Farm Security Administration supervisors in accordance with such instructions.

§ 96.207 *Interest.* All notes shall be drawn with interest at the rate of 5 per centum per annum payable at maturity. Interest will be charged only on the unpaid balance, from date of advance (or partial advance) to date of payment.

§ 96.208 *Maturity.* All notes shall be drawn with a maturity of one year or less. The maturity date shall coincide as nearly as may be practicable with the usual time for marketing the crops for the production of which the advance is to be made.

§ 96.209 *Forms and documents.* The following forms shall be used in connection with advances made under the provisions of Subpart B:

(a) *The application.* Each application for advances under the provisions of Subpart B shall be prepared on Form RACC–FP3, which is especially designed to develop the information necessary to enable the loan representative and county war board to determine whether such advances may be made. The application shall be prepared and signed in duplicate and, in all other respects shall be handled in the same way as an application for a loan under Subpart A. The letter "W" preceding the State and county code and farm serial number will identify the application and supporting papers as relating to advances made under the provisions of Subpart B. The letter "W" shall be inserted before the State and county code and farm serial number on all documents related to the advance on which it is not printed and on all drafts issued in disbursing proceeds of the advance.

If the applicant is a corporation, it will be required to complete and execute "Corporation Form 1–A" in the same manner as required in connection with loans under Subpart A.

(b) *Promissory note.* "A special form of note (Form RACC–FP4) shall be taken covering advances made under the provisions of Subpart B. Such notes shall be prepared and executed in the same manner as other notes, in accordance with § 96.112 (b). Notes of corporate borrowers shall be endorsed or guaranteed as provided in § 96.107.

(c) *Crop lien instrument.* All notes evidencing advances made under the provisions of Subpart II shall be secured by a mortgage or other lien instrument, in form prescribed or approved by the

Corporation. Such mortgages or other lien instruments shall describe the land upon which the crops being financed are grown in such manner as to permit definite identification of the specific crop involved. Such description may be in terms of fractions of designated sections or quarter-sections of land, by metes and bounds, or in such other manner as will indicate clearly the location of the area planted to the crops to be financed. In all cases, the number of acres planted to such crops shall be specified. Such instruments shall be prepared in triplicate (or in quadruplicate if the borrower requests a copy or if the State law, as indicated on the forms, requires the mortgagee to furnish a copy to the mortgagor). The original and one copy shall be executed by the borrower. One copy (usually the original) shall be filed or recorded with the local official responsible for keeping the official record of such security instruments. Either a certificate of filing or recording shall be obtained or the second (signed) copy shall be endorsed by the filing or recording officer to show the date and place of filing the original, and the signed copy together with any certificate of filing or recording, shall accompany the note and other papers sent to the Corporation's custodian. The third copy is intended for the files of the Corporation's loan representative in the county office. Filing or recording fees and any lien search fees shall be paid by the borrower.

(d) *Other forms.* All other forms approved for use in connection with loans under Subpart A shall be used, as needed, in connection with advances made under Subpart B. Each such form shall bear the identification number assigned to the application, as provided in paragraph (a) of this section, including the prefix letter "W". Disbursements of proceeds are to be made in the same manner as is prescribed for loans under Subpart A, and all drafts shall bear the identifying numbers of the applications and related loan documents, including the prefix letter "W".

§ 96.210 *Inspections.* The instructions with respect to inspections, set forth in § 96.113 shall be followed in connection with applications for advances to be made under Subpart B.

§ 96.211 *Applicability of Subpart A.* Except as herein modified, instructions set forth in Subpart A shall be observed in connection with advances under Subpart B insofar as they are applicable to such advances.

§ 96.212 *Further instructions.* These instructions may be supplemented or superseded by other instructions issued by the Corporation from time to time as conditions may warrant. [Food Production Financing Bulletin F–2]

SUBPART C—LOANS TO FINANCE THE PURCHASE BY DAIRYMEN AND FARMERS OF DAIRY CATTLE ACQUIRED BY COMMODITY CREDIT CORPORATION FOR THE PURPOSE OF INSURING THEIR UTILIZATION FOR MILK PRODUCTION

§ 96.300 *Introduction.* This subpart outlines the terms and procedures under which loans will be made by the Regional Agricultural Credit Corporation of Washington, D. C., to finance the purchase by dairymen and other farmers, of dairy cattle (including heifers and calves) acquired by Commodity Credit Corporation.

The Regional Agricultural Credit Corporation may be referred to hereinafter as "RACC"; the Farm Security Administration as "FSA"; County Rural Rehabilitation Supervisors of the Farm Security Administration as "FSA supervisors"; and Commodity Credit Corporation as "CCC."

§ 96.301 *Purpose of program.* Arrangements have been made for the RACC, where necessary, to finance the purchase by dairymen and other farmers and stockmen of dairy cattle acquired by CCC in its program designed to prevent the loss of such cattle as productive units, through slaughter, and to insure their utilization in the production of milk and milk products necessary for both civilian and military needs. The acquisition and sale of such cattle are to be handled by FSA supervisors, acting as agents or representatives of CCC.

It is understood that, as a general policy, preference in the sale of dairy cattle acquired by CCC is to be given to the following classes of purchasers, in the order stated:

1. To producers supplying fluid milk markets;
2. To producers supplying processing plants for the production of powdered, condensed, or evaporated milk, or cheese;
3. To producers supplying creameries; and
4. To other farmers, including those needing dairy cows to supply milk products for home consumption.

§ 96.302 *Loans by RACC.* Each purchaser of dairy cattle from CCC, who requires credit to finance such purchase, shall be urged to utilize, if possible, other established sources of credit. It is expected that rehabilitation clients of the FSA will borrow from the FSA if it has funds available to finance such purchasers.

If other suitable arrangements cannot be made by a dairyman, farmer, or stockman to purchase cattle from CCC, a loan for that purpose may be made by RACC, in accordance with the provisions of this subpart. Such loans will be made upon approval of the application by the FSA supervisor.

§ 96.303 *Forms.* Applications for loans to purchase dairy cattle from CCC shall be made upon RACC form FP7. If applicant is a corporation, supplemental Form 1A shall be executed by the applicant and attached to the application. The note and other required documents shall be upon forms prescribed for making loans under Subpart A of Part 96.

§ 96.304 *Terms of notes.* Notes evidencing loans made hereunder shall be in the form prescribed for loans under Subpart A of Part 96, and shall bear interest at the rate of 5 percent per annum, payable at maturity. All such notes shall be drawn to mature not later than 1 year after date. The unpaid balance of that portion of any loan made to pay for dairy cattle purchased from CCC may be renewed or extended at maturity where other conditions surrounding the transaction, including the progress made in reducing the debt, the collateral security, and the borrower's operations remain satisfactory.

§ 96.305 *Security.* The minimum collateral security required for a cattle purchase loan will be a first and paramount lien upon the cattle, including all increase therefrom, and upon any feed purchased with the proceeds of the loan. The chattel mortgage (or other similar lien instrument) shall describe the cattle, as early as may be practicable, in the same manner as they are described in the purchase agreement, Form FSA–CCC 7. Inasmuch as CCC warrants that the title to the cattle is free from encumbrances, it will be assumed with respect to the cattle that the title conveyed by CCC is not subject to any outstanding liens. However, where State laws permit mortgages or other lien instruments to cover after-acquired property, it may be necessary to ascertain that no such mortgage or lien instrument previously given by the borrower to a third person will constitute a prior lien against the cattle when purchased by the borrower.

Where payment of the loan is to be made from dairy income, it is advisable to obtain an assignment of proceeds of milk or cream sales. In each case where the producer has assigned or is expected to assign to a third party all or any portion of the proceeds from the sale of dairy products, he shall be required to assign to RACC such portion of his dairy income as will effect an equitable division of his total income between RACC and other assignees.

Notes of each corporate borrower shall be endorsed or guaranteed by the holder or holders of at least a majority of the outstanding shares of voting stock of such corporate borrower, or by the principal stockholder or stockholders; provided that, in lieu of endorsements upon the notes, such stockholders may execute a continuing guaranty of all indebtedness of such borrower to the Corporation. In any case where a corporate borrower already has given a continuing

guaranty to RACC, no additional guaranty is required if the terms of the existing guaranty are sufficiently comprehensive to include the loan to purchase dairy cattle.

§ 96.306 *Handling of applications.* Upon approval of an application the FSA supervisor shall forward the application and all other documents to the county war board for closing of the loan. When the county war board receives such application the papers are to be examined for completeness and accuracy before any proceeds are disbursed. In the event any such application is submitted without all the necessary supporting documents, or if any such documents should be found incomplete or deficient in any important respect, all the papers shall be returned to the FSA supervisor for completion or adjustment and resubmission to the county war board.

§ 96.307 *Loan disbursements.* Upon delivery to the loan representative of RACC of the application, note, chattel mortgage and any other necessary documents, in proper form and duly executed, and upon filing or recording the chattel mortgage, the loan representative shall issue and the chairman of the county war board shall countersign such drafts as may be necessary to disburse the proceeds. Drafts covering the purchase price of the cattle shall be drawn payable to the borrower and CCC, jointly, and delivered to the FSA supervisor. Wherever practicable, drafts issued in payment for feed, likewise, shall be drawn payable to the borrower and the vendor of the feed, jointly.

§ 96.308 *Applicability of Subpart A.* Except with respect to the approval of the loan in the first instance, as herein set forth, all loans to purchase dairy cattle from CCC will be handled in the same manner as loans made under the provisions of Subpart A of Part 96. Thus, the dairy cattle loan program does not contemplate continuing supervision by FSA supervisors except in cases where the county war board determines that such supervision is necessary and furnishes the FSA supervisor a written certification to that effect.

§ 96.309 *Credit for other purposes.* If an applicant for a loan to purchase dairy cattle from CCC also requires credit for other purposes which are eligible to be financed under Bulletin F–1 or F–2, the applicant shall be referred to the county war board. A separate application (upon the prescribed forms) shall be taken to cover such requirements, and shall be handled in the manner outlined in the applicable bulletin.

§ 96.310 *Further instructions.* These instructions may be supplemented or superseded by other instructions issued by the Corporation from time to time as conditions may warrant. [Food Production Financing Bulletin F–3, Chapter I]

REGIONAL AGRICULTURAL CREDIT CORPORATION OF WASHINGTON, D. C.

[SEAL] By J. E. WELLS, Jr.,
Acting President.

Approved:
A. G. BLACK,
Governor, Farm Credit Administration.

[F. R. Doc. 43–9763; Filed, June 16, 1943; 5:09 p. m.]

TITLE 7—AGRICULTURE

Chapter IX—War Food Administration

EMERGENCY PRICE PROVISION ADDED TO ORDERS REGULATING THE HANDLING OF MILK IN VARIOUS MARKETING AREAS

Findings and determinations—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure covering the formulation of marketing agreements and milk orders (7 CFR, 1941 Supp. 900.1–900.17; 7 F.R. 3350; 8 F.R. 2815) a public hearing was held upon a certain proposed amendment to each of the tentatively approved marketing agreements, as amended, and to each of the orders, as amended, regulating the handling of milk in the marketing areas hereinafter specified. Upon the basis of the evidence introduced in such hearing and the record thereof, it is hereby found that:

(1) The orders hereafter specified regulating the handling of milk in the respective areas covered thereby, as amended and as hereby amended, and all of the terms and conditions of said orders, as amended and as hereby amended, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in each of said marketing areas a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in each of the aforesaid orders, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) Each of the aforesaid orders, as amended and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid tentatively approved marketing agreements, as amended, upon which a hearing has been held.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid orders, respectively, and the findings made in connection with the issuance of each of the previously issued amendments thereto; and all said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings herein set forth.

(b) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping milk covered by the aforesaid orders, as amended and as hereby further amended) of at least fifty percent of the volume of milk covered by said orders, respectively, as amended and as hereby further amended, which is marketed within the respective marketing areas, refused or failed to sign the tentatively approved marketing agreement, as amended, regulating the handling of milk in their respective marketing areas; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign such tentatively approved marketing agreements, as amended, tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order further amending the said orders, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the respective marketing areas; and

(3) The issuance of this order further amending the aforesaid orders, as amended, is approved or favored by at least two-thirds of the producers who, during the month of April 1943 (which month is hereby determined to be a representative period), were engaged in the production of milk for sale in their respective marketing areas.

Order Relative to Handling

It is hereby ordered, That such handling of milk in each of the marketing areas hereinafter specified as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce shall, from the effective date hereof, be in compliance with the terms and conditions of the orders regulating the handling of milk in the respective areas, as amended and as hereby further amended; and the orders hereafter specified are hereby respectively further amended by adding

to each of the said orders, as hereinafter specified, the following section:

Emergency price provision. Whenever the provisions hereof require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy, or other similar payment, being made by any Federal agency in connection with the milk, or product, associated with the price specified: *Provided,* That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any such subsidy or other similar payment: *Provided further,* That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

Said section is hereby incorporated in the following orders:

Part
941 Milk in the Chicago, Illinois, marketing area as § 941.14
965 Milk in the Cincinnati, Ohio, marketing area as § 965.15
954 Milk in the Duluth-Superior marketing area as § 954.13
932 Milk in the Fort Wayne, Indiana, marketing area as § 932.11
920 Milk in the La Porte County, Indiana, marketing area as § 920.11
946 Milk in the Louisville, Kentucky, marketing area as § 946.12
942 Milk in the New Orleans, Louisiana, marketing area as § 942.13
944 Milk in the Quad Cities (Illinois-Iowa) marketing area as § 944.12
903 Milk in the St. Louis, Missouri, marketing area as § 903.14
930 Milk in the Toledo, Ohio, marketing area as § 930.12
904 Milk in the Greater Boston, Massachusetts, marketing area as § 904.12
912 Milk in the Dubuque, Iowa, marketing area as § 912.15
947 Milk in the Fall River, Massachusetts, marketing area as § 947.13
913 Milk in the Greater Kansas City marketing area as § 913.16.
934 Milk in the Lowell-Lawrence, Massachusetts, marketing area as § 934.12
935 Milk in the Omaha-Council Bluffs marketing area as § 935.15
961 Milk in the Philadelphia, Pennsylvania, marketing area as § 961.10
948 Milk in the Sioux City, Iowa, marketing area as § 948.14
945 Milk in the Washington, D. C., marketing area as § 945.15

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U.S.C. 1940 ed. 601 *et seq*; E.O. 9334, 8 F. R. 5423)

Issued at Washington, D. C., this 12th day of June 1943. To be effective on and after the 21st day of June 1943.

CHESTER C. DAVIS,
War Food Administrator.

Approved: June 17, 1943.

FRED M. VINSON,
Director of Economic Stabilization.

[F. R. Doc. 43-9770; Filed, June 17, 1943; 11:24 a. m.]

PART 961—MILK IN THE PHILADELPHIA, PENNSYLVANIA, MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISIONS

Order suspending certain provisions of the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area.

Pursuant to the applicable provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 1940 ed. 601 *et seq.*), hereinafter referred to as the "act", and of the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area, it is hereby determined that the provision of such order which is hereby suspended is a provision which obstructs and does not tend to effectuate the declared policy of the act with respect to producers of milk under such order.

It is, therefore, ordered, That the following provision of § 961.4 (a) (2) (i) of the order,[1] as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area is hereby suspended:

Plus 5 percent of the pounds of butterfat contained in milk received from producers.

[1] 7 F.R. 2377.

Done at Washington, D. C. this 15th day of June 1943.

CHESTER C. DAVIS,
War Food Administrator.

[F. R. Doc. 43-9750; Filed, June 16, 1943; 4:36 p. m.]

Chapter X—War Food Administration

[FPO 5,[1] Amdt. 6]

PART 1206—FERTILIZER

CHEMICAL FERTILIZER

Section 1206.1 is hereby amended as set forth below:

Paragraph (e) is hereby revoked.

Paragraph (i) (2) is amended to read as follows:

(2) *Group B crops.* The requirement of any person for chemical fertilizer containing chemical nitrogen for use on any Group B crop shall be the acreage of the crop to be grown for which fertilizer is requested by such person, multiplied by the rate of application per acre used by such person or used on the farm for which fertilizer is being requested in either the 1940–1941 or 1941–1942 season: *Provided, however,* That if information as to neither of such rates of application per acre is available, or if chemical fertilizer was not used in either the 1940–1941 or 1941–1942 season, then the rate of application per acre shall be the same as that being used to determine the requirements for persons operating comparable farms in the same area growing the same crop: *Provided, further,* That in no case shall the rate of application per acre exceed the rate of application per acre recommended by the State Agricultural Experimental Station for the approved grade to be used on such Group B crop.

Schedule II attached to Food Production Order No. 5 is hereby revoked.

This amendment shall become effective June 16, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 16th day of June 1943.

CHESTER C. DAVIS,
War Food Administrator.

[F. R. Doc. 43-9769; Filed, June 17, 1943; 11:24 a. m.]

[1] 8 F.R. 947, 3689, 3750, 4817, 5358, 7093.

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

CUSTOMS REGULATIONS OF 1943, PARTS 11–18

NOTE: The complete revision of 19 CFR Chapter I, of which Parts 11–18 appear in this issue, begins on page 8099 of the issue for Wednesday, June 16, 1943.

PART 11—PACKING AND STAMPING; MARKING; TRADE-MARKS AND TRADE NAMES; COPYRIGHTS

PACKING AND STAMPING

MARKING

TRADE-MARKS AND TRADE NAMES

COPYRIGHTS

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 by the appraising officer and before release, the inspecting officer shall affix a customs stamp to each box of cigars or cheroots, which stamp shall be canceled by the said officer by placing thereon his name, the name of the port of entry, the name of the importing vessel, and the serial number. The same serial number shall be applied to all packages in each importation. The inspecting officer shall see that the required internal-revenue stamps are placed upon all boxes of cigars or cheroots and canceled by the importer.[2] 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 weighing more than 3 pounds per 1,000.

(c) Customs and internal-revenue stamps shall be affixed to all packages of imported cigarettes and shall be canceled by the importer in accordance with Internal Revenue Regulations No. 8.

(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. (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. 811, 830)

§ 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 importer.[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; 19 U.S.C. 66, 5 U.S.C. 22, 26 U.S.C. 800)

§ 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 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 pt. 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. 976)

§ 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 title 19, section 467, United States Code.[3] The provision in that sec-

[1] See § 9.8, relative to stamping tobacco products imported by mail; § 10.18, relative to stamping tobacco products in passengers' baggage; and § 7.3, 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.

[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 im-

tion 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 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

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ported 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.

[7] See sec. 304 (a) (2), Tariff Act of 1930, as amended; 19 U.S.C. 1304 (a) (2).

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 these regulations, 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 of these regulations.

(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 at the gross regular hourly rate of pay of the customs officer or employee so assigned, 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 specified in paragraphs 354, 355, 357, 358, 359, 360, 361, or 1553, Tariff Art of 1930, must be marked prior to importation in the manner prescribed in the respective paragraphs.

(b) Any article specified in 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 specified in 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 requirement of marking. The marking of the container of an article shall be regarded as reasonably indicating the

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[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))

[12] "* * * The Secretary of the Treasury may by regulations—

* * * * *

"(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;

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. Sumh marking, exportation, or destruction shall be at the expense of the importer and under customs supervision.[18]

(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), 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. (Sec. 3, 52 Stat. 1077, sec. 624, 46 Stat. 759; 19 U.S.C. 1304, 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 and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR 300 (1–35)). 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 these regulations 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 the preceding paragraph 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

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"(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 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).

[18] See footnotes 9 and 10.

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 marking;*[14] *articles of gold or silver.*[15] Gold or silver jewelry or gold or silver wares imported or exported for sale by any manufacturer or dealer shall not be marked or labeled in any manner to indicate a greater degree of fineness than the actual fineness thereof. Plated or filled articles shall not be marked to indicate the fineness of the gold or silver unless also marked to indicate that the article is plated or filled, and no plated or filled article shall be marked with the word "sterling" or "coin" either alone or in conjunction with other words. Customs officers shall examine all gold and silver articles imported by manufacturers or dealers and if such articles are found to be marked in violation of this section they shall be detained. (Secs. 1–5, 34 Stat. 260–262, R.S. 161; 5 U.S.C. 22, 15 U.S.C. 294–298)

TRADE-MARKS AND TRADE NAMES

§ 11.14 *Trade-marks and trade names; prohibition of importation.* (a) The importation of merchandise of foreign or domestic manufacture is prohibited if such merchandise bears a name or mark which copies or simulates a trade-mark or trade name entitled to the protection of the Trade-Mark Act of February 20, 1905 (33 Stat. 724; 15 U.S.C. ch. 3), or the Trade-Mark Act of March 19, 1920 (41 Stat. 533; 15 U.S.C. ch. 3), 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.

(b) A name or mark (including a name or mark 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 protected by the trade-mark laws of the United States, as well as a name or mark on an article of foreign or domestic manufacture counterfeiting such protected trade-mark or trade name, or so resembling such protected 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 for the purposes of the regulations in this part 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 trade-mark laws of the United States, shall not be deemed for the purpose of the regulations in this part 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. (Secs. 526, 624, 46 Stat. 741, 759; sec. 27, 33 Stat. 730; sec. 3, 34 Stat. 169; sec. 18, 49 Stat. 1811, R. S. 161; 19 U.S.C. 1624, 15 U.S.C. 106, 132, 48 U.S.C. 1405q, 5 U.S.C. 22)

§ 11.15 *Trade-marks; recording.* (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, 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), the name of the locality in which the goods are manufactured, and the customs districts (designated by the names of the headquarters ports) in which the applicant desires to have facsimiles of the statement and drawing recorded. 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 the Trade-Mark Act of March 19, 1920,[16] such of the documents mentioned in paragraph (b) as may be required to show the ownership of the applicant, three uncertified printed facsimiles of the statement and drawing covering the trade-mark for deposit in the Treasury Department, and a sufficient number of such facsimiles to enable the Bureau to forward copies to the headquarters ports of the customs districts indicated in the application.[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. (Secs. 526, 624, 46 Stat. 741, 759, sec. 27, 33 Stat. 730, sec. 3, 34 Stat. 169, sec. 18, 49 Stat. 1811, R.S. 161; 19 U.S.C. 1526, 1624, 15 U.S.C. 106, 132, 48 U.S.C. 1405q, 5 U.S.C. 22)

§ 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, 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.[18] 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 and 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. (Secs. 526, 624, 46 Stat. 741, 759; sec. 27, 33 Stat. 730, sec. 3, 34 Stat. 169, sec. 18, 49 Stat. 1811, R.S. 161; 19 U.S.C. 1526, 1624, 15 U.S.C. 106, 132, 48 U.S.C. 1405q, 5 U.S.C. 22)

§ 11.17 *Detention; seizure; exportation; release.* (a) Merchandise of foreign manufacture which bears a trade-mark entitled to the protection of section

[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 is in fact manufactured, shall be admitted to entry at any customhouse of the United States; * * *" (15 U.S.C. 106.)

[15] Any firm, manufacturer, dealer, or agent willfully importing or exporting articles of gold or silver falsely marked or labeled is liable to a fine of not more than $500 or imprisonment or both. (See 15 U.S.C. 294, 298.)

[16] Domestic or foreign manufacturers or traders, to avail themselves of the privileges of the law concerning trade-marks, are required to register their trade-marks with the Commissioner of Patents before the Treasury Department can act. (T.D. 26198)

No fee is charged for recording trade-marks in the Treasury Department. (T.D. 50005)

[17] The number of facsimiles required for each of the several customs districts and the names of the headquarters ports of those districts are as follows:

7	Baltimore, Md.	5	New Orleans, La.
13	Boston, Mass.	25	New York, N. Y.
5	Bridgeport, Conn.	11	Nogales, Ariz.
9	Buffalo, N. Y.	11	Norfolk, Va.
3	Charleston, S. C.	15	Ogdensburg, N. Y.
4	Charlotte Amalie, St. Thomas, V. I.	1	Omaha, Nebr.
		4	Pembina, N. Dak.
6	Chicago, Ill.	6	Philadelphia, Pa.
11	Cleveland, Ohio	2	Pittsburgh, Pa.
2	Denver, Colo.	5	Port Arthur, Tex.
10	Detroit, Mich.	21	Portland, Maine.
16	Duluth Minn.	6	Portland, Oreg.
5	El Paso, Tex.	3	Providence, R. I.
7	Galveston, Tex.	7	Rochester, N. Y.
18	Great Falls, Mont.	24	St. Albans, Vt.
7	Honolulu, T. H.	9	St. Louis, Mo.
3	Indianapolis, Ind.	5	San Diego, Calif.
2	Juneau, Alaska.	7	San Francisco, Calif.
17	Laredo Tex.		
9	Los Angeles, Calif.	14	San Juan, P. R.
1	Louisville, Ky.	4	Savannah, Ga.
3	Memphis, Tenn.	20	Seattle, Wash.
8	Milwaukee, Wis.	21	Tampa, Fla.
4	Minneapolis, Minn.	4	Wilmington, N. C.
5	Mobile, Ala.		

[18] No fee is charged for recording trade names in the Treasury Department.

526, Tariff Act of 1930,[19] 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 (15 U.S.C. 106), or section 6, Trade-Mark Act of March 19, 1920 (16 U.S.C. 107, 126), 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 be detained, but not seized, until 30 days have elapsed from the date of notice to the importer that the merchandise is prohibited importation.

(b) Whenever merchandise is detained in accordance with the foregoing provisions of this section and the written consent of the owner of the trade-mark or trade name to the importation of the merchandise 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 the collector may release the merchandise, but only upon the condition that the name, mark, or trade-mark be removed or obliterated prior to the release, or that the merchandise be exported under customs supervision and without expense to the Government. If the case is not within the purview of § 23.25, 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 foregoing provisions of this section. (Secs. 526, 624, 46 Stat. 741, 759; sec. 27, 33 Stat. 730, sec. 3, 34 Stat. 169, sec. 18, 49 Stat. 1811, R.S. 161; 19 U.S.C. 1526, 1624, 15 U.S.C. 106, 1321, 48 Stat. U.S.C. 1405q, 5 U.S.C. 22)

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 note 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 collec-

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[19] "(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)

[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)

tion in the event that it is held by the tor is satisfied that they do in fact constitute piratical copies.[22]

(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)

PART 12—SPECIAL CLASSES OF MERCHANDISE

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[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 encouragement 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 annul 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)

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 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. (T. D. 50069; 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. (T.D. 50505; 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. (S.R.A., C.P. 1; 21 CFR 175.20–175.32) Under the President's Reorganization Plan No. IV, referred to in paragraph (a), 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). (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

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[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 Homoeopathic 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 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." (7 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 deliver to the consignee such goods pending 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 containing 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 containing 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 containing 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)

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 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. (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 (S.R.A., I.M., Reg. 20 (b); 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 abovementioned 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 ecah. 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

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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 susbtance 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)

[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)

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 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.* (7 CFR 321.20–321.208.)

(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 herein 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. (T.D. 50071, T.D. 50458; 5 F.R. 38; 6 F.R. 3961; 7 CFR 201.201–201.331)

(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 Depart-

*Blank forms will be furnished by the Department of Agriculture.

ment 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 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. (BAI Orders 305, 352, 368, 371, and 373; 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 pre-

[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)

[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. 391)

scribed 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 10 days (30 days for Pacific coast ports) from the date of entry, whereupon final liquidation shall be suspended until the production of the permit or expiration of such period. 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.

(d) In case a permit shall be refused by the Department of the Interior, or if the permit is not secured within the said 10 days (30 days for Pacific coast ports), the collector shall promptly recall the property, if delivered under bond, and require the immediate exportation thereof 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. (T.D. 49890; 42 CFR 7.2–7.5)

(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 of product thereof, shall be released from customs custody under bond or otherwise if the collector has knowl-

[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.

[14] "It shall be unlawful for any person, firm, corporation, or association to deliver or knowingly receive for shipment, transportation, or carriage, or to ship, transport, or carry, by any means whatever, from any State, Territory, or the District of Columbia, to, into, or through any other State, Territory, or the District of Columbia, or to a foreign country any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country contrary to any law of the United States, or captured, killed, taken, purchased, sold, or possessed contrary to any such law, or captured, killed, taken, shipped, transported, carried, purchased, sold, or possessed contrary to the law of any State, Territory, or the District of Columbia, or foreign country or State, Province, or other subdivision thereof in which it was captured, killed, taken, purchased, sold, or possessed or in which it was delivered or knowingly received for shipment, transportation, or carriage, or from which it was shipped, transported, or carried; and it shall be unlawful for any person, firm, corporation, or association to transport, bring, or convey, by any means whatever, 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 the foreign country or State, Province, or other subdivision thereof in which it was captured, killed, taken, delivered, or knowingly received for shipment, transportation, or carriage, or from which it was shipped, transported or carried; and no person, firm, corporation, or association shall knowingly purchase or receive 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; nor shall any person, firm, corporation, or association purchasing or receiving 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 make any false record or render any account that is false in any respect in reference thereto." (18 U.S.C. 392)

"All packages or containers in which wild animals or birds, or the dead bodies or parts thereof (except furs, hides, or skins of such animals, for which provision is hereinafter made), or the eggs of such birds are shipped, transported, carried, brought, or conveyed, by any means whatever, from one State, Territory, or the District of Columbia to, into, or through another State, Territory, or the District of Columbia, or to a foreign country, shall be plainly and clearly marked, labeled, or tagged on the outside thereof with the names and addresses of the shipper and consignee and with an accurate statement showing by number and kind the contents thereof: * * *." (18 U.S.C. 393)

"Any employee of the Department of the Interior authorized by the Secretary of Interior to enforce the provisions of sections 392 and 393 of this title and any officer of the customs, shall have power to arrest any person committing a violation of any provision of said sections in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections; and shall have authority to execute any warrant to search for and seize wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, delivered or received for shipment, transportation, or carriage, or shipped, transported, carried, brought, conveyed, purchased, or received in violation of said sections 392 and 393. Any judge of a court established under the laws of the United States or any United States commissioner may, within his jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, delivered or received for shipment, transportation, or carriage, or shipped, transported, carried, brought, conveyed, purchased, or received contrary to the provisions of said sections 392 and 393 shall, when found, be taken into possession and custody by any such employee or by the United States marshal or his deputy, or by any officer of the customs, and held pending disposition thereof by the court; and when so taken into possession or custody, upon conviction of the offender or upon judgment of a court of the United States that the same were delivered or received for shipment, transportation, or carriage, or were shipped, transported, carried, brought, conveyed, purchased, or received contrary to any provision of said sections 392 and 393, or were imported in violation of any law of the United States, as a part of the penalty and in addition to any fine or imprisonment imposed under aforesaid section 394, or otherwise,

edge 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 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)

§ 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. 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,

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shall be forfeited and disposed of as directed by the court." (18 U.S.C. 393a)

"Unless and except as permitted by regulations made as hereinafter provided in sections 703–710 of this title, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, or any part, nest, or egg of any such birds, included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), and the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936." (16 U.S.C. 703)

"It shall be unlawful to ship, transport, or carry, by any means whatever, from one State, Territory, or district to or through another State, Territory, or district, or to or through a foreign country, any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried at any time contrary to the laws of the State, Territory, or district in which it was captured, killed, or taken, or from which it was shipped, transported, or carried. It shall be unlawful to import any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried contrary to the laws of any Province of the Dominion of Canada in which the same was captured, killed, or taken, or from which it was shipped, transported, or carried.

"It shall be unlawful to import into the United States from Mexico, or to export from the United States to Mexico, any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of Interior in accordance with such regulations as he shall prescribe having due regard to the laws of the United Mexican States relating to the exportation and importation of such mammals or parts or products thereof and the laws of the State, District, or Territory of the United States from or into which such mammals, parts, or products thereof, are proposed to be exported or imported, and the laws of the United States forbidding importation of certain live mammals injurious to the interests of agriculture and horticulture, which regulations shall become effective as provided in section 704 of this title." (16 U.S.C. 705)

[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)

[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)

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. (T.D. 49781; 50 CFR, 1938 Sup., pt. 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)

§ 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 pt. 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 (S.R.A., T. No. 1, Secretary of Agriculture, April 1928, as amended; 21 CFR pt. 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

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[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 lavae 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 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." (7 U.S.C. 141)

[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 honeybee 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)

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

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(Signature)

(Official title)

CONSULATE OF THE UNITED STATES

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---, 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.

[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)

(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. (Secs. 1, 10, 37 Stat. 81, 83, 26 U.S.C. 1070, 1074. Par. 1516; sec. 1, 46 Stat. 661; 19 U.S.C. 1001)

§ 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 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. (Sec. 11, 37 Stat. 83; 46 U.S.C. 1075)

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 pt. 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. 878),[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 section 240 of the Criminal Code, as amended (18 U.S.C. 390),[25] shall be seized and disposed of in the manner prescribed in part 23 for merchandise imported contrary to law. (Secs. 593, 624, 46 Stat. 751, 759; 19 U.S.C. 1593, 1624)

UNFAIR COMPETITION

§ 12.39 *Exclusion from entry; entry under bond.* (a) No entry of merchandise with respect to which the President,

[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)

[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, T.D. 5191, and 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 shall knowingly ship or cause to be shipped from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, 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 be 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; and such liquor 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. 390)

under section 337, Tariff Act of 1930,[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 investigation 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 tarff act, the bond shall be canceled. (Secs. 337, 624, 46 Stat. 703, 759; 19 U.S.C. 1337, 1624)

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 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 the preceding paragraph), 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 under the provisions of the Criminal Code 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),

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[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 sought 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)

[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, advertisement, 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.

"(b) *Penalty on Government officers.*—Any officer, agent, or employee of the Government of the United States who shall knowingly aid or abet 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 deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not more than $5,000, or by imprisonment at hard labor for not more than ten years, or both." (Tariff Act of 1930, sec. 305; 19 U.S.C. 1305)

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.[25]

(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 or indirectly from that locality shall be held to be an importation prohibited by section 307, Tariff Act of 1930,[26] 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 (1) 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 (2) 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

1, _____, 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)

[25] 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 211 and 245 of the United States Criminal Code (18 U.S.C. 334, 396) contain provisions which apply to information and advertisements on these subjects.

[26] "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)

See § 7.7 of these regulations with respect to the importation of merchandise made by convict, forced, or indentured labor in the Philippine Islands.

_____, 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 the Act of July 24, 1935, 49 Stat. 494 (18 U. S. C. 396b–396e) [30] 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 various sections of title 18 of the United States Code, counterfeits of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of 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.[31]

(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 285 and section 350, as amended, title 18, United States Code,[32] containing illustrations of coins or

[30] "It shall be unlawful for any person knowingly to transport or cause to be transported, in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares, and 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, from one State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, where said goods, wares, and merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise in violation of any law of such State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof. Nothing herein shall apply to commodities manufactured in Federal penal land correctional institutions for use by the Federal Government." (18 U.S.C. 396b)

"All packages containing any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convict 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." (18 U.S.C. 396c)

"Any person violating any provision of sections 61 and 62 of this title shall for each offense, upon conviction thereof, be punished by a fine of not more than $1,000, and such goods, wares, and merchandise 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. 396d)

"Any violation of sections 61 and 62 of this title shall be prosecuted in any court having jurisdiction of crime within the district in which said violation was committed, or from, or into which any such goods, wares, or merchandise may have been carried or transported, or in any Territory, Puerto Rico, Virgin Islands, or the District of Columbia, contrary to the provisions of said sections." (18 U.S.C. 396e)

[31] Under 18 U.S.C. 285 it is unlawful to import any "business or professional card, notice, placard, token, device, print, or impression, or any other thing whatsoever, in t' e 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 that have been or may be issued as money, either under the authority of the United States or under the authority of any foreign government."

Under 18 U.S.C. 264 it is unlawful to import 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 authority of the Secretary of the Treasury or other proper officer of the United States.

Under 18 U.S.C. 275 it is unlawful to import any "counterfeit plate, stone, or other thing, or 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 and facsimiles or imitations thereof are subject to forfeiture.

[32] "* * * But nothing in this section shall be construed to 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. 285)

"(a) Nothing in sections 275, 286, and 349 of this title, as amended, or in any other provision of law, shall be construed to 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

medals, or reproductions of postage or revenue stamps, executed in accordance with the exception in such section 285 or such section 350, 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)

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. Such provisions published in the Treasury Decisions listed below are currently in effect:

	T.D. Number
Cotton and cotton waste	49956, 50297, 50603, 50681.
Canadian Trade Agreement	49752, 50224, 50295.
Cuban Trade Agreement	50050, 50541.
United Kingdom Trade Agreement	49753.
Inter-American Coffee Agreement	50372, 50405, 50414, 50469, 50485.
Quota on imports of wheat and wheat flour	50404.

(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 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 importations 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)

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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. 350)

[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. The cattle quota provided for in the Canadian trade agreement (T.D. 49752) is currently inoperative.

[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)

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)

§ 12.52 *Entry of samples of coffee without regard to quota restrictions provided for in Inter-American Coffee Agreement; conditions prescribed.* (a) Collectors of customs are authorized to admit coffee to entry for consumption without regard to quota restrictions under the Inter-American Coffee Agreement [35] when satisfied from an affidavit of the importer, or other evidence presented at the time of entry, that the coffee consists of samples imported for testing purposes only.

(b) Samples of coffee found to be exempt from quota limitations in accordance with paragraph (a) of this section may be entered for consumption without being reported for quota status and shall not be included in quota reports to the Bureau nor be subject to any other quota regulations. (E.O. 8909, September 26, 1941)

§ 12.53 *Bond for production of consular invoice showing that a shipment of coffee under the Inter-American Coffee Agreement is within the producing country's quota for exportation to the United States.* The amount of the bond required by Executive Order 8902 for the production of a consular invoice showing that a shipment of coffee is within the producing country's quota for exportation shall be $5,000 or an amount equivalent to the estimated value of the coffee involved, whichever is lower, unless a larger amount is deemed necessary to insure compliance with the customs laws, the Inter-American Coffee Agreement, and said executive order. Liquidated damages in the full amount of the bond shall be demanded and no remission or mitigation of the penalty will be granted by the Department unless the importer shall produce within 1 month after the expiration of the bond period satisfactory evidence that 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. (E.O. 8902, September 17, 1941)

PART 13—SUGARS, SIRUPS, AND MOLASSES; PETROLEUM PRODUCTS; WOOL AND HAIR

SUGAR, SIRUPS, AND MOLASSES

PETROLEUM PRODUCTS

WOOL AND HAIR

AUTHORITY: §§ 13.1 to 13.9, inclusive, issued under the authority contained in R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624.

SUGARS, SIRUPS, AND MOLASSES

§ 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.

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[35] "By virtue of the authority vested in me by section 2 of the joint resolution of Congress approved April 11, 1941 (Public Law 33, 77th Cong., 1st sess.), it is hereby ordered as follows:

"1. No invoice of coffee produced in a country which is a signatory of the Inter-American Coffee Agreement shall be certified hereafter by a United States consular officer unless there shall be produced to the certifying officer an official document, required by Article VI of the agreement, showing that the coffee is within the producing country's quota for exportation to United States customs territory.

"2. Beginning October 1, 1941, coffee produced in a country which is a signatory of the Inter-American Coffee Agreement shall not be admitted to entry for consumption in the customs territory of the United States unless there shall be produced for each shipment of such coffee an invoice bearing a certificate of a United States consular officer that there has been presented to him an official document required by Article VI of the Agreement showing that such shipment is within the producing country's quota for exportation to United States customs territory; except that any such shipment may be so entered without the production of such an invoice if the shipment is valued at less than $100, or if there is given a bond conditioned for the production of such an invoice within six months from the date of entry, or of the coffee was shipped from the producing country under a through bill of lading to the United States prior to the date of this order." (E.O. No. 8902, September 17, 1941)

[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.

(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 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 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). 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 bags 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.

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[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.)

[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.

(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 purpose 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 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. (I.R.C. secs. 3420, 3422, 3431, R.S. 251; 19 U.S.C. 66)

WOOL AND HAIR

AUTHORITY: §§ 13.11 to 13.16, inclusive, 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, inclusive:

(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:

(1) Condition, that is, whether in the grease, washed, pulled, on the skin, scoured, carbonized, burr-picked, willowed, handshaken, or beaten;

(2) Whether free of vegetable matter, practically free, slightly burry, medium burry, heavy burry;

(3) Whether in the fleece, skirted, matchings, or sorted;

(4) Length, that is, whether super combing, ordinary combing, clothing, or filling;

(5) Country of origin, and, if possible, the province, section, or locality of production;

(6) If wool, 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;

(7) 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 covered thereby, in addition to other information required, the total estimated

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[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 percentum 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

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 a quantity of any wool or hair so tested which is less than the sampling unit previously tested is to be withdrawn by a transferee as provided for in section 557 (b), Tariff Act of 1930, as amended, or is to be exported from continuous customs custody without manipulation or manufacture, there shall be a new determination in accordance with these regulations of the percentage clean content of such quantity with an appropriate adjustment or new determination, as may be required, of the part of the original sampling unit remaining in customs custody.

(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

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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 paragrahs 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)

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 results 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.[7] 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 dissatified with the apraiser'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. If such person is dissatisfied with these findings, he may, within 14 calendar days after the date of mailing of the notice, request in writing that a sorting test be made of the wool contained in the examination packages to determine the percentage of each of the grades of wool in the importation. Such a test shall be made on a representative number of the bales in dispute under the supervision and direction of the appraiser. The expense of the test, including the actual expenses for travel and subsistence of customs officers but not their compensation, shall be paid by the person who requested the test.

PART 14—APPRAISEMENT

Sec.

§ 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.[1]

(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.[2] 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 package 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.
Almond meal and flour.
Aluminum, and aluminum alloys in the

[7] "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))

[1] "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)

[2] "* * * 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. * * *" (Tariff Act of 1930, sec. 499, as amended; 19 U.S.C. 1499)

forms provided for in paragraph 374, Tariff Act of 1930.
Anchors of iron or steel.
Anvils, iron or steel, of all kinds.
Argols.
Arrowroot, crude or manufactured, and arrowroot starch and flour.
Asbestos provided for in paragraph 1616, Tariff Act of 1930.
Ashes, wood or beet-root.
Asphaltum.

Bagging for cotton.
Bags, jute burlap.
Balls (except billiard, pool, and tennis), used in exercise, sports, or for the amusement of children.
Balsams, natural and uncompounded.
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.
Bitumen.
Blades, saw.
Blocks, wood, suitable for the articles into which they are intended to be converted.
Board or mat, stereotype matrix.
Books, slate.
Bottles, glass siphon.
Bottles and vials provided for in paragraph 217, Tariff Act of 1930.
Boxes, tin, common.
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.
Brushes, wholly or partly manufactured for any electrical machine or appliances.
Bulbs, electric-light, incandescent, without filaments, 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.
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.
Cement, hydraulic, gypsum, and cement clinker.
Cement, linoleum.
Cement, Portland, Calderwood's, and Roman.
Cereal breakfast foods.
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.
Christmas trees, artificial.
Christmas tree decorations of all kinds.
Cigars, Philippine.
Cigarettes, Philippine.
Clays.
Cloth, cotton.
Cloth, Hessian.
Cloth, tracing.
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.
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.
Currents.
Cuttlefish bone.
Cyanides, and cyanide salts and mixtures, provided for in paragraph 1667, Tariff Act of 1930.

Dextrine.
Dolls.
Drums, iron or steel, empty.
Earthernware.
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.
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, byproduct, 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.
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.
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.
Glue and glue stock.
Glycerine, crude or refined.
Grains, cereal.
Graphite, crude or refined.
Grasses, textile, provided for in paragraph 1684, Tariffc Act of 1930.
Greases, animal and fish.
Gums and resins, natural and synthetic.
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.
Hemp, hackled and waste.
Hides not specially provided for in Tariff Act of 1930.
Honey.
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, butts.
Jute, cuttings.
Jute, rope.
Jute, waste.

Kapok, not dressed or manufactured.

Lactarene.
Lard and lard substitutes.
Laths, wood.
Leeches.
Lime (mineral).
Linoleum.
Lodestones.

Macaroni.
Machines, sewing.
Matches of all kinds.
Mats of chip.
Meal, fish.
Meatchoppers.
Meats of all kinds, fresh, frozen, dried, or 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.
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.
Noils, vegetable fiber.

Noodles.
Nuts, edible of all kinds.
Nuts, ivory.

Oakum.
Oil cake and oil-cake meal, vegetable.
Oilcloth, floor.
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.
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.
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.
Rope, hard fiber.
Rottenstone, crude or manufactured.
Rubber, India, crude, refuse or scrap.

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.
Sheets, willow, provided for in paragraph 1504, Tariff Act of 1930.
Shellac.
Shells, sea, in their natural state.
Shells, tortoise.
Shingles, of wood.
Shoes, leather, of all kinds.
Shooks.
Silk, raw, and waste.
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.

Talc in any of the forms provided for in paragraph 209, Tariff Act of 1930.
Tallow, vegetable.
Tankage.
Tapioca.
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, blocks.
Tin, plates.
Tin, scrap.
Tinplate.
Tires, automobile, motorcycle, and bicycle.
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.

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.

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.

(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] 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

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[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 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)

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 6087, 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]

(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

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[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 exportation 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,

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 or 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) (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)

§ 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

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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.

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. 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), 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]

(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

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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 pargaraph on colors, dyes, or strain, whether soluble or not in water, color acids, color bases, color lakes, leuco 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 odinarily used in more than one commercial strength, then the lowest commercial strength shall be adopted as the standard of strength for such dye or other article." (Tariff Act of 1930, par. 28 (c), (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.

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) (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	50034	12-12-39
Fencing and netting	Germany	46826	1-11-34
Fly catchers, ribbon	United Kingdom.	50035	12-12-39
Fly catchers, ribbon	Japan	50036	12-12-39
Fly catchers, ribbon	Belgium	50037	12-12-39
Fly catchers, ribbon	Germany	50038	12-12-39
Footwear, rubber-soled, fabric-topped.	Japan	46618	9-12-33
Glass frostings	Germany	50233 50694	9-20-40 8-1-42
Lamps and bulbs, electric-light.	Japan	46617	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:

(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 sec-

[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	49671
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.

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 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)

tion 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]

(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___.

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[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, 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; 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, in respect to the manufacture, production 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 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)

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 IS 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 or withheld appraisement under the Antidumping Act, 1921, 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.

(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

[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)

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.*[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.

(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 customs 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 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]

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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 or 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))

[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))

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, and has lodged the endorsed withdrawal in the customhouse in accordance with § 8.39 (c), is entitled to the rights and privileges theretofore held by the consignee in respect of abandonment or destruction of such mechandise 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 above conditions 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) and 12.4) (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.* Sale of merchandise abandoned under section 506 (1) or 563 (b). Tariff Act of 1930, as amended, shall be made in accordance with the provisions of Part 20 so far as applicable. No part of the proceeds shall be returned to the importer. If the abandoned merchandise or any part thereof is entirely worthless, or if the expenses of sale probably would exceed the proceeds, the merchandise 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 neces-

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[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))

[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 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)

sary 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 is reported to the collector by the appraiser or other customs officer, allowance shall be made under sectiton 499, Tariff Act of 1930, as amended,[11] unless it appears upon inquiry by the collector that the missing merchandise was actually received by the importer in some other package of the importation or otherwise.

(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 abstractiton 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)

§ 15.9 *Loss of wines and liquors in transit;*[12] *definitions; outages.* (a) Delivery shall be construed to be effected at the time when merchandise is actually delivered to the storekeeper in charge of a bonded warehouse or by the carrier or on its order directly to the importer. Where gauging is delayed until after the merchandise has been deposited in a bonded warehouse, the date of delivery shall be construed to be the date of the completion of the gauging. Allowance shall be made only for such losses as occurred prior to the gauging of the merchandise.

(b) When case goods are entered for consumption or for warehouse at the port of arrival, the report of the discharging inspector is the gauger's return within the meaning of paragraph 813, Tariff Act of 1930, unless the completion of the inspection is delayed until after the goods have been deposited in a bonded warehouse, in which case the date of completion of the inspection shall be construed to be the date of completion of the gauging for the purposes of paragraph (a) and therefore the date of delivery. Allowance shall be made only for such losses as occurred prior to the inspection of the merchandise. Affidavits not filed within 15 days from the date of completion of the inspection will not meet the requirements of paragraph 813 of the tariff act.

(c) With respect to that part of a shipment sent to the appraiser's stores for examination, the report of the discharging inspector is likewise the gauger's return within the meaning of paragraph 813 of the tariff act unless the examination at the appraiser's stores discloses further breakage, in which case the examination packages shall be considered to have been gauged on the date of completion of the examination at the appraiser's stores. The date of delivery of such examination packages, however, will be the date on which they are delivered from the appraiser's stores after examination or, in the case of a warehouse entry, are delivered to the bonded warehouse.

(d) When merchandise is forwarded under an immediate transportation entry after inspection at the port of arrival, the report of the discharging inspector at that port is the gauger's return within the meaning of paragraph 813 of the tariff act. The date of delivery of the shipment shall be ascertained at the port of destination in accordance with the first sentence of paragraph (a) of this section. No allowance can be made for breakage, leakage, or damage not found on inspection at the port of arrival. Transfer of merchandise from the incoming vessel to the bonded carrier constitutes an inspection within the meaning of this regulation.

(e) Where no inspection is made at the port of arrival, both the gauger's report and the date of delivery shall be determined at the port of destination as in cases where entry is made for consumption or for warehouse at the port of arrival. Allowance shall be made for such losses as occurred prior to the inspection of the merchandise at destination.

(f) The term "broken or otherwise injured" in paragraph 813 of the tariff act precludes an allowance for loss resulting from ordinary leakage. Unlading inspectors shall particularly note whether casks or packages which are in bad order are broken or injured. When a cask or package arrives with loose staves or headpieces, breakage or injury shall be presumed. Losses from a package which has been plugged, but is otherwise in good condition, shall be considered to be due to causes other than breakage or other injury.

(g) "Contents in condition as exported" is held to mean the invoiced quantities, provided specifications are given for each individual package; otherwise the "contents exported" shall be held to be the gross capacities reported by the gauger.

(h) In the event of an outage for which an allowance is not authorized by paragraph 813 of the tariff act, the dutiable quantity of merchandise in a cask or package shall be (1) the contents as ascertained by the gauger or the invoiced quantity less 2½%, whichever is greater, or (2) if the invoice does not state, or incorrectly states, the quantity, the dutiable quantity shall be the capacity of the container as reported by the gauger, less 2½%, or the contents as reported by the gauger, whichever is greater. (Par. 813: sec. 8, 46 Stat. 430, R.S. 161, 251, sec. 624, 46 Stat. 759; 5 U.S.C. 22, 19 U.S.C. 66, 1001, 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 cus-

[10] See § 18.6 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)

[12] "There shall be no constructive or other allowance for breakage, leakage, or damage on wines, liquors, cordials, or distilled spirits, except that when it shall appear to the collector of customs from the gauger's return, verified by an affidavit by the importer to be filed within fifteen days after the delivery of the merchandise, that a cask or package has been broken or otherwise injured in transit from a foreign port and as a result thereof a part of its contents, amounting to 10 per centum or more of the total value of the contents of the said cask or package in its condition as exported, has been lost, allowance therefor may be made in the liquidation of the duties." (Tariff Act of 1930, par. 813, as amended; 19 U.S.C. 1001, par. 813)

toms 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. 66, 1624)

PART 16—LIQUIDATION OF DUTIES

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§ 16.1 *Liquidation required.*[1] All entries covering imported merchandise, except 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. 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. If a specific rate is more than $1 per unit, duty shall be assessed upon the exact quantity with any fractional 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.

(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. 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 and shall be dated with the date of posting. The entries for which the bulletin notice of liquidation has been posted 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 liquidations posted.

(f) Notices of all liquidations of drawback entries or refusals to pay drawback claims shall be posted in the same manner as the notices of liquidation of import entries.

(g) The bulletin notice of liquidations, customs Form 4333, shall be posted 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

[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 to 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 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 TDs. 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)

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 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. (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 Federal 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 these regulations. (Secs. 505, 624, 46 Stat. 732, 759; 19 U.S.C. 1505, 1624)

§ 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) Internal-revenue taxes on alcoholic beverages imported in barrels, casks, or similar containers shall be collected only on the number of proof gallons (or wine gallons if below proof) and fractional parts thereof actually entered or withdrawn for consumption.[6] The quantity determined on the basis of the original customs gauge shall be considered the quantity actually entered or withdrawn and no regauge shall be made for the purpose of assessing internal-revenue taxes unless the lapse of time or the condition of the containers prior to entry or withdrawal indicates that the quantity shown by such original gauge has been substantially reduced by evaporation or leakage, or unless prior to entry or withdrawal the person making the entry or withdrawal makes a written request for a regauge. If fewer than 90 days have elapsed since the date of the original gauge, the request shall include a statement of the reasons for believing that such original gauge does not correctly indicate the quantity to be withdrawn. When request for regauge of imported wine of not over 24 per centum of alcohol by volume is made in accordance with this paragraph, an affidavit from the person making the entry or withdrawal as to the actual number of wine gallons and fractional parts thereof entered or withdrawn for consumption may be accepted in lieu of actual regauge, provided the affidavit is filed within 5 days after the date of entry or withdrawal and an abnormal outage is not disclosed. Customs duties shall be collected on the gallonage determined on the basis of the original customs gauge.

(e) When imported distilled spirits upon which collectors of customs are required to collect internal-revenue taxes under the provisions of I. R. C. section 2800 (f) and § 24.11 of these regulations, or imported wines upon which collectors of customs are required by the said sections to collect such taxes, are regauged in accordance with paragraph (d) of this section in order that the internal-revenue taxes may be collected on the gallonage actually withdrawn from warehouse for consumption, as contemplated by I. R. C. sections 2800 (a) (1) and 3030 (a), the internal-revenue taxes shall be adjusted on the warehouse withdrawal according to the gauge at the time of withdrawal. A notation shall be made on the withdrawal that the adjustment has been made in accordance with the provisions of this paragraph. No adjustment of customs duties shall be made as a result of a regauge for internal-revenue purposes in view of the provisions of section 563 (a), Tariff Act of 1930, as amended.[7] (R.S. 251, sec. 315, 46 Stat. 695, sec. 6, 52 Stat. 1081, sec. 500 (a), 46 Stat. 729, secs. 505, 624, 46 Stat. 732, 759; 19 U.S.C. 66, 1315, 1500 (a), 1505, 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 of all types. One per centum of the net weight for inedible but not readily removable covering. In the case of readily removable coverings such as tin foil, paper, cellophane, etc., actual tare shall be taken.

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.

Tobacco, leaf not stemmed. Thirteen pounds per bale; *Sumatra:* actual tare for

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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))

[6] 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.

[7] "* * * Insofar as duties are based upon the quantity of any merchandise, such duties shall, except as provided in paragraphs 813 and section 562 of this Act (relating respectively to certain beverages and to manipulating warehouses), be levied and collected upon the quantity of such merchandise at the time of its importation. * * *" (Tariff Act of 1930, sec. 315, as amended; 19 U.S.C. 1315)

[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)

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. 1084; 19 U.S.C. 1499, 1505, 1555, 1624)

§ 16.8 *Excess of merchandise.* Increased duty only is incurred by a simple 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 rate; 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,

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.

(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 returned to the collector, and a carbon copy of customs Form 5171 covering such entries shall be posted as the notice of liquidation 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 been posted as a bulletin notice, notice of the liquidation shall be posted 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 shall be stamped on the bulletin as the date of liquidation of all entries covered thereby.

(c) Free baggage declarations, whether originals or certified copies, 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 or 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 exemption on the basis of a certified copy of a returning resident's baggage declaration, a proper notation that the articles were passed under the $100 exemption of 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 or on a duplicate copy of Form 4333, as the case may be. (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 (1) upon liquidation of the entry, (2) upon voluntary reliquidation completed within 60 days after liquidation, or (3) 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,[12] or § 16.10 (f) of these regulations.

(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 those provisions, 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,[13] not-

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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)

[12] "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)

[13] "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. 528, as amended; 19 U.S.C. 1528)

withstanding 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)

§ 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 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. (I.R.C. 2470, 2490, 2491, 2492; R.S. 161; 5 U.S.C. 22)

§ 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. (Secs. 304, 46 Stat. 687, sec. 3, 52 Stat. 1077, sec. 624, 46 Stat. 759; 19 U.S.C. 1304, 1624)

§ 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. 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 August 24, 1934, as amended by the supplementary trade agreement with that country concluded

[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.

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.

on December 18, 1939,[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 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 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 article I or III 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., pt. 2, 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:

Country	Commodity	Treasury Decision	Action
Australia	Sugar content of certain articles	39310	Assessed duties (estimated).
		39541	Enumerates rates of duty.
		39789	Supplemental data.
		39812	Supplemental data.
		49157	Suspended liquidation pending determination varying amounts of bounty.
	Fencing wire, galvanized sheets, traction engines, wire netting.	40001	Assessed duties (declared).
		45384	New rates (galvanized sheets).
	Butter	42937	Assessed duties (estimated).
		43067	Increased rates.
		48551	New rates.
Denmark	Butter	47896	Assessed duties (estimated).
		48734	Discontinued as to direct shipments prior to Oct. 26, 1939, and imported indirectly after Nov. 10, 1935.
Germany	Cameras, calf and kid leather, surgical instruments, toys, dolls, cotton-and-rayon gloves, china tableware, thumbtacks, metal-covered paper, leather gloves.	48360	Declaration of bounty (estimated).
		48444	Exempts gifts and articles for personal use.
		48463	Contracts entered into after July and August 1936 in respective cases exempts merchandise from provisions T. D. 48360.
		48479	
	Ethylene dibromide	49719	Declaration of bounty (3.775¢ lb. declared).
	All dutiable merchandise	49821	Declaration of bounty (estimated); deposit of 25% of invoice value effective Apr. 23, 1939.
		49849	Modifies T. D. 49821 as to articles for personal use and importations not involving bounty.
		49878	Declaration of importer.
		49958	Amends T. D. 49821 and T. D. 49849; grants collectors more authority.
		49998	Samples, merchandise furnished gratis, etc., exempt.
		49503	Austria incorporated in the territory of Germany.
		49743	Sudeten transferred to Germany.
		49828	Memel, territory of Lithuania, ceded to Germany.
		49822	Countries under control of Germany.
		50029	
Italy	Silk and silk articles	49909	Assessed duties (estimated).
		50148	Modifies T. D. 49909 as to exportations after Jan. 1, 1940.
Lithuania	Butter	49122	Assessed duties (estimated).
Netherlands	Chicory	49741	Assessed duties (estimated).
	Meat products	49809	Assessed duties (estimated).
		49870	Exempts direct exportations to United States after Apr. 9, 1939.
	Milk products	49729	Assessed duties (estimated).
		49749	Suspends T. D. 49729 pending investigation.
		49829	Modifies T. D. 49729 to apply to indirect shipments only.
	Peas	47658	Declaration of bounty (estimated).
		49114	Restricted to indirect shipments only.
Great Britain	Silk and artificial silk	42895	Bounties—spun silk yarn declared.
		43634	Bounties—various articles.
		44742	New rates.
		47475	Supplemental new rates.
		47502	Bounties enumerated.
		47594	Duties on exportations on and after Dec. 1, 1934.
United Kingdom, Great Britain, Northern Ireland, and Ireland.	Spirits	31229	Declaration of bounty declared.
		31490	Revokes T.D. 31229 on basis export allowance not a bounty.
		34466	Reconsideration that export allowance is a bounty and rates declared.
		34752	Classification—spirits.
		34982	No duty on rum.
		35089	Method of determining proof gallons.
		35510	Includes alcoholic perfumery.
		35668	Includes orange bitters.
		47753	Includes shipments from Irish Free State (Ireland) in addition to Great Britain.
		47826(7)	Net quantity of landed gallons to be used as basis for computing duty.
	Sugar	49355	Assessed duties declared.
		49981	Supplemental rates declared.
		50108	Supplemental rates declared.
		50127	Amends T.D. 50108 re formula (4).
Canada	Cheese: 93–94 score. From whole milk, cheddar or "washed curd" types.	50093	Assessed duty declared.

[17] The operation of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902 (T.D. 24836), has been suspended for the effective period of the trade agreement concluded between the United States and the Republic of Cuba on August 24, 1934 (T.D. 47232). (49 Stat., pt. 2, 3559, as amended (T.D. 50050))

[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)

(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)

PART 17—PROTESTS AND REAPPRAISEMENTS

PROTESTS

REAPPRAISEMENT AND REVIEW

ANTIDUMPING PROTESTS AND APPEALS—REMISSION OF ADDITIONAL DUTY—AMERICAN PRODUCERS' APPEALS AND PROTESTS

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 of notice of the liquidation in a conspicuous place in the customhouse 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) 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 power shall be limited to a period not to exceed 2 years from the date of receipt by the collector and shall be acknowledged. A purported protest filed by an agent or attorney not named in a power of attorney required by this section shall be received by the collector, 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 forwarded to the United States Customs Court with a request that the court render a decision as to the authority of the agent or attorney to file such protest; but the collector shall not grant or deny the purported protest or otherwise proceed under section 515, Tariff Act of 1930, unless the court shall have ruled that the agent or attorney was authorized to file such protest. The purported protest shall not be numbered in the protest series unless the court rules that the agent or attorney was authorized to file it. When forwarding the purported protest to the court, the collector shall transmit therewith no official record or other document relating to the case except a communication explaining that he has been prevented from complying with section 515 of the tariff act by failure of the agent or attorney to establish his authority to file a 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. The communication of the collector shall also request the court to furnish him with a copy of its decision regarding the authority of the agent or attorney and shall advise the court that if it decides that such authority has been established he will immediately review his decision and otherwise proceed under section 515 of the tariff act.

(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) 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]

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[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)

(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 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

[3] "If the importer, owner, consignee, or agent of any imported merchandise, or the collector or Secretary of the Treasury, shall be dissatisfied with the decision of the United States Customs Court as to the construction of the law and the facts respecting the classification of such merchandise and the rate of duty imposed thereon under such classification, or with any other appealable decision of said Court, they, or either of them, may, within sixty days next after the entry of such decree or judgment, and not afterwards, apply to the Court of Customs and Patent Appeals for a review of the questions of law and fact involved in such decision. In Alaska and in the insular and other outside possessions of the United States ninety days shall be allowed for making such application to the Court of Customs and Patent Appeals. Such application shall be made by filing in the office of the clerk of said court 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 shall immediately order the United States Customs Court to transmit to said court the record and evidence taken by them, together with the certified statement of the facts involved in the case and their decision thereon; and all the evidence taken by and before said United States Customs Court shall be competent evidence before said Court of Customs and Patent Appeals. The decision of said Court of Customs and Patent Appeals shall be final, and such cause shall be remanded to said United States Customs Court for further proceedings to be taken in pursuance of such determination." (28 U.S.C. 310)

[4] "* * * in any case in which the judgment or decree of the Court of Customs and Patent Appeals is made final by the provisions of this title, it shall be competent for the Supreme Court, upon the application of either party, duly made as required by section 350 of this title, to require, by certiorari or otherwise, such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal to the Supreme Court." (28 U.S.C. 308)

[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.

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)

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. (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 on customs Form 4305.[7] 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.

(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 on customs Form 4307.[9] (Sec. 501, 46 Stat. 730, sec. 16 (b), 52 Stat. 1084, sec. 624, 46 Stat. 759; 19 U.S.C. 1501, 1624)

ANTIDUMPING PROTESTS AND APPEALS—REMISSION OF ADDITIONAL DUTY—AMERICAN PRODUCER'S 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, any petition for remission of such additional duty shall be addressed to the

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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))

[7] "* * * 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))

[8] "* * * 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))

[9] "* * * Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court and shall be assigned to one of the judges, who shall in every case, notwithstanding that the original appraisement may for any reason be held invalid or void and that the merchandise or samples thereof be not available for examination, after affording the parties an opportunity to be heard on the merits, determine the value of the merchandise from the evidence in the entry record and that adduced at the hearing. * * *" (Tariff Act of 1930, sec. 501 (a), as amended; 19 U.S.C. 1501 (a))

"* * * No appraisement made after the effective date of the Customs Administrative Act of 1938 shall be held invalid on the ground that the required number of packages or the required quantity of the merchandise was not designated for examination or, if designated, was not actually examined, unless the party claiming such invalidity shall establish that merchandise in the packages or quantities not designated for examination, or not actually examined, was different from that actually examined and that the difference was such as to establish the incorrectness of the appraiser's return of value; and then only as to the merchandise for which the value returned by the appraiser is shown to be incorrect." (Tariff Act of 1930, sec. 499, as amended; 19 U.S.C. 1499)

[10] "The judge shall, * * * render his decision in writing together with a statement of the reasons therefor and of the facts on which the decision is based. Such decision shall be final and conclusive upon all parties unless within thirty days from the date of the filing of the decision with the collector an application for its review shall be filed with or mailed to the United States 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 forthwith forwarded to the United States Customs Court. * * * The decision of the United States Customs Court shall be final and conclusive upon all parties unless an appeal shall be taken by either party to the Court of Customs and Patent Appeals upon a question or questions of law only within the time and in the manner provided by section 198 of the Judicial Code, as amended." (Tariff Act of 1930, sec. 501 (b) as amended; 19 U.S.C. 1501 (b))

[11] "* * * 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)

[12] "* * * 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 mer-

United States Customs Court and filed in the office of the clerk thereof 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) (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.

(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.

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chandise. 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)

[12] "Petitions for remission of additional duties, accruing by reason of advances made on final appraisement of merchandise, shall be in writing, signed by the petitioner; if the petitioner be a partnership, by a member thereof; and if a corporation, by an officer thereof. The allegations in said petition must be duly verified by a person having knowledge of the facts.

"Every such petition shall be addressed to the court, and filed in the office of the clerk in New York City 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 at the hearing before the court. A copy thereof shall be filed with the collector of the port where the case arose, and the collector shall immediately, upon receipt of such copy, forward the invoice, entry, and all other papers connected therewith to the clerk of the court. Notice of such filing, together with a copy of the petition, shall be served by the petitioner on the Assistant Attorney General in charge of customs litigation within five days after such filing." (Rules of the United States Customs Court, Rule 29)

[13] "(a) *Value.*—Whenever and 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 for 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 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. If the protest of the complainant is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of such court decision, shall be subject to classification and assessment of duty in accordance with the final judicial decision on the complainant's protest, and the liquidation of entries covering such merchandise so entered or withdrawn shall be suspended until final disposition is made of such protest, whereupon such entries shall be liquidated, or if necessary, reliquidated in accordance with such final decision. * * *

"(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

(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 conditions, 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.

(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.

IMMEDIATE TRANSPORTATION WITHOUT APPRAISEMENT

SHIPMENT OF BAGGAGE IN BOND

WAREHOUSE AND REWAREHOUSE WITHDRAWALS FOR TRANSPORTATION

WAREHOUSE WITHDRAWALS FOR EXPORTATION OR FOR TRANSPORTATION AND EXPORTATION

MERCHANDISE IN TRANSIT THROUGH THE UNITED STATES TO FOREIGN COUNTRIES

EXPORTATION FROM CUSTOMS CUSTODY OF MERCHANDISE UNENTERED OR COVERED BY AN UNLIQUIDATED CONSUMPTION ENTRY, OR MERCHANDISE DENIED ADMISSION BY THE GOVERNMENT

FINAL PORT OF EXPORTATION OF MERCHANDISE CROSSING CONTIGUOUS FOREIGN TERRITORY

MERCHANDISE ARRIVING FROM A CONTIGUOUS COUNTRY IN SEALED VESSELS OR VEHICLES

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), 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]

(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, 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. 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 cart-

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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. The decision of the United States Customs Court upon any such appeal or protest shall be final and conclusive upon all parties unless an appeal is taken by either party to the Court of Customs and Patent Appeals, as provided in sections 501 and 515 of this Act.

"(d) *Inspection of documents.*—In proceedings instituted under the provisions of this section 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 United States Customs Court or any judge or division thereof shall deem unnecessary or improper to be disclosed to him." (Tariff Act of 1930, sec. 516, as amended; 19 U.S.C. 1516)

[1] "Any common carrier of merchandise owning or operating railroad, steamship, or other transportation lines or routes for the transportation of merchandise in the United States, upon application and the filing of a bond in a form and penalty and with such sureties as may be approved by the Secretary of the Treasury, may be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued." (Tariff Act of 1930, sec. 551; 19 U.S.C. 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)

man 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)

(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 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 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.*[1] (a) If the route be such that a transshipment is required at a place other than the port of origin or destination, an additional copy of the manifest shall be prepared by the carrier or shipper and be certified and given by the lading inspector to the conductor, master, or person in charge of the conveyance in a sealed envelope to be delivered to the inspector 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. (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 in-bond 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.

(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.

(e) Packages shipped in bond, unless otherwise transported under customs seals, or when sealing is waived under paragraph (a) or (b) of this section, shall be corded and sealed or, in lieu thereof, bonded 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.

(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 _____.
No. 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 or warehouse.

(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 forward 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

[1] 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. (Secs. 551, 624, 46 Stat. 742, 759; 19 U.S.C. 1551, 1624)

§ 18.7 *Transfer by bonded cartman.* All transfers to or from the conveyance or warehouse of merchandise undergoing transportation in bond shall be made by bonded vehicles or lighters under the provisions of part 21 and at the expense of the parties in interest. (Secs. 565, 624, 46 Stat. 747, 759; 19 U.S.C. 1565, 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, received 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.

(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.

(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 Island (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 make entry for immediate transportation without appraisement.

(c) Immediate transportation without appraisement entries may be accepted for merchandise shown on the invoice,

[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.

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 or 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 administered 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 ten 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 require 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)

(b) The right to make entry at the port of destination shall be determined in accordance with the provisions of § 8.6.

(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).

(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 the preceding section 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." (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.

(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.

[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.

(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 *Form 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. Withdrawals for transportation shall be on customs Form 7512, 10 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; for rewarehouse and withdrawal for consumption in accordance with § 8.35; or for exportation in accordance with § 8.36; 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 (h) 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, nine 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) When the merchandise is to be transferred from one place to another within the port, unless the bonded carrier is responsible for the delivery of the merchandise to the place of lading on the exporting conveyance, the transfer shall be made by a bonded cartman or lighterman with the use of customs Form 6043–A in the manner provided for in § 21.9. 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 transfer of the merchandise to be accomplished as prescribed above. 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 (relating to merchandise in transit through the United States between two points in contiguous foreign territory), seven copies of customs Form 7512 shall be required, unless there is to be a transfer of the merchandise within the United States, in which case additional copies of Form 7512 shall be furnished in accordance with paragraph (c) of this section.

(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), 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 for cancelation of export bonds.)

(c) When the merchandise is to be transferred at the port of entry, the port of exportation, or at any intermediate place, two additional copies of the entry shall be required for each transfer for the

[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)

use of the customs officers at each place of transfer.

(d) 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)

§ 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 transit 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. 624, 46 Stat. 759; 19 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 at 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, commerce 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

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[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 shal 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)

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 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, ten 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.[12] (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)

[Here follow Parts 19–26, inclusive, which will be appear in the next issue.]

[F. R. Doc. 43-8580; Filed, May 27, 1943; 11:50 a. m.]

[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)

[12] See § 5.1 and notes.

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

PART 301—RULES OF PRACTICE AND PROCEDURE

HEARINGS AND SERVICE OF PAPERS

Sections 301.13 (a), 301.14 (b) and 301.135 of the Rules of Practice and Procedure Before the Bituminous Coal Division are hereby amended to read as follows:

§ 301.13 *Service, number of copies.*—(a) *Service.* Formal complaints, petitions in intervention, supplemental complaints, amended complaints, protests, answers, briefs, notices and all other papers in proceedings must show and prove service upon all other parties to the proceeding and in addition thereto must show and prove service upon the Bituminous Coal Consumers' Counsel. Such service in all cases other than formal complaints filed pursuant to section 5 (b) of the Act, shall be made by delivering in person or by mailing, properly addressed with postage prepaid, one copy to each party. Proof shall be by affidavit of the person making service. In the case of formal complaints filed pursuant to section 5 (b) of the Act, service must be made upon the party against whom complaint is made by registered mail, return receipt requested, or by delivery in person to said party, and the affidavit of service shall be made by the person making such service.

§ 301.14 *Hearings*—(b) *Notice of hearings.* Appropriate notice of hearings shall be given. The notice shall state the nature of the matters to be heard, the time and place of the hearing, and, if designated, the name of the examiner or other representative before whom the testimony is to be taken or the evidence adduced. Such notice in the case of the institution of an action pursuant to section 5 (b) of the Act against individuals, partnerships, associations, or corporations shall be by registered mail, return receipt requested, or by personal service. All other notices will be served by mail or otherwise, as prescribed by the Director. Notice shall be served upon all parties to the proceeding, including the Bituminous Coal Consumers' Counsel, state or other governmental authorities having official interest in the proceedings, and such other persons as may be deemed to have a substantial interest therein. Where reasonable public notice of a hearing is required by the Act, such notice of hearing shall be given by publication in the FEDERAL REGISTER and may also be given in such manner as the Director may determine.

§ 301.135 *Notice of hearing.* Upon the filing of any original complaint the Director will cause the same to be set for hearing as promptly as he deems reasonable and will cause notice of hearing to be published in the FEDERAL REGISTER and copies thereof to be mailed to the complainants and defendants, and to all petitioners for intervention, and to Consumers' Counsel, and to each District Board, and to each Statistical Bureau. Notice of filing of complaint under sec-

tion 5 (b) of the Act and hearing thereon in substantially the form set forth in Appendix B shall be served upon the defendants by registered mail, return receipt requested.

Dated: June 3, 1943.

[SEAL] DAN H. WHEELER,
Director.

Approved: June 8, 1943.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 43-9768; Filed, June 17, 1943; 10:39 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

[Amendment 159, 2d Ed.]

PART 643—PAROLE

CLASSIFICATION AND INDUCTION OR ASSIGNMENT OF PERSONS PAROLED

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C., Sup. 301-318, inclusive); E.O. No. 8545, 5 F.R. 3779, E.O. No. 9279, 7 F.R. 10177, and the authority vested in me by the Chairman of the War Manpower Commission in Administrative Order No. 26, 7 F.R. 10512, Selective Service Regulations, Second Edition, are hereby amended in the following respect:

1. Amend paragraph (d) of § 643.5 to read as follows:

§ 643.5 *Classification and induction or assignment of persons paroled.*[1] * * *

(d) The local board shall proceed to order the registrant to report for induction or to report for work of national importance under civilian direction in the same manner as any other registrant, and arrangements will be made by the proper prison officials for the release of the registrant so that he can comply with such order. Registrants recommended for parole for assignment to work of national importance may be given a final-type physical examination by any physician authorized by the Director of Selective Service to physically examine such registrants.

2. The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

JUNE 16, 1943.

[F. R. Doc. 43-9748; Filed, June 16, 1943; 4:16 p. m.]

Chapter IX—War Production Board

Subchapter B—Executive Vice Chairman

AUTHORITY: Regulations in this subchapter issued under P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.

[1] 8 F.R. 78.

PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Interpretation 3 of Priorities Regulation 3]

FIRE PROTECTIVE EQUIPMENT

The following official interpretation is hereby issued with respect to Priorities Regulation 3 (§ 944.23):

Preference ratings assigned to the delivery of maintenance, repair and operating supplies (MRO ratings) may be used to obtain repair parts and materials for existing fire protective equipment, but may not be used to obtain end items of fire protective equipment. The term "Fire protective equipment", item 13 on List B attached to Priorities Regulation 3, includes only end items and does not include materials or parts required for the repair or maintenance of existing fire protective equipment.

For example, a fire extinguisher or a fire hose coupling is an end item of fire protective equipment and therefore may not be obtained on MRO ratings, whereas a part required to repair an extinguisher or coupling is not an end item and therefore may be obtained on MRO ratings. Similarly, MRO ratings may not be used to obtain a fire sprinkler system nor to extend an existing sprinkler system, but such ratings may be used to repair or replace sprinkler heads which have been opened up by fire or damaged in any other way. However, MRO ratings may not be used to repair or replace new equipment which is still usable.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-9777; Filed, June 17, 1943; 11:47 a. m.]

PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

[Priorities Regulation 17 as Amended June 17, 1943]

POST EXCHANGES AND SHIP'S SERVICE DEPARTMENTS

§ 944.38 *Priorities Regulation 17*—(a) *Definitions.* For the purpose of this regulation "orders for military exchanges or service departments" means contracts or purchase orders for material or equipment to be delivered to or for the account of (or to be physically incorporated in material or equipment to be delivered to or for the account of) any U. S. Army or Marine Corps Post Exchange or U. S. Navy or Coast Guard Ship's Service Department or War Shipping Administration Training Organization Ship's Service activities.

(b) *Purchases constitute defense orders.* Orders for military exchanges or service departments shall be deemed to be "Defense Orders" within the meaning of § 944.1 (b) (1) of Priorities Regulation 1 (and therefore by reason of § 944.1a of Priorities Regulation 1, shall be rated A-10, unless a higher preference rating is assigned) only when such orders are endorsed as follows:

All the items on this Purchase Order are listed in Priorities-Allocation Instructions 12, with Amendments. Therefore, pursuant to terms of Priorities Regulation 17, this Order carries a preference rating of A—10 without the issuance of a Preference Rating Certificate.

(c) *Applicability of military exemptions.* Whenever any rule, regulation or order of the War Production Board contains an exception or exemption for material or equipment to be delivered to, or for the account of, or for material to be physically incorporated in material or equipment to be delivered to, or for the account of, the Army or Navy of the United States, such exception or exemption shall not apply to orders for military exchanges or service departments except in cases where such orders bear the following endorsement:

(1) In the case of U. S. Army Post Exchanges:

Authorized as an Army purchase pursuant to Priorities-Allocation Instructions.

By ----------
Army Exchange Service,
War Department.

(2) In the case of U. S. Navy Ship's Service Departments:

Authorized as a Navy Purchase pursuant to Priorities-Allocation Instructions.

By ----------,
Bureau of Naval Personnel.

(3) In the case of U. S. Marine Corps Post Exchanges:

Authorized as a Marine Corps purchase within Army or Navy exception clause pursuant to Priorities-Allocation Instructions.

By ----------
Headquarters, U. S. Marine Corps

(4) In the case of U. S. Coast Guard Ship's Service Departments:

Authorized as a Coast Guard purchase within Army or Navy exception clause pursuant to Priorities-Allocation Instructions.

By ----------
Commandant, U. S. Coast Guard.

(5) In the case of War Shipping Administration Training Organization Ship's Service activities:

Authorized as a War Shipping Administration Training Organization purchase within Army or Navy exception pursuant to Priorities-Allocation Instructions.

By ----------
Chief Procurement Officer,
War Shipping Administration
Training Organization.

(d) *Effect of quota provisions.* (1) Notwithstanding Priorities Regulation 1, whenever any rule, regulation or order of the War Production Board limits the amount of any material that may be received, processed, sold or delivered by any person to a percentage of previous amounts thereof received, processed, sold or delivered by him, or otherwise expressly fixes a quota for him, orders for military exchanges or service departments chargeable against his quota need

not be accepted by such person in excess of 45 percent of such quota.

(2) Whenever any rule, regulation or order of the War Production Board fixes a quota limiting the amount of any material that may be received, processed, sold or delivered by any person, and contains an exception or exemption for material or equipment to be delivered to or for the account of the Army or Navy of the United States, but does not expressly permit or forbid such person, in computing his quota, to exclude therefrom orders for military exchanges or service departments, such orders as are endorsed as provided in paragraph (c) hereof are to be included in such exception or exemption. Orders for military exchanges or service departments which are not endorsed at all or only endorsed as provided in paragraph (b) shall not be included in such exception or exemption, and must be charged against the quota of the person filling them.

(e) *Effect on other provisions.* In case any provision in any regulation or in any order of the War Production Board is inconsistent with any provision in this regulation, the provisions of this regulation shall govern unless such other provision expressly states that this regulation shall be inapplicable.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-9778; Filed, June 17, 1943; 11:47 a. m.]

PART 962—IRON AND STEEL

[Direction 1 to General Preference Order M-21-b-1]

HEAT TREATED AND NORMALIZED CARBON AND ALLOY STEEL BARS FOR COMMERCIAL WAREHOUSE ORDERS

The following direction is issued to all steel distributors, pursuant to General Preference Order M-21-b-1 (§ 962.10):

(a) No distributor shall order normalized or heat treated carbon or alloy steel bars from a producer for delivery prior to October 1, 1943.

(b) No distributor shall order normalized or heat treated carbon or alloy steel bars from a producer for delivery in October, November or December, 1943, in an amount exceeding one-fourth of the total tonnage of such bars (received from producers in normalized or heat treated condition) that was delivered by such distributor from stock during the months of January, February, March, and April, 1943.

(c) The foregoing restrictions do not apply to orders for delivery to earmarked aircraft warehouse stock, or for direct shipment to a manufacturer of aircraft or aircraft parts, but do apply to all other orders for shipment to a distributor's stock or direct to a distributor's customer.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-9775; Filed, June 17, 1943; 11:47 a. m.]

PART 1071—INDUSTRIAL AND COMMERCIAL REFRIGERATION AND AIR CONDITIONING MACHINERY AND EQUIPMENT

[Schedule II to Limitation Order L-126, as Amended June 17, 1943]

REQUIRED SPECIFICATIONS FOR REFRIGERATION CONDENSING UNITS

§ 1071.4 *Schedule II to Limitation Order L-126*—(a) *Definitions.* For the purpose of this schedule:

(1) "Producer" means any person who produces, manufactures, processes, fabricates or assembles refrigeration condensing units.

(2) "Refrigeration condensing unit" means a specific refrigerating machine combination, of the open type intended for remote installation, usually consisting of a compressor, receiver, base, and the usually furnished accessories, with or without motor, and with or without condenser. As used in this schedule, the term refrigeration condensing unit refers only to such units which are to be used in a "system" as defined in paragraph (a) (1) of Limitation Order No. L-126.

(3) "Open type" refrigeration condensing unit means that type of unit in which the motive power and compressor are interconnected in such a way that a refrigerant shaft seal is necessary.

(4) "Model" means a specific combination of the following items in a refrigeration condensing unit:

(i) Base.
(ii) [Revoked June 17, 1943].
(iii) Condenser.
(iv) Number of cylinders.
(v) Bore and stroke.
(vi) Motor (H. P. rating).

Any change in the size or capacity of any one of the above items constitutes a change in model, except that conversion of a water cooled to an evaporatively cooled condensing unit does not constitute such a change in model.

(5) "Compressor body" means that part of a compressor which consists of a specific combination of bore, stroke, valve, and cylinder.

(6) "Duplex condensing unit" means any refrigeration condensing unit consisting of two or more compressors which are powered by one or more motors mounted on a common base, and which discharge into a common condenser.

(7) "Lend-lease country" means the government of any foreign country receiving aid pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act).

(8) "Sealed type" refrigeration condensing unit means that type of unit in which the motive power and compressor are located within the same enclosure in such a way that a refrigerant shaft seal is not necessary.

(b) *Required specifications.* Pursuant to Limitation Order L-126, the following required specifications are hereby established for refrigeration condensing units:

(1) No producer shall:

(i) Manufacture any refrigeration condensing units in sizes below ⅛ h.p.

(ii) Manufacture any refrigeration condensing units up to and including 2 h.p., except in air-cooled condensing models. *Provided, however,* That water cooled condensing units below 3 h.p. may be produced for:

(*a*) Installations in which the condensing unit must operate in an ambient temperature of 110° F. or higher;

(*b*) Installations in which the condensing unit must operate within a substantially air-tight room or enclosure, such as a photographic or X-ray developing room;

(*c*) Installations in which the condensing unit is designed to operate at a refrigerant suction temperature below minus 40° F.

NOTE: Paragraph (b) (1) (ii) (*c*) amended June 17, 1943.

(*d*) Installations in which the condensing unit is to be installed aboard ship.

(iii) Manufacture any refrigeration condensing units above 3 h. p., except in water cooled and evaporatively cooled models.

(iv) Manufacture any duplex condensing units up to and including 20 h. p., except for multi-stage applications;

(v) Manufacture or assemble more types of basic compressor bodies than a number equal to one-half, or less, the total number of types (by horse power rating) of refrigeration condensing units being produced by him (excluding units completed under paragraph (c) (1) (ii)), except that a person producing only one type may continue to produce one basic compressor body.

(vi) Manufacture more than one refrigeration condensing unit model or more than one sealed type of refrigeration condensing unit in any given horse power rating for the suction temperature brackets of 5° F., 20°F., and 40°F., respectively, and for each of the following refrigerant classifications:

(*a*) Ammonia
(*b*) Carbon dioxide
(*c*) Freon, methyl chloride, sulphur dioxide

Provided, That the restrictions of this subdivision (vi) shall not prohibit the production of both a 3 h. p. water cooled and a 3 h. p. air cooled refrigeration condensing unit; and *Provided further,* That the restrictions in this subdivision (vi) shall not apply to the manufacture of refrigeration condensing units designed for operation at suction temperature below minus 25° F.

(vii) Deliver any refrigeration condensing unit, or the belt-driven type, unless it includes a motor pulley and belt drive at the time of shipment.

(viii) Manufacture any refrigeration condensing unit in a h. p. rating not produced by him before May 1, 1942, nor manufacture any unit which is designed to use a refrigerant not used by him prior to May 1, 1942; or

(ix) Use any alloy steel, or more than thirty (30) pounds (net weight) of carbon steel, per horse power, in the base, exclusive of necessary bolts, washers, nuts, cotter pins, straps, pipe sleeves and

adjustable motor rails, of any refrigeration condensing unit, as herein described, or of any other types of condensing unit of either the open type or sealed type and whether intended for remote installation or not, employing a motor of 3 h. p. or smaller: *Provided,* That as much as twelve (12) pounds of carbon steel (net weight) may be used in the base of a unit of less than ½ h. p.

Where the same size base is used on more than one size of condensing unit (by horse power rating), the pounds of such metal permitted per horse power for the base may be calculated on the basis of the largest size of such unit for which the same size base is used. Where a condensing unit employs a motor rated by fractions of a horse power (whether less than, or more than 1 h. p.), the amount of carbon steel permitted for the base shall be proportionate to the fractional horse power of the motor employed. For example, the permissible weight of carbon steel for the base of a ½ h. p. air cooled condensing unit shall be fifteen (15) pounds.

The restrictions of this subdivision (ix) shall not apply to any base for use aboard ship, and shall not restrict the use of cast iron in any base.

(x) Use any metals in the construction of the base of any refrigeration condensing unit, as described in this Schedule II, or of any other types of condensing unit of either the open type or sealed type and whether intended for remote installation or not, employing a motor of more than twenty (20) h. p., except that ferrous metals may be used for necessary bolts, washers, nuts, cotter pins, straps, sole plates, pipe sleeves and adjustable motor rails: *Provided,* That the restrictions in the subdivision (x) shall not apply to any such condensing units of any types for use in aircraft by the Army or Navy of the United States, or for use aboard ship or at any advanced base by the Army or Navy of the United States, the Maritime Commission, or the War Shipping Administration.

(xi) Manufacture or assemble more types of basic compressor bodies, for other than the open type intended for remote installations, than permitted under paragraph (b) (1) (v) of this schedule.

(xii) Use any copper or copper base alloy pipe or tubing for interconnecting refrigerant lines larger than ¾" size (O. D.), except for use aboard ship and at advanced bases, by the Army or Navy of the United States, the Maritime Commission or the War Shipping Administration.

(c) *Applicability of order.* (1) The required specifications established by paragraph (b) hereof shall apply to all refrigeration condensing units: *Provided, however,* That the foregoing shall not prohibit:

(i) The production, fabrication, delivery, acceptance or installation of refrigeration condensing units, where (*a*) such units are manufactured in accordance with plans which have already (prior to July 3, 1942) been drawn and accepted by or for the account of the Army or Navy of the United States, the Maritime Commission, the War Shipping Administration, or Lend-Lease countries, or (*b*) such units are manufactured in accordance with the specifications issued prior to July 3, 1942, by any such agency or country (including performance specifications) requiring construction, design or materials not in accordance with the restrictions of this Schedule; but in any case such units may vary from the restrictions of this Schedule only to the extent required by such plans or specifications. As used in this subparagraph, the words "Army, Navy, Maritime Commission and War Shipping Administration" do not include any privately operated plant or shipyard financed by or controlled by any of such agencies or operated on a cost-plus-fixed-fee basis.

(ii) The delivery by a producer of any refrigeration condensing units (or the acceptance thereof) which were in his stock in finished form June 17, 1943, or which had on said date been cast, machined, or otherwise processed in such manner that their manufacture in conformance with this schedule would be impractical.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-9773; Filed, June 17, 1943; 11:47 a. m.]

PART 1107—TRACK-LAYING TRACTORS AND AUXILIARY EQUIPMENT

[Supplementary General Limitation Order L-53-b, as Amended June 17, 1943]

REPAIR PARTS FOR TRACK-LAYING TRACTORS

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of certain repair parts necessary to service track-laying tractors for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1107.3 *Supplementary General Limitation Order L-53-b*—(a) *Definitions.* For the purpose of this order:

(1) "Track-laying tractor" means a vehicle powered by an internal combustion engine, used for pushing or pulling heavy loads, obtaining traction and steered by a full crawler or track-type device; but does not include Ordnance models of tank-type construction such as models M-2, M-4 and M-5.

(2) "Repair part" means:

(i) Any part manufactured for use in the repair of track-laying tractors, but not parts sold to other manufacturers for manufacturing purposes; and

(ii) Tools which bear a producer's standard parts number and which are used in servicing track-laying tractors or attachments.

(3) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(4) "Producer" means any person engaged in the manufacture of both track-laying tractors and repair parts.

(5) "Domestic dealer or distributor" means any person located within the United States or Canada who, by agreement with a producer, has been granted a sales territory for the sale of repair parts within the United States or Canada.

(6) "Export dealer or distributor" means any dealer or distributor, who, by agreement with a producer, has been granted a sales territory for the sale of repair parts outside the United States and Canada.

(7) "Certificate of minimum requirements" means a declaration in writing by a purchaser pursuant to paragraph (c) (1) of this order.

(8) "War project" means:

(i) A construction project (and maintenance and operation thereof) undertaken by, or contracted for by or for the account of, the Army, the Navy, Maritime Commission or Defense Plant Corporation, or any other construction project granted a preference rating of AA-4 or higher under any order in the P-55 or P-19 series.

(ii) Any other project which shall be so designated by the War Production Board.

(9) "Essential civilian operation" means:

(i) The operation of any mine that holds a serial number under Preference Rating Order P-56;

(ii) Any operation directly incident to the production of logs of any species, including the delivery of logs to sawmills, pulp mills or other dealers in or users of logs;

(iii) Any operation directly incident to the planting, growing or harvesting of agricultural products (excluding flowers, shrubs and other plants grown for decorative purposes);

(iv) Any operation in the petroleum industry directly incident to production, natural gasoline production, transportation (by pipe line), refining, or marketing (other than retail marketing), as these terms are defined in Preference Rating Order P-98-b as amended;

(v) Any operation directly incident to the transportation (by pipe line) and marketing (other than retail marketing) of natural gas; or

(vi) Any other operation or project which shall be so designated by the War Production Board.

(10) "United States" means the forty-eight states of the United States and the District of Columbia.

(11) "Foreign base" means a construction project (and maintenance and operation thereof) located outside the United States and Canada, being built for or under the supervision of the War Department, Navy Department, or other United States Government agency by civilian contracting or engineering organizations which normally purchase repair parts from sources located within the United States.

(12) "Military agency" means the Army, Navy, Maritime Commission, War Shipping Administration or any of the following persons when acting as the authorized procurement agents for the Navy:

(i) George A. Fuller Co. and Merritt-Chapman and Scott Corp.;

(ii) M. T. Reed Company;

(iii) Siems-Drake, Puget Sound;

(iv) Pacific Naval Air Bases.

(b) *Limitations on sales by producers.* (1) No producer shall sell or deliver repair parts except to:

(i) A military agency,

(ii) A domestic dealer or distributor located within the United States or Canada, or

(iii) Any person for export outside the territorial limits of the United States and Canada subject to paragraph (b) (2) hereof.

(2) No producer shall sell or deliver repair parts to any person (other than a domestic dealer or distributor for delivery to persons engaged on foreign bases, a military agency, or an export dealer or distributor) for export outside the territorial limits of the United States and Canada except upon receipt of Form WPB–1319 (or Form PD–556) approved by the War Production Board. In order to receive such approval, a purchaser shall file Form WPB–1319 (or Form PD–556), in quadruplicate, with the War Production Board, Washington, D. C., Ref: L–53–b, and shall state thereon the information specified in paragraph I of Appendix A of this order. Nothing in this order shall be deemed to relieve any person from the necessity of obtaining an export license from the Board of Economic Warfare, where such license is required.

(3) No producer shall, during the period of July 1, 1942, to June 30, 1943, sell or deliver to all the military agencies combined any repair parts in excess of an aggregate of 40 percent of the value, at invoice price, of his total shipments of such repair parts during such period. No producer shall, during the period of July 1, 1943, to June 30, 1944, sell or deliver to all the military agencies combined any repair parts in excess of an aggregate of 40 percent of the value, at invoice price, of his total shipments of such repair parts during such period. This 40 percent restriction does not limit purchases made by a military agency from domestic dealers or distributors upon a certificate of minimum requirements.

(4) Except as provided in paragraph (b) (5) of this order or unless specifically authorized in writing by the War Production Board, no producer shall during any calendar quarter sell or ship to any domestic dealer or distributor a quantity of repair parts of a value, at invoice price, in excess of either $500.00 or 60 percent of the value of such producer's shipments to such domestic dealer or distributor during the preceding six calendar months, whichever is the greater.

(5) Notwithstanding the provisions of paragraph (b) (4) of this order, a producer may sell or ship to any domestic dealer or distributor during any calendar quarter repair parts in an amount up to and including 25 percent in excess of the quota of such domestic dealer or distributor as computed in accordance with the terms of paragraph (b) (4) of this order, but any sales or shipments in excess of such quotas shall be charged against the quota of such domestic dealer or distributor for the next calendar quarter, and such excess shipments shall not be used in computing any base period quota thereafter.

(c) *Limitations on sales by domestic dealers and distributors.* (1) Except as provided in paragraphs (c) (3), (c) (4), and (c) (5) of this order, no domestic dealer or distributor of repair parts shall sell or deliver any repair parts to any person (except a producer or another domestic or export dealer or distributor) unless he has received from such person a certificate of minimum requirements for specific track-laying tractors for which repair parts are sought to be purchased. The purchaser shall furnish such certificate of minimum requirements in one of the following ways:

(i) In the case of a written purchase order, the purchaser shall endorse thereon or attach thereto a certification in substantially the form set forth below, signed by an authorized official, either manually or as provided in Priorities Regulation No. 7, and giving all of the information called for:

Pursuant to the terms of Limitation Order L–53–b of the War Production Board the undersigned certifies to the seller and to the War Production Board that the following statements are correct:

(I) _____
Make and model of track-laying tractor(s) for which repair parts are sought

(II) _____
Factory serial number(s)

(III) _____
Owner of track-laying tractor(s)

(IV) _____
Type of work being performed by track-laying tractor(s) described above (describe the job specifically, e. g., mining, logging, agriculture, highway maintenance, airport construction, etc.)

(V) _____
Contract number of war agency or P–19 or P–55 serial number and rating, if any

(VI) The purchaser hereby certifies that he has registered all construction equipment owned by him pursuant to the terms of Limitation Order L–196, unless exempt from the requirements of such order.[1]

(VII) The purchaser hereby certifies that the repair parts listed on the purchase order to which this certificate pertains are the minimum quantity of repair parts immediately necessary to put such track-laying tractor(s) in serviceable condition, and are not for stock.

(VIII) The purchaser hereby certifies that he does not have like parts on hand or on order to repair the above-described track-laying tractor(s).

_____ _____
Date Name of purchaser

_____
Address of purchaser

(ii) In the case of a purchase order placed by telegraph, the purchaser shall include in the telegram: all information specified in items (I), (II), (III), (IV) and (V) of the certification prescribed in paragraph (c) (1) (i), the statement "Certified under L–53–b", and the name of the person sending the telegram, provided that such person shall be an official duly authorized to make such certification. The statement "Certified under L–53–b" shall constitute a certification to the seller and to the War Production Board of the correctness of all information included in the telegram and shall constitute a certification of all facts specified in items (VI), (VII) and (VIII) of the certificate prescribed in paragraph (c) (1) (i). In such case, a copy of the outgoing telegram shall be retained by the person placing the order and such copy shall be signed by an authorized official, either manually or as provided in Priorities Regulation No. 7.

(iii) In the case of a purchase order placed by telephone, the purchaser shall state to the domestic dealer or distributor, at the time of placing the order, the substance of the certification set forth in paragraph (c) (1) (i), provided, however, in such case, that the person making the statement is an official duly authorized to make such certification, and the person making the statement furnishes to the domestic dealer or distributor within 15 days after placing the purchase order, written confirmation of such order, bearing a certification substantially in the form prescribed in paragraph (c) (1) (i). In case of failure to receive written certification within such 15 day period, the domestic dealer or distributor shall not accept any other order from, or deliver any additional repair parts to, the purchaser until such written certification is furnished.

(2) No domestic dealer or distributor of repair parts shall sell or deliver pursuant to paragraph (c) (1):

(i) A quantity of repair parts to any person in excess of such person's certified minimum requirements.

(ii) Any repair parts to any person whose certificate such domestic dealer or distributor knows or has reason to believe is false.

(3) Notwithstanding the provisions of paragraphs (c) (1) and (c) (2) of this order, a domestic dealer or distributor may sell and deliver repair parts to a purchaser for use on a foreign base under circumstances where the distances involved, the time element, or the lack of shipping facilities make it impracticable to furnish a certificate of minimum requirements, provided such domestic dealer or distributor receives from such purchaser Form WPB–1319 (or Form

[1] Item (VI) of the certificate of minimum requirements is not to be included in certificates used by persons in Canada.

PD–556) approved by the War Production Board. In order to receive such approval a purchaser shall file Form WPB–1319 (or Form PD–556), in quadruplicate, with the War Production Board, Washington, D. C., Ref.: L–53–b, and shall state thereon the information specified in paragraph II of Appendix A of this order.

(4) Notwithstanding the provisions of paragraph (c) (2) of this order, a domestic dealer or distributor may sell or deliver fuel filters and oil filters in sufficient quantity to permit 500 hours operation if he has received from the purchaser a certificate in accordance with paragraph (c) (1) hereof even though subdivisions (VII) and (VIII) of such certificate are not completed.

(5) Notwithstanding the provisions of paragraphs (c) (1) and (c) (2) of this order, a domestic dealer or distributor may sell and deliver repair parts to a purchaser for reconditioning and salvaging worn or damaged parts or subassemblies which have been replaced on a particular tractor by other parts or subassemblies, provided such domestic dealer or distributor receives from such purchaser Form WPB–1319 (or Form PD–556) approved by the War Production Board. In order to receive such approval, a purchaser shall file Form WPB–1319 (or Form PD–556) in quadruplicate with the regional or any district office of the War Production Board in the region in which such parts or subassemblies are to be reconditioned and salvaged and shall state thereon the information specified in paragraph III of Appendix A of this order.

(d) *Procedure for domestic dealer or distributor in placing orders for critical repair parts.* (1) A domestic dealer or distributor in placing a purchase order with a producer for repair parts for which he has received customers' orders that he is unable to fill out of stock may, if he wishes such purchase order to be entitled to the treatment by the producer required in paragraph (e) of this order, state on the purchase order that the repair parts are for one of the following purposes: (i) War projects as defined in paragraph (a) (8); (ii) foreign bases as defined in paragraph (a) (11); (iii) essential civilian operations (which include only certain mining, logging, agricultural, petroleum and natural gas operations) as defined in paragraph (a) (9); (iv) export; or (v) miscellaneous use. Such statement by the domestic dealer or distributor shall be based on the specific job description shown by item (IV) of the certificate of minimum requirements of customers for whom the repair parts are being ordered or by Form WPB–1319 (or Form PD–556) in the case of orders for customers who have obtained authorization to purchase on Form WPB–1319 (or Form PD–556). The term "miscellaneous use" as used in this paragraph (d) (1) shall be construed to identify any purchase order to be filled out of the category of sales described in subdivision (v) of paragraph (e) (1). A domestic dealer or distributor shall not include, in a single purchase order placed with a producer, orders for repair parts to be filled out of more than one of the categories of sales described in paragraph (e) (1). Repair parts received from a producer by such domestic dealer or distributor, pursuant to each such purchase order, shall be delivered to the customers for whom they were ordered in the sequence in which the customers' orders were received by such domestic dealer or distributor or as otherwise directed by the producer from whom the repair parts were received. Nothing in the foregoing shall be construed to permit a domestic dealer or distributor to place the statements specified above on any order for repair parts placed with a producer for the purpose of building inventory stock.

(e) *Procedure when inventory of producer is insufficient to fill orders.* (1) Whenever unfilled orders in the hands of a producer calling for immediate delivery of any repair part shall exceed his inventory of such repair part, he shall, so long as such condition exists, make no sale (except to military agencies and for export pursuant to paragraph (b) (2) of this order) on any purchase order not containing the statements referred to in paragraph (d) (1) of this order and shall apportion his sales of such repair part as follows:

(i) Sales directly to military agencies: Not more during any month than 40 percent of his total sales of such repair part during that month.

(ii) Sales to domestic dealers and distributors for delivery to persons engaged on war projects and on foreign bases (as indicated by the purchase order of the dealer or distributor) and sales to persons engaged on foreign bases: Not more during any month than 20 percent of his total sales of such repair part during that month.

(iii) Sales to domestic dealers and distributors for delivery to persons engaged in essential civilian operations (as indicated by the purchase order of the dealer or distributor): Not more during any month than 20 percent of his total sales of such repair part during that month.

(iv) Sales for export (except to military agencies and to, or for delivery to, persons operating on foreign bases): Not more during any month than 15 percent of his total sales of such repair part during that month.

(v) Sales to persons or for purposes other than those specified in subdivisions (i) through (iv) of this paragraph (e): The remainder of his total sales during the month.

(2) (i) If at any time a producer has filled all orders that he has received in one or more of the categories of sales specified in subdivisions (ii), (iii), (iv) or (v) of paragraph (e) (1), he may fill, out of the sales quota allotted to such category or categories, purchase orders in any other of the categories of sales described in subdivisions (ii) (iii), (iv) and (v) of paragraph (e) (1).

(ii) If at any time a producer has filled all orders that he has received in all of the categories of sales specified in subdivisions (ii), (iii), (iv) and (v) of paragraph (e) (1), he may fill, out of the sales quota allotted to any of those categories, purchase orders in the category of sales described in subdivision (i) of paragraph (e) (1).

(iii) If at any time a producer has filled all orders that he has received in the category of sales specified in subdivision (i) of paragraph (e) (1), he may fill, out of the sales quota allotted to that category, orders in any of the categories of sales described in subdivisions (ii), (iii), (iv) and (v) of paragraph (e) (1).

(3) Each producer shall fill purchase orders within each of the categories of sales specified in subdivisions (ii), (iii), (iv) and (v) of paragraph (e) (1) above in the order in which they were received by him.

(4) No producer shall fill any purchase order for a repair part which does not contain the statements specified in paragraph (d) (1) of this order so long as he has on hand unfilled orders for that repair part which do contain such statements.

(f) *Filling orders upon specific direction of the War Production Board.* Notwithstanding the provisions of paragraphs (d) and (e) of this order, a producer or a domestic dealer or distributor shall, upon the specific direction of the War Production Board make delivery of any repair part to fill any order specified in such direction, provided that nothing in this paragraph (f) shall authorize the War Production Board to reduce a producer's sales of any repair part to the military agencies, during any month, below 40 percent of such producer's total sales of such repair part during that month.

(g) *Applicability of priorities regulations.* (1) The provisions of § 944.2 through and including § 944.9 of Priorities Regulation No. 1, as amended, shall not be applicable to any purchase order for track-laying tractor repair parts placed with a producer or domestic or export dealer or distributor.

(2) Except as provided in paragraph (g) (1) hereof, this order and all transactions affected thereby are subject to all applicable regulations of the War Production Board, as amended from time to time.

(h) *Records.* All persons affected by this order shall keep and preserve for

not less than two years accurate and complete records concerning inventories, production, sales, purchase orders and certificates of minimum requirements pursuant to which they have sold repair parts.

(i) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(j) *Reports.* Any person affected by this order shall file with the War Production Board such reports and questionnaires as said Board shall from time to time require, subject to the approval of the Bureau of the Budget, pursuant to the Federal Reports Act of 1942. (The uses of Form WPB–1319 or Form PD–556 and the certificate of minimum requirements in this order have been approved by the Bureau of the Budget.)

(k) *Violations.* Any person who wilfully violates any provisions of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of or from processing or using material under priority control and may be deprived of priorities assistance.

(l) *Appeal.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate referring to the particular provision appealed from and stating fully the grounds of the appeal.

(m) *Communications.* All reports to be filed, appeals and other communications concerning this order shall be addressed to War Production Board, Construction Machinery Division, Washington, D. C., Ref: L–53–b, except as otherwise specifically provided in paragraph (c) (5) of this order.

(n) *Effective date.* This order shall become effective June 27, 1943.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

APPENDIX A

INSTRUCTIONS FOR USE OF FORM WPB–1319 (OR FORM PD–556)

I. *Application for authorization to purchase repair parts for export.* Persons who, pursuant to paragraph (b) (2) of this order, apply to the War Production Board, on Form WPB–1319 (or Form PD–556), for authorization to export repair parts need not furnish the information called for in columns (b) and (c) of Part II of the form or in sections 2, 3, 4, 6, 7 and 8 of Part III of the form. However, all other information called for in the form shall be furnished and, in section 5 of Part III thereof, the applicant shall state adequate reasons why such repair parts must be acquired, including the following information: Quantity, make and model numbers of track-laying tractors for which such repair parts are intended; duration and preference rating (if any) of project on which such tractors are being used; dollar volume of previous purchases of repair parts for such project; and Board of Economic Warfare export license number (if any).

II. *Application for authorization to purchase repair parts for use on a foreign base.* Persons who, pursuant to paragraph (c) (3) of this order, apply to the War Production Board, on Form WPB–1319 (or Form PD–556), for authorization to purchase repair parts for use on a foreign base need not furnish the information called for in columns (b) and (c) of Part II of the form or in sections 2, 3, 4, 6, 7, and 8 of Part III of the form. However, all other information called for in the form shall be furnished and, in section 5 of Part III thereof, the applicant shall state adequate reasons why such repair parts must be acquired, including the following information: quantity, make and model numbers of track-lying tractors for which such repair parts are intended; duration and preference rating (if any) of project on which such tractors are being used; and dollar volume of previous purchases of repair parts for such project.

III. *Application for authorization to purchase repair parts for reconditioning worn or damaged parts or sub-assemblies.* Persons who, pursuant to paragraph (c) (5) of this order, apply to the War Production Board, on Form WPB–1319 (or Form PD–556), for authorization to purchase repair parts for reconditioning and salvaging worn or damaged parts or sub-assemblies need not furnish the information called for in columns (b) and (c) of Part II of the form or in sections 2, 3, 4, 6, 7 and 8 of Part III of the form. However, all other information called for in the form shall be furnished and, in section 5 of Part III thereof, the applicant shall state adequate reasons why such repair parts must be acquired, including the following information: number and specific description of worn or damaged parts or sub-assemblies to be reconditioned; total number of similar worn or damaged parts or sub-assemblies on hand; total number of track-laying tractors on hand upon which the parts or sub-assemblies to be reconditioned can be used; and type of work upon which the applicant is engaged.

[F. R. Doc. 43–9771; Filed, June 17, 1943; 11:47 a. m.]

PART 1130—ELECTRICAL APPLIANCES

[General Limitation Order L–65, as Amended June 17, 1943]

SECTION 1130.1 *General Limitation Order L–65* is hereby amended to read as follows:

§ 1130.1 *General Limitation Order L–65*—(a) *Definitions.* For the purposes of this order:

(1) "Electrical appliances" means only those appliances listed on Schedule A of this order which have as functional parts, electrical heating units (of any wattage), or which are powered by an electrical vibrator or electrical fractional horsepower motor.

(2) "Heating unit" means any electric heating unit designed primarily for use in an electrical appliance or in a domestic type electric range.

(3) "Electrical resistance material" means material in the form of ribbon or wire to be incorporated in heating units, in which either nickel or chromium or both, are used to create electrical resistance for the development of heat.

(4) "Manufacturer" means any person engaged in the business of manufacturing or assembling any heating units, electrical appliances or parts for such appliances, including a person who assembles parts of an electrical appliance for sale in knock-down form.

(5) "Distributor" means any person engaged in the business of transferring heating units, electrical appliances or parts for such appliances to his retail outlets or to other dealers.

(6) "Dealer" means any person engaged in the business of transferring or repairing heating units, electrical appliances or parts for such appliances to or for ultimate consumers.

Any person who acts in more than the single capacity of manufacturer, distributor or dealer as defined in paragraphs (a) (4), (a) (5) and (a) (6) of this order shall for the purposes of this order be deemed a manufacturer, distributor or dealer, depending upon the capacity in which he acts in each specific transaction.

(7) "Preferred order" means any purchase order, contract or subcontract for delivery to or for the account of the Army or Navy of the United States, the United States Maritime Commission or the War Shipping Administration.

(8) "Repair or replacement part" means any heating unit for a domestic electric range or any heating unit or other part for an electrical appliance when such heating unit or part is not produced for use in the manufacture or assembly of any new electrical appliance or new domestic electric range.

(9) "Current-carrying parts" include only the following parts: Heating units, thermostats and temperature controls, relays, lead-in and connection wires, switches, terminals, fuses, receptacles and parts of motors which conduct electric current, but shall not include cord sets.

(b) *General restrictions on Production.* (1) On and after June 17, 1943, no manufacturer shall produce any new electrical appliance (or parts therefor) other than repair or replacement parts, except:

(i) The following new electrical appliances (or parts therefor) may be produced in fulfillment of preferred orders: Coffee makers, flat irons, air heaters, water heaters, and commercial or heavy duty equipment of the following types: broilers, food choppers, food mixers, food grinders, food servers, food slicers, fry kettles, griddles, hotplates, juicers, ovens, ranges, toasters, urns and vegetable peelers.

(ii) During the period beginning June 17, 1943, and ending September 30, 1943, inclusive, and during each three months period thereafter, a manufacturer may produce for other than preferred orders as specified in paragraph (b) (1) (i) above, no more units of any of the following types of new electrical appliance (or parts therefor) than 10% of the number of units of that particular electrical ap-

pliance (or parts therefor) produced by him during 1940: Commercial or heavy duty equipment of the following types: broilers, food choppers, food mixers, food grinders, food servers, food slicers, fry kettles, griddles, hotplates, juicers, ovens, ranges, toasters, urns and vegetable peelers; *Provided,* that no manufacturer shall produce any units of any type of new electrical appliance (or parts therefor) listed in this paragraph (ii) if such production will result in an accumulation of inventory of that particular type of new electrical appliance (or parts therefor) greater than 15% of the number of units of that particular electrical appliance (or parts therefor) produced by him during 1940.

(2) On and after June 17, 1943, no manufacturer shall use copper or copper base alloys in the production of any new electrical appliances, or parts therefor (whether or not in fulfillment of preferred orders) specified in paragraph (b) (1) of this order, except for such minimum amounts as are necessary for the conduction of electric current or essential to the proper functioning of parts.

(c) *Restrictions on transfer of new electrical appliances.* On and after June 17, 1943, no manufacturer shall transfer the physical possession of or title to any new electrical appliance manufactured after that date, except

(1) In fulfillment of preferred orders.

(2) Pursuant to specific authorization of the War Production Board on Form PD–556 pursuant to an application filed on said Form. Form PD–556 may be obtained from the nearest regional or district office of the War Production Board and shall be submitted in quadruplicate, according to the following instructions:

(i) Under section I, supply the name and address of the manufacturer and supplier of the equipment if the application is submitted by anyone other than the appliance manufacturer;

(ii) Under section II (a), supply a complete description of the electrical appliance, manufacturer's model designation and size or capacity;

(iii) Under section II, do not fill in (b), (c) and (d).

(iv) Answer all applicable questions on the form except Questions 6, 7 and 8 in section III.

(d) *Repair or replacement parts.* (1) Except in fulfillment of preferred orders, on and after June 17, 1943, no manufacturer shall use copper or copper base alloys in the production of any repair or replacement parts, other than the specific parts listed on the following table, or any part thereof:

Type of equipment	*Repair or replacement parts for which copper or copper base alloys are permitted*
Air heaters	Current-carrying parts.
Commercial permanent wave equipment and commercial hair driers.	Current-carrying parts, other than copper or copper base alloy disposable grids for permanent wave equipment.
Flat irons	Cord sets pursuant to paragraph (d) (3) of this order and current-carrying parts.
Commercial or heavy duty equipment of the following types: broilers, food choppers, food mixers, food grinders, food servers, food slicers, fry kettles, griddles, hotplates, juicers, ovens, ranges, toasters, urns and vegetable peelers.	Current-carrying parts and motor bearings where the use of other material is impracticable.
Heating units for domestic electric ranges	Current-carrying parts.
Hotplates and disc stoves	Current-carrying parts.
Roasters	Current-carrying parts.
Water heaters	Current-carrying parts and immersion units.

(2) On and after June 17, 1943, no manufacturer shall use copper or copper base alloys in the production of repair and replacement parts in fulfillment of preferred orders, except for such minimum amounts necessary for the conduction of electric current or essential to the proper functioning of parts.

(3) On and after June 17, 1943, no manufacturer shall produce any replacement cord sets except for flat irons. Replacement cord sets produced for flat irons shall conform to the following specifications: The cord shall be of a quality which tests 3,000 or more cycles in flexure and shall be not more than 6 feet in length; plugs and caps shall be so constructed that they can be readily dismantled and reassembled for repair purposes. During the period beginning June 17, 1943, and ending December 31, 1943, and during each six month period thereafter, no manufacturer shall produce more replacement cord sets for flat irons than 25% of the number of such replacement cord sets produced by him during the year 1940.

(4) On and after June 17, 1943, no manufacturer shall produce any repair or replacement parts (other than replacement cord sets for flat irons) if he has, or as a result of such production will have, more parts of such type in his inventory than the number of parts of such type which he sold during the preceding six calendar months.

(5) Except in fulfillment of preferred orders, on and after June 17, 1943, no manufacturer or distributor shall transfer any repair or replacement parts unless a similar used part has been delivered to him in exchange therefor, or unless he has been informed that a similar used part is being held or will be secured by the dealer or distributor to whom the new part is being transferred, or has been disposed of in accordance with this paragraph. The used parts shall be held subject to disposition at the direction of the manufacturer or distributor who transferred the new part. If no such direction is given within 60 days, the person holding the used part shall promptly dispose of it through regular scrap channels.

(e) *Restriction on use or transfer of electrical resistance material.* On and after June 17, 1943, no manufacturer shall use in the production of heating units or transfer for any purpose whatsoever, any electrical resistance material reported by him in columns 4 and 8 of Form PD–370 prior to September 30, 1942, except pursuant to specific authorization of the War Production Board on Form PD–556 pursuant to an application filed on said Form.

(1) When filing Form PD–556 as an application to use electrical resistance material in the production of heating units, answer all applicable questions except section I, Columns (b) and (c) in section II, and questions 4, 6, 7 and 8 in section III.

(2) When filing Form PD–556 as an application for the transfer of resistance material, answer all applicable questions except Columns (b) and (c) in section II, and Questions 4, 6, 7 and 8 in section III. The unit of measure in each case, under Column (d) of section II shall be pounds.

(f) *Inventory restrictions.* No manufacturer shall accumulate for use in the manufacture of electrical appliances, heating units, or repair or replacement parts, any inventories of raw materials, semi-processed materials or finished parts in quantities in excess of the minimum amount necessary to maintain production as permitted by this order.

(g) *Applicability of other orders.* In so far as any other order heretofore or hereafter issued by the Office of Production Management or the War Production Board limits the use of any material in the production of electrical appliances, heating units, or repair or replacement parts to a greater extent than the limits imposed by this order, the provisions of such other order shall govern unless otherwise specified therein.

(h) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the regulations of the War Production Board, as amended from time to time.

(i) *Reports.* Every manufacturer affected by this order shall execute and file Form PD–655 with the War Production Board, Washington, D. C., Ref.: L–65, on or before the 10th day following the close of each calendar month.

(j) *Appeals.* Any appeal from the provisions of this order should be made on Form PD–500.

(k) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any depart-

ment or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(l) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to the War Production Board, Consumers Durable Goods Division, Washington, D. C., Ref.: L–65.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

The following is the list of electrical appliances specified in subparagraph (a) (1) of this Order:

Air Heaters (except as covered by L–107 and L–158)
Aquarium Heaters
Baking Ovens
Barbecue Machines
Biscuit and Muffin Bakers
Blankets
Bottle Warmers
*Bread Slicers (except as covered by L–83)
Bread Toasters (except as covered by L–182)
Broilers
Casseroles
Chafing Dishes
Choppers, food and meat
Cigar and Cigarette Lighters
Clothes Driers
Coffee Makers
Coffee Mills
Coffee Roasters
Commercial Cooking and Food and Plate Warming Equipment
Corn Poppers
Curling Irons
Dehydration Devices (domestic)
*Dishwashing Equipment (domestic)
Double Boilers
Doughnut Cookers
Dry Shavers
Egg Boilers
Face and Hand Driers
Fan Type Heaters (except as covered by L–107 and L–158)
Faucet Heaters
Flat Irons
Fly Screens and Traps
Fireplaces
Food Choppers and Slicers
Food Conveyance Equipment
Food Cooking Equipment
Food Dehydration Equipment (domestic)
Food Grinders
*Food Mixers
*Food Preparation Machinery
Food Servers
Fry Kettles
Griddles
*Grills
Hair Clippers
Hair Driers
Heating Pads
Hedge Clippers
Hotplates and Disc Stoves
Ice Cream Freezers, Domestic
**Immersion Heaters
*Juice Extractors
Knife Sharpeners and Grinders
Massage Vibrators
*Meat, Fish and Bone Cutters
Neckwear and Trousers Pressers
Ovens (except as covered by L–182)
Peanut Roasters
Percolators
Permanent Wave Equipment
Popcorn Machinery
Portable Air Heaters
Pyrographic Pencils
Radiant Heaters
Ranges, Commercial (except as covered by L–182)
Roasters
Roasting Ovens
Sandwich Toasters
Soup Cookers
Steak and Meat Tenderizing Equipment
Steam Tables
**Steamers
Stock Pots
**Strip Heaters
Table Stoves
Tea Kettles
**Unit Heaters
Urns
Vibrators
**Vane Heaters
Waffle Irons
Water Heaters (except as covered by L–185)

*Only those using a fractional horsepower motor.

**Except for industrial applications.

[F. R. Doc. 43–9772; Filed, June 17, 1943; 11:47 a. m.]

PART 3109—MEDICAL EQUIPMENT AND SUPPLIES SIMPLIFICATION

[Schedule 2 as Amended June 17, 1943 to General Limitation Order L–214]

CORRECTIVE SPECTACLES

§ 3109.3 *Schedule 2 to General Limitation Order L–214*—(a) *Definitions.* For the purposes of this schedule:

(1) "Corrective spectacles" means spectacles designed to correct or assist defective vision in which corrective focus lenses are employed.

(2) "Optical metal" means an alloy containing approximately 90 per cent copper, 4 per cent zinc and 6 per cent tin.

(b) *Restrictions on the use of metals.* On and after June 15, 1943, no person shall incorporate any metal in the manufacture of corrective spectacles except in the applications and to the extent set forth below:

(1) Nickel silver (containing not more than 10 per cent nickel in the alloy) or any other copper base alloy, in:

(i) End pieces for metal spectacle ware, including straps for rimless spectacles, but not including arms for semi-rimless frames;

(ii) Guard arms and pad inserts for metal spectacleware;

(iii) Temples for metal spectacleware; and

(iv) Hinges and rivets for xylonite spectacleware.

(2) Nickel silver (containing not more than 18 per cent nickel in the alloy) in screws and dowels for metal spectacleware.

(3) Optical metal or brass as an innerliner for eye wires, bridges, and arms for semi-rimless frames in gold filled or rolled gold construction, provided that such innerliner shall comprise not more than 10 per cent by volume of the finished parts.

NOTE: Following subparagraphs redesignated June 17, 1943.

(4) Nickel silver (containing not more than 10 per cent nickel in the alloy), copper-zinc alloy or copper, in cladding for eye wires, bridges and temples for metal spectacleware, provided that such cladding shall comprise not more than 18 per cent by volume of the parts as clad, and provided further that such cladding shall not be permitted in gold filled or rolled gold construction.

(5) Nickel, gold and palladium, and rhodium, for plating of "white metal" spectacleware.

(6) Brass in tubes, silver-indium alloy in pins, and tin-zinc-lead-cadmium alloy in plugs, for screwless lens fasteners for rimless metal spectacleware.

(7) Optical metal in temple butts for metal spectacleware.

(8) Alloy gold (14 carat or less, containing not more than 6 per cent nickel) and silver brazing alloy to the extent required in metal spectacleware.

(9) Steel or iron for any part of metal spectacleware or xylonite spectacleware.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43–9774; Filed, June 17, 1943; 11:47 a. m.]

PART 3175—REGULATION APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[Direction 5 as Amended June 17, 1943, to CMP Reg. 1]

HEAT TREATED AND NORMALIZED CARBON AND ALLOY STEEL BARS FOR COMMERCIAL WAREHOUSE ORDERS

Direction 5 to CMP Regulation No. 1 is hereby amended to read as follows:

The following direction is issued to all steel producers, pursuant to paragraph (t) of CMP Regulation No. 1 (§ 3175.1):

(a) In order to reduce the excessive load on heat treating facilities, steel producers are hereby prohibited from shipping normalized or heat treated carbon or alloy steel bars prior to October 1, 1943 on any commercial warehouse order, except as permitted by paragraph (b) hereof. For the purposes of this

direction, "Commercial Warehouse Order" does not include orders for shipment to earmarked aircraft warehouse stock, or for direct shipment to a manufacturer of aircraft or aircraft parts, but does cover all other orders for shipment to warehouse stock or direct to a warehouse customer.

(b) Commercial warehouse orders normalized or heat treated prior to April 19, 1943, or then in process of being normalized or heat treated, may be shipped when and as completed, if otherwise validated in accordance with applicable War Production Board orders or regulations.

(c) Commercial warehouse orders melted prior to April 19, 1943, but not then in process of being normalized or heat treated should be renegotiated with the purchaser on the basis of furnishing plain hot rolled, annealed, and/or cold drawn steel bars.

(d) Commercial warehouse orders not melted prior to April 19, 1943, should either be cancelled or should be renegotiated with the purchaser on the basis of furnishing plain hot rolled, annealed, and/or cold drawn steel bars.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-9779; Filed, June 17, 1943; 11:48 a. m.]

PART 3269—OILS FOR PROTECTIVE COATINGS

[Conservation Order M-332]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of oils for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 3269.1 *Conservation Order M-332*—(a) *Definitions.* (1) "Oils" means all the raw, crude, refined, and pressed oils, whether vegetable, animal, fish, or other marine animal, excepting mineral oil and tall oil.

(2) "Linseed oil" means the oil, crushed, pressed or otherwise extracted from flaxseed, whether raw, bodied or otherwise processed. The term includes linseed oil blended with other oils, whatever the proportion of linseed oil used.

(3) "Fish oil" means the oil produced by the reduction of the whole or any part, including the offal of the sardine, pilchard, and menhaden, whether raw, bodied or otherwise processed. The term includes fish oil blended with other oils, whatever the proportion of fish oil used.

(4) "Manufacturer" means a person who uses oils in the manufacture of any other product, but does not include a painter, householder or other person who uses oils as a reducer for paint or varnish.

(5) "Processor" means any person who blends, bodies or otherwise processes linseed oil or fish oil.

(6) "Crusher" means any person who presses, expels or extracts linseed oil from flaxseed or who presses, expels or extracts fish oil from the sardine, pilchard or menhaden.

(b) *Restrictions on use.* (1) On and after July 1, 1943, no manufacturer shall use in the production of any of the following products more pounds of oils per gallon of such product than the following:

	Pound
Class #1—Flats including interior emulsion paints	1.2
Class #2—Gloss and semi-gloss paints and interior trim enamels	1.75
Class #3—Interior floor enamels and combination interior-exterior floor enamels, interior household enamel and combination interior-exterior enamels, machinery enamels	2.3
Class #4—Wall primers and undercoats	2.00
Class # 5—Interior varnishes and combination interior-exterior varnishes	2.3
Class # 6—Exterior paints	3.75
Class # 7—Structural steel finishes, interior-exterior	3.75
Class # 8—Exterior enamels and exterior varnishes (sold exclusively for exterior work)	3.25
Class # 9—Emulsion paints for exterior purposes	1.5
Class # 10—Mill whites for industrial maintenance	2.5

For the purposes of this paragraph (b) (1), all oils shall be considered interchangeable.

(2) The provisions of paragraph (b) (1) are not applicable to the use of oils in the manufacture of paints, varnishes and lacquers delivered or to be delivered to, or used on or incorporated in material and equipment delivered or to be delivered to, the Army, Navy, Marine Corps, or Coast Guard of the United States, the United States Maritime Commission or the War Shipping Administration, or delivered pursuant to the Act of March 11, 1941 (Lend-Lease Act), or for the military, naval or maritime requirements of the United Nations where the manufacturer claiming exemption receives from the Director of Food Distribution, War Food Administration, specific exemption pursuant to paragraph (b) (5) (iii) of Food Distribution Order No. 42 with respect to such use.

(c) *Restrictions on deliveries.* (1) On and after July 1, 1943, no crusher, processor, manufacturer or wholesaler, shall deliver to any other person linseed oil or fish oil having a non-volatile content of more than seventy per cent (70%), by weight.

(2) The restrictions of paragraph (c) (1) shall not apply to:

(i) Deliveries to another crusher, processor, manufacturer or wholesaler.

(ii) Deliveries for medicinal or pharmaceutical purposes or for human or animal consumption.

(iii) Deliveries of linseed oil or fish oil packaged in containers of one pint or less.

(iv) Deliveries to the Army, Navy, Marine Corps or Coast Guard of the United States, the United States Maritime Commission, or the War Shipping Administration, or deliveries pursuant to the Act of March 11, 1941 (Lend-Lease Act).

(d) *Other orders.* The restrictions herein set forth are in addition to those imposed by Food Distribution Order No. 42 and such other orders as have been or may be issued by the War Food Administration with respect to oils.

(e) *Miscellaneous provisions*—(1) *Applicability of regulations.* This order and all transactions affected thereby are subject to all applicable regulations of War Production Board, as amended from time to time.

(2) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provisions appealed from and stating fully the grounds of the appeal.

(3) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(4) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Chemicals Division, Washington, D. C. Ref: M-332.

Issued this 17th day of June 1943.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 43-9776; Filed, June 17, 1943; 11:47 a. m.]

Chapter XI—Office of Price Administration

PART 1404—RATIONING OF FOOTWEAR

[RO 17,[1] Amdt. 22]

SHOES

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 17 is amended in the following respect:

1. Section 2.11 (d) is amended by adding the following: "When the official sticker (OPA Form R–1711) is available it shall be used and the mark shall be made on it."

This amendment shall become effective June 22, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, and 507, 77th Cong.; WPB Directive 1, 7 F.R. 562, Supplementary Directive 1–T, 8 F.R. 1727; E.O. 9125, 7 F.R. 2719)

Issued this 16th day of June 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43–9733; Filed, June 16, 1943; 2:48 p. m.]

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 13,[2] Amdt. 38]

PROCESSED FOODS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Ration Order 13 is amended in the following respect:

Section 8.2 (g) is added to read as follows:

(g) The Washington Office of the Office of Price Administration may open one or more ration bank accounts and it may issue ration checks instead of certificates to persons entitled to receive points under the provisions of this order. Wherever this order provides that the Washington Office shall issue a certificate, it may, in its discretion, issue a ration check instead.

This amendment shall become effective June 22, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; WPB Directive 1, 7 F.R. 562; Food Directive 3, 8 F.R. 2005, and Food Directive 5, 8 F.R. 2251)

Issued this 16th day of June 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43–9734; Filed, June 16, 1943; 2:48 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 1749, 2040, 2487, 2943, 3315, 3571, 3853, 4129, 3949, 4716, 5567, 5689, 5756, 5679, 5567, 6046, 6687, 7198, 7261.

[2] 8 F.R. 1840, 2288, 2677, 2681, 2684, 2943, 3179, 3949, 4342, 4525, 4726, 4784, 4892, 4921, 5318, 5341, 5342, 5480, 5568, 5757, 5758, 5818, 5819, 5847, 6046, 6137, 6138, 6181, 6838, 6839, 7267, 7268, 7380 7353 7490 7344.

PART 1407—RATIONING OF FOOD AND FOOD PRODUCTS

[RO 16,[1] Amdt. 36]

MEAT, FATS, FISH AND CHEESES

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Section 10.10 (a) is amended by adding the following sentence:

However, notwithstanding the provisions of section 10.4 (ε) and (b), any consumer who brings in with him from Mexico meat (other than ready-to-eat meat, sausage, or meat in tin or glass containers), whether or not in a form which appears on the Official Tables of Point Values, must give up to the Collector of Customs (or his deputy) seven points per pound.

This amendment shall become effective June 22, 1943.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 421, 507 and 729, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; W.P.B. Directive 1, 7 F.R. 562 and Supp. Dir. 1–M, 7 F.R. 8234; Food Directive 1, 8 F.R. 827; Food Dir. 3, 8 F.R. 2005; Food Dir. 5, 8 F.R. 2251; Food Dir. 6, 8 F.R. 3471; Food Dir. 7, 8 F.R. 3471)

Issued this 16th day of June 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43–9735; Filed, June 16, 1943; 2:49 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 25 Under § 1499.29 of GMPR]

PHOSPHATE MINING CO., INC.

Order No. 25 under § 1499.29 of the General Maximum Price Regulation; Docket No. GF3–3237.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, *It is ordered*, That:

§ 1499.425 *Adjustment of maximum prices for sale to the Government of triple superphosphate by the Phosphate Mining Co.* (a) On and after June 17, 1943, The Phosphate Mining Company Incorporated 1905, of New York, N. Y., may sell and deliver under Government contract or Government sub-contract, triple superphosphate containing 40 per cent or more of available phosphoric acid, packed in new plied paper bags or paper-lined burlap bags f. o. b. cars at Nichols, Florida, at a price of 76 cents per unit of available phosphoric acid.

(b) If the Phosphate Mining Company Incorporated 1905 has negotiated any contracts at a price higher than that established by this Order No. 25, such price shall be adjusted downward to the established price. If any payments have been made under any such contracts at a price higher than that established by this Order No. 25, refund of the excess must be made to each company respectively.

(c) All prayers of the application not granted by this Order No. 25 are denied.

(d) This Order No. 25 may be revoked or amended by the Price Administrator at any time.

This Order No. 25 shall become effective June 17, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 16th day of June 1943.

GEORGE J. BURKE,
Acting Administrator.

[F. R. Doc. 43–9737; Filed, June 16, 1943; 2:48 p. m.]

PART 1305—ADMINISTRATION

[Gen. RO 5,[1] Amdt. 28]

FOOD RATIONING FOR INSTITUTIONAL USERS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

General Ration Order No. 5 is amended in the following respects:

1. A new section 15.5 is added to read as follows:

SEC. 15.5. *Deductions.* (a) Any institutional user who acquires a rationed food (after it has been rationed by an order of the Office of Price Administration) without surrendering stamps, certificates or ration checks, and who is not required by the order rationing that food, or by any other provision of this order to account, or to turn over to the Office of Price Administration stamps, certificates, or ration checks, for the food so acquired, must report to the Board in writing such acquisition and the amount acquired. Group II and III institutional users shall make the report when applying for their next allotments; Group I institutional users shall make the report within ten (10) days after the acquisition. The amount so acquired shall be treated as excess inventory in the case of a Group II or III institutional user, and as opening inventory in the case of a Group I institutional user.

(b) The provisions of paragraph (a) do not apply to:

(1) Home processed foods produced by the Group I institutional user;

(2) Home processed foods with respect to which a Group II or III institutional user was charged with an excess inventory under section 28.3 (b) or (c); and

(3) Processed foods with respect to which a Group II or III institutional user was charged with an excess inventory under section 28.8.

This amendment shall become effective June 22, 1943.

NOTE: All reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in

[1] 8 F.R. 3591, 3715, 3949, 4137, 4350, 4423, 4721, 4784, 4893, 4967, 5172, 5318, 5567, 5679, 5819, 5847, 6046, 6138, 6446, 6614, 6620, 6687, 6840, 6960, 6961, 7115, 7268, 7381, 7281, 7455, 7491.

[1] 8 F.R. 2195, 2348, 2598, 2666, 2667, 3178, 3216, 3255, 3616, 3851, 4131, 4325, 4784, 4785, 4839, 5341, 5265, 5476, 5476, 5485, 5843, 6118, 6439, 6956, 7105, 7453.

accordance with the Federal Reports Act of 1942.

(Pub. Law 671, 76th Cong.; as amended by Pub. Laws 89, 421 and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; E.O. 9280, 7 F.R. 10179; W.P.B. Dir. 1, Supp. Dir. 1-E, 1-M and 1-R, 7 F.R. 562, 2965, 7234, 9684, respectively; Food Dir. 3, 5, 6 and 7, 8 F.R. 2005, 2251, 3471, 3471, respectively)

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9752; Filed, June 16, 1943; 4:35 p. m.]

PART 1341—CANNED AND PRESERVED FOODS

[MPR 409]

FROZEN FRUITS, BERRIES AND VEGETABLES (1943 PACK AND AFTER)

This regulation is issued in order to establish prices for frozen fruits, berries and vegetables at levels which are generally fair and equitable and which will aid in stabilizing the cost of living. A statement of the considerations involved in the issuance of this regulation has been issued and filed with the Division of the Federal Register.*

§ 1341.602 *Maximum prices for packers and certain other sellers of frozen fruits, berries and vegetables (1943 pack and after).* Under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942 as amended, and Executive Orders Nos. 9250 and 9328, Maximum Price Regulation No. 409 (Frozen Fruits, Berries and Vegetables (1943 pack and after)), which is annexed hereto and made a part hereof, is hereby issued.

AUTHORITY: § 1341.602 issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681.

MAXIMUM PRICE REGULATION 409—FROZEN FRUITS, BERRIES AND VEGETABLES (1943 PACK AND AFTER)

ARTICLE I—EXPLANATION OF THE REGULATION

Sec.

1. Explanation of the regulation.

ARTICLE II—PRICES AND PRICING METHODS

2. List of maximum prices which packers may charge for frozen fruits, berries and vegetables packed and frozen in barrels.
3. Maximum prices which packers may charge for frozen fruits, berries and vegetables packed and frozen in containers other than barrels.
4. Maximum prices which distributors other than wholesalers and retailers may charge for frozen fruits, berries and vegetables.

ARTICLE III—GENERAL PROVISIONS

5. Relationship between this regulation and Maximum Price Regulation No. 207 and the General Maximum Price Regulation.
6. Geographical applicability.
7. Export and import sales.
8. Inability to fix maximum prices.
9. Adjustable pricing.
10. Customary discounts and allowances.
11. Storage.
12. Units of sale and fractions of a cent.
13. Position of brokers.
14. When a maximum price figured under Sec. 3 is established.
15. Compliance with the regulation.
16. General amendments.
17. Individual adjustments for packers.

Article I—Explanation of the Regulation

SECTION 1. *Explanation of the regulation.* The purpose of this regulation is to establish maximum prices for frozen fruits, berries and vegetables, packed after the 1942 pack, in sales by persons other than wholesalers and retailers (wagon wholesalers, however, are included). To this extent, the regulation supersedes Maximum Price Regulations Nos. 207 [1] and 255.[2] (The "1942 pack" of any product means the pack of which the major portion was frozen and packed during the calendar year 1942.) Prices established by this regulation are in effect from June 16, 1943.

Maximum prices for the wholesalers and retailers (but not wagon wholesalers) of frozen fruits, berries and vegetables are governed by separate regulations which set fixed margins for these distributors according to their size and manner of doing business. "Wholesaler" and "retailer" means the persons respectively referred to as "wholesalers" and "retailers" in those regulations, except that in this regulation wagon wholesalers are treated as a distinct type of distributor.

Article II—Prices and Pricing Methods

SEC. 2. *List of maximum prices which packers may charge for frozen fruits, berries and vegetables packed and frozen in barrels.* The maximum prices per pound, carload basis f. o. b. shipping point, which packers may charge for frozen fruits, berries and vegetables packed and frozen in barrels after the 1942 pack shall be:

Variety and sugar basis:	*Maximum price per pound*
Apricots	(to be announced)
Cherries, red sour and sweet	(to be announced)
Plums	(to be announced)
Blackberries	(to be announced)
Blueberries	(to be announced)
Boysenberries	(to be announced)
Cranberries	(to be announced)
Dewberries	(to be announced)
Elderberries	(to be announced)
Gooseberries	(to be announced)
Grapes	(to be announced)
Huckleberries	(to be announced)
Johnsonberries	(to be announced)
Loganberries	(to be announced)
Olympic berries	(to be announced)
Peaches	(to be announced)
Plums	(to be announced)
Raspberries, black and red	(to be announced)
Rhubarb	(to be announced)
Strawberries, (Ettersburg variety):	
3+1	17¾¢
3+1 sortouts	15¾¢
4+1	18¼¢
4+1 sortouts	16¼¢
5+1	18¾¢
Straight	19¾¢
Strawberries (Other varieties):	
3+1	16¼¢
3+1 sortouts	14¼¢
4+1	16¾¢
4+1 sortouts	14¾¢
5+1	17¼¢
Straight	17¾¢
Youngberries	(to be announced)

When a packer sells an item on a "no-storage" basis, that is, at a price which includes only the first month's storage, his maximum price shall be reduced by ¼¢ per pound.

Barreled products which are not listed or for which no maximum price is provided continue to be subject to Maximum Price Regulation No. 207.

SEC. 3. *Maximum prices which packers may charge for frozen fruits, berries and vegetables packed and frozen in containers other than barrels*—(a) *General pricing method.* The packer shall figure a maximum price per dozen or other unit, f. o. b. shipping point, for each separate kind, grade, style of pack, container type and size of frozen fruits, berries, and vegetables packed and frozen, after the 1942 pack, in containers other than barrels. The maximum price for such an item, including all storage, shall be figured by adding together his base price and his permitted increase for miscellaneous costs.

(b) *Base price.* The packer's base price in each case shall be his maximum price, f. o. b. factory, for the item under Maximum Price Regulation No. 207, after it has been adjusted for raw material costs. However, no maximum price authorized under § 1341.302 (d) for the 1943 pack of any item may be used. (If the packer sold or delivered none of the item between August 24, 1942, and June 16, 1943, his base price shall be the maximum price, adjusted for raw material costs, which he would have figured for the item if Maximum Price Regulation No. 207 had been effective January 1, 1942.) Adjustments for raw material costs shall be made as follows:

(1) *Adjustment for commodities included in the Commodity Credit Corporation's raw materials program.* In the case of commodities included in the Commodity Credit Corporation's raw materials program the packer shall adjust for raw material costs in each case, as follows: First, he shall determine the weighted average cost for raw materials used in the 1942 pack of the product which he figured under § 1341.202 (b) (2) of Maximum Price Regulation No. 207. If this figure is *less* than the price at which the Commodity Credit Corporation will resell the raw product to pack-

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 2977.
[2] 8 F.R. 2988, 3946, 5164.

ers in that area, after these figures have been converted to cents per dozen or other unit of the finished product, the difference between them shall be added to the maximum price for the item under Maximum Price Regulation No. 207. If this figure is greater than that resale price, after conversion to a finished product basis, the difference between them shall be subtracted from the maximum price for the item under Maximum Price Regulation No. 207. The figure resulting from this addition or subtraction is the packer's base price in sales to purchasers other than United States agencies. (In figuring base prices in sales to United States agencies, the packer shall use the Commodity Credit Corporation's purchase price for the area in which the packer received delivery of the raw materials, instead of the resale price, when making the foregoing calculations.) Commodities included in the Commodity Credit Corporation's program include:

Beans, snap
Corn
Peas

Purchase and resale prices under the Commodity Credit Corporation's raw materials program are published by the Department of Agriculture and may be obtained from its local State War Boards.

(2) *Adjustment for commodities not included in the Commodity Credit Corporation's raw materials program.* In the case of the following commodities, the packer shall adjust for raw material costs in each case by adding to his maximum price for the item under Maximum Price Regulation No. 207 the appropriate figure named in the following table (after conversion to cents per unit of the finished product).

Variety:	*Cents per pound (raw weight)*
Asparagus	1
Spinach	0
Other varieties	(to be announced)

In the case of the following commodities, the packer shall adjust for raw materials by subtracting the weighted average cost for raw materials used in the 1942 pack of the product which he figured under § 1351.202 (b) (2) of Maximum Price Regulation No. 207 from the appropriate figure named in the following table (after conversion to cents per unit of the finished product) and adding the difference so obtained to his maximum price for the item under Maximum Price Regulation No. 207.

Variety:	*Cents per pound (raw weight)*
Strawberries (Ettersburg variety)	14
Strawberries (Other varieties)	12
Other varieties	(to be announced)

Commodities for which no figure is named continue to be subject to Maximum Price Regulation No. 207.

(c) *Permitted increase for miscellaneous costs.* The packer's permitted increase for labor and other miscellaneous costs shall be 0 (higher figure to be announced if facts justify it).

(d) *Meaning of "packer."* "Packer" means a person who packs and freezes any part of the kind of frozen fruit, berries and vegetables being priced.

(e) *Meaning of "style of pack."* "Style of pack" means the form and sugar basis of the pack.

Examples: Frozen sliced strawberries are a different style of pack from frozen whole berries. Frozen whole strawberries on a sugar basis of 3+1 are likewise a different style from frozen whole strawberries on a sugar basis of 4+1.

(f) *Meaning of "container type."* "Container type" refers to the composition or style of the container used (a separate price must be figured for each container type).

Examples: Tin, glass and paper containers are all different container types. Likewise, a paper container of one design is a different container type from a paper container of a substantially different design.

(g) *Weights.* Where label weights are used, prices figured by weight shall be based on the weights named on the label and not on actual fill.

(h) *Allocation of costs.* In converting the cost of raw materials, labor, and any other cost factor into cost per dozen or other unit for any kind, grade, style of pack, and container size, the cost shall be allocated in the same proportion as the same cost was allocated to that kind, grade, style of pack, and container size in 1942.

(i) *Adjustment for raw materials in special situations.* Instead of making the adjustment for raw materials ordinarily required by paragraph (b) of this section, a cooperative packer, a packer-grower, or a packer whose maximum price under Maximum Price Regulation No. 207 was obtained from a competitor, shall make the adjustment which his most closely competitive non-cooperative packer is required to make for the item. Normally, the "most closely competitive non-cooperative packer" will be the same competitive packer from whom the packer got his permitted increase for raw materials under § 1341.202 (b) (2) (iii) of Maximum Price Regulation No. 207 or from whom he got his maximum price under that regulation.

(j) *Items sold on a "no-storage" basis.* When a packer sells an item of quick-frozen fruits, berries or vegetables on a "no-storage" basis, that is, at a price which includes only the first month's storage, his maximum price under paragraph (a) shall be reduced by ¾¢ per pound of the finished product.

(k) *Delivered prices.* Any packer who regularly sold a purchaser an item covered by this section on a delivered price basis during the calendar year 1942 shall increase the maximum price for the item, figured f. o. b. shipping point under this section, by the amount of the transportation charge per unit for that item which he added to his f. o. b. shipping point price during the period February 1 to March 17, 1942. The resulting price shall be the packer's maximum delivered price for that purchaser.

A packer whose maximum price for an item is on an f. o. b. shipping point basis may establish a uniform maximum delivered price for the item, by zone or area, by adding to his f. o. b. shipping point price his weighted average transportation charge from shipping point to purchasers' receiving points. For any zone or area, this "weighted average transportation charge" shall be figured by him as follows: he shall (1) determine the total estimated transportation charges which would have been incurred if the shipments of the item which he made during the one-year period ending May 31, 1943, to purchasers in that zone or area, had been at rates in effect on June 16, 1943, and (2) divide that figure by the total number of pounds or other units of the item included in those shipments. (Where more than one means of transportation is used, averages may be taken separately for each.) The processor shall refigure his weighted average transportation charge at the end of each six months' period on the basis of shipments made during the one-year period immediately preceding the date of calculation and at rates in effect on that date.

(l) *New container types and sizes.* The maximum price per dozen or other unit for an item covered by this section packed in any container type or size which the packer did not sell between January 1, 1942, and June 16, 1943, shall be figured as follows. He shall:

(1) *Determine the base container.* If the packer sold the same product (that is, the same kind, grade and style of pack) between January 1, 1942 and June 16, 1943, but only in other container types or sizes, he shall first determine the most similar container type in which he is able to calculate a maximum price for that product under this regulation (even though he no longer sells that container type). From that container type he shall choose the nearest size which is 50% or less larger than the new size, or if there is no such size, 50% or less smaller (even though he no longer sells those sizes). This will be the "base container". If there is no such smaller size, he shall go to the next most similar container type and proceed in the same manner to find the base container.

NOTE.—In most cases "the most similar container type" will be merely the container type which the processor is adding to or replacing, like the tin which he may be replacing with paper. Where there has been only a size change, "the most similar container type" will, of course, be the same container type. This is also true in the reverse situation; where there has been a change only in container type, the "nearest size" will be the same size.

(2) *Find the base price.* The packer shall take as the "base price" his maximum price under this regulation for the product when packed in the base container. However, if this maximum price is a price delivered to the purchaser or to any point other than the packer's shipping point, the packer shall first convert it to a base price f. o. b. shipping point by deducting whatever transportation charges were included in it.

(3) *Deduct the container cost.* Taking his base price f. o. b. shipping point, the packer shall then subtract the direct cost of the base container. "Direct cost of the container" means the net cost, at the packer's plant, of the container, cap,

label and proportionate part of the outgoing shipping carton but it does not include costs of filling, closing, labeling or packing.

(4) *Adjust for any difference in contents.* The figure obtained by this deduction shall then be adjusted, in the case of a size change, by dividing it by the number of ounces or other units in the base container and multiplying the result by the number of the same units in the new container.

(5) *Add the new container cost to get the price f. o. b. shipping point.* Next, the packer shall add to the adjusted figure the "direct cost of the container" in the new type and size. If his maximum price for the commodity in the base container is an f. o. b. shipping point price, the resulting figure is the packer's maximum price, f. o. b. shipping point.

(6) *Convert to a maximum delivered price, if the maximum price for the base container is on a delivered basis.* If the packer's maximum price for the product in the base container is a delivered price, he shall figure transportation charges to be added, as follows: The packer shall take the transportation charges which he first deducted to get his base price and adjust them in exact proportion to the difference in shipping weight. If for any reason the product in the new container will move under a different freight tariff classification, the packer shall figure his transportation charges (by the same means of transportation and to the same destination) on the basis of the new shipping weight, but at the rate in effect for that freight tariff classification on March 17, 1942. Increases in tariff rates or transportation taxes made since March 17, 1942, shall not be taken into account. (Similar principles shall apply where shipping volume is the measure of the transportation charge.) The packer shall then add these transportation charges to his f. o. b. shipping point price for the commodity in the new container. The resulting figure is the packer's maximum delivered price.

(m) *Elective pricing method.* If the packer's maximum price for any item covered by this section cannot be determined under the applicable pricing method, the packer may, at his election, figure his maximum price under the pricing method of this paragraph. Under this paragraph, his maximum price shall be:

(1) His total "direct cost" per dozen or other unit of the item, figured by adding:

(i) The total cost per unit of all ingredients and packaging materials subject to maximum prices established by the Office of Price Administration, at the current maximum prices applying to the class of purchasers to which he belongs, plus

(ii) The cost per unit of every ingredient and packaging material for which no maximum price has been prescribed by the Office of Price Administration, figured at the current market price of the ingredient or packaging material in question, plus

(iii) The direct labor cost per unit figured at the October 3, 1942, wage rates or as adjusted and approved by the War Labor Board, executive order, or other official legal action applying to each class of direct labor employed in the production of the item, plus

(iv) Transportation charges by the usual mode of transportation, if the cost factors used in subdivisions (i) and (ii) above are not delivered costs and if these charges are customarily incurred from his customary supply point to his customary receiving point

(2) Multiplied by a markup percentage, figured by dividing

(i) The maximum price established under the maximum price regulation in effect at the time of the calculation for the most closely comparable commodity produced by him with a cost structure similar to that of the item being priced, by

(ii) His current cost of ingredients, packaging materials and direct labor of that commodity.

As used in this paragraph, "most closely comparable commodity" means a food commodity which is most nearly similar and whose "direct cost" is closest to and in no event less than two-thirds of the "direct cost" of the item being priced, and where similar methods are employed in its sale and merchandising to those which will be used in the sale and merchandising of the item being priced.

As used in this paragraph, "current" means at the time of figuring the price.

(3) The maximum price figured under this paragraph for any item shall not exceed 150% of the cost of ingredients, packaging materials and direct labor.

(4) In deciding whether items of labor cost are to be applied as separate items in figuring the price or are to be treated as overhead, the seller shall follow his customary practice. Thus, if a packer treated cleaning labor as an item of overhead in March 1942, he must continue to treat it in this way when figuring the maximum price.

(5) The packer shall employ no cost factors in addition to those which he used with respect to the comparable commodity by which he determined his percentage markup under subparagraph (2) and shall make no changes in the method of application of those factors which would result in a higher price.

SEC. 4. *Maximum prices for distributors other than wholesalers and retailers*—(a) *Primary distributors.* The primary distributor's maximum price for an item of frozen fruits, berries or vegetables shall be determined as follows:

(1) If his supplier's maximum price for it under this regulation is greater than the supplier's maximum price under Maximum Price Regulation No. 207, he shall add the difference to the maximum price which he had as a "wholesaler" under Maximum Price Regulation No. 255.

(2) If his supplier's maximum price for it under this regulation is less than the supplier's maximum price under Maximum Price Regulation No. 207, he shall subtract the difference from the maximum price which he had under Maximum Price Regulation No. 255.

The resulting figure in each case is the primary distributor's maximum price for the item.

If the primary distributor's maximum price for an item cannot be determined in this manner, his maximum price, f. o. b. shipping point, shall be the maximum price of his supplier, f. o. b. shipping point, plus incoming freight paid by him.

A "primary distributor" is a distributor, other than a wholesaler or retailer, who purchases all he sells of the kind of frozen fruits, berries or vegetables being priced and who customarily receives shipment of at least 50% of it in carload lots into a warehouse or other receiving station not owned or controlled by any of his customers, for resale in less than carloads.

(b) *Wagon wholesalers.* Until margins can be announced, the wagon wholesaler's maximum prices shall continue to be those established under Maximum Price Regulation No. 255.

(c) *Distributors who are not primary distributors, wagon wholesalers, wholesalers, or retailers.* The maximum price for an item, f. o. b. shipping point, of a distributor who is not a primary distributor, wagon wholesaler, wholesaler or retailer shall be the maximum price of his supplier, f. o. b. shipping point, plus incoming freight paid by him.

A "distributor" is one who purchases all he sells of the kind of frozen fruits, berries and vegetables being priced and resells it without packing and freezing any part of it.

Article III—General Provisions

SEC. 5. *Relationship between this regulation and Maximum Price Regulation No. 207 and the General Maximum Price Regulation.*[3] (a) This regulation supersedes Maximum Price Regulation No. 207 so far as that regulation has applied to frozen fruits, berries and vegetables packed after the 1942 pack. However, Maximum Price Regulation No. 207 applies to frozen products, packed after the 1942 pack, for which maximum prices or permitted increases are not yet provided.

The following sections of the General Maximum Price Regulation, as well as amendments to them, apply to sales covered by this regulation:

(1) Transfers of business or stock in trade (§ 1499.5).

(2) Federal and state taxes (§ 1499.7).

(3) Sales slips and receipts (§ 1499.14).

(4) Definitions (§ 1499.20).

SEC. 6. *Geographical applicability.* This regulation applies only to the forty-eight states of the United States and to the District of Columbia.

SEC. 7. *Export and import sales.* The maximum prices at which a person may export any product covered by this regulation shall be determined in accordance with the Second Revised Maximum Export Price Regulation,[4] and amendments. Sales of fruits, berries and vegetables which have been packed and frozen outside of the geographical area to which this regulation applies are not

[3] 8 F.R. 3096, 3849, 4347, 4486, 4724, 4978, 4848, 6047, 6962.

[4] 8 F.R. 4132, 5987, 7662.

covered by this regulation except in cases where the goods being priced are located within the area at the time of sale.

SEC. 8. *Inability to fix maximum prices.* If the seller's maximum price for any item cannot be priced under the provisions of the applicable pricing section, and he cannot or elects not to price under section 3 (m), he shall apply to the Office of Price Administration, Washington, D. C., for a maximum price. His application shall set forth (a) a description in detail of the item for which a maximum price is sought, including its grade and the brand name to be used, if any, the number of packages in each shipping case, and a statement of the facts which make it different from the most similar item for which he has determined a maximum price, identifying the similar item and stating its maximum price; (b) a detailed and itemized current cost breakdown of the item to be priced, showing separately all component cost factors (i. e., raw materials, direct labor, indirect labor, factory overhead, selling, advertising, and administrative cost, and freight if sold on a delivered basis), and the identical current cost breakdown of another commodity which contributes substantially to his total volume of business; (c) the desired selling price for the item, including a statement showing the necessity for the desired selling price, any discounts or allowances which should be made applicable to the desired price, and (for comparison) the maximum selling price, with discounts and allowances, for the second commodity included in paragraph (b) of this section; and (d) the method of distribution to be employed by the seller in marketing the new commodity (i. e., whether it is to be sold to wholesalers, retailers, consumers, or other classes of purchasers).

Until a maximum price is established, the applicant may not sell or deliver the item except under an agreement in each case to adjust the selling price to a figure no higher than the maximum price which is later established under this section.

SEC. 9. *Adjustable pricing.* Any person may agree to sell at a price which can be increased up to the maximum price in effect at the time of delivery; but no person may, unless authorized by the Office of Price Administration, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Administration after delivery. Such authorization may be given when a request for a change in the applicable maximum price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Emergency Price Control Act of 1942, as amended. The authorization may be given by the Administrator or by any official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by order.

SEC. 10. *Customary discounts and allowances.* No person shall change any customary allowance, discount or other price differential to a purchaser or class of purchasers if the change results in a higher net price to that purchaser or class.

SEC. 11. *Storage.* Storage on goods owned by the packer may not be added to maximum prices. Packers and primary distributors shall show on the invoice in each case whether the item sold is on a "storage" or "no-storage" basis.

SEC. 12. *Units of sale and fractions of a cent.* Maximum prices shall be stated in terms of the same general units (like pounds, dozens, etc.) in which the packer has customarily quoted prices for the product. If any figured maximum price includes a fraction of a cent, the packer shall adjust the price to the nearest fractional unit (like 1¢, ½¢, ¼¢, etc.) in which he has customarily quoted prices for the product.

SEC. 13. *Position of brokers.* In accordance with existing trade custom, every broker taking part in a sale in which the seller is a packer shall be considered as the agent of the seller and not the agent of the buyer. In each case, the amount paid by the buyer to the broker plus the amount paid by the buyer to the seller shall not exceed the seller's maximum price plus allowable transportation actually paid by the seller or by the broker.

SEC. 14. *When a maximum price figured under section 3 is established.* On and after June 16, 1943, a price figured for any item under section 3 becomes "established" (that is, fixed) as the packer's maximum price as soon as he has either filed the price or disclosed it to any prospective customer, whether by sale, delivery, offer, or notice of any kind, provided that the figured price is not higher than the applicable pricing method allows. A maximum price for an item may be established only once, and having been established it may not be changed by the seller except (a) with the written permission of the district or state office of the Office of Price Administration for the area in which he is located in cases where the packer has figured his maximum price lower than the applicable pricing method allows, or (b) in cases where a change in the regulation changes the packer's applicable pricing method, or (c) in cases where the packer is refiguring uniform maximum delivered prices as required by section 3 (k).

If the packer is disclosing a price lower than the one he figured under section 3, he may establish the higher, figured price as his maximum price at the time of disclosure only by recording it and naming it as such, in ink on his books, before he discloses the lower price. A packer who has not figured a price for an item, or has figured a price higher than the applicable pricing method allows, may not sell the item until he has established a maximum price for the item in accordance with the rules of this section.

SEC. 15. *Compliance with the regulation*—(a) *No selling or buying above maximum prices.* Regardless of any contract or obligation, no person shall sell or deliver, or buy or receive in the course of trade, any item of frozen fruits, berries or vegetables, on and after June 16, 1943, at a price higher than the maximum price established for it by this regulation.

(b) *Evasion.* Nor shall any person evade a maximum price, directly or indirectly, whether by commission, service, transportation, or other charge or discount, premium or other privilege; by tying-agreement or other trade understanding; by any change of style of pack; by a business practice relating to grading, labeling, or packaging; or in any other way. However, prices lower than the maximum price may be charged and paid.

(c) *Enforcement.* Any person violating a provision of this regulation is subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided by the Emergency Price Control Act of 1942, and amendments.

SEC. 16. *General amendments.* Any person seeking a general modification of this regulation may file a petition for amendment in accordance with Revised Procedural Regulation No. 1,[5] and amendments, issued by the Office of Price Administration.

This regulation shall become effective June 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9756; Filed, June 16, 1943; 4:40 p. m.]

PART 1368—FERROUS AND NON-FERROUS BOLTS, NUTS, SCREWS AND RIVETS

[MPR 147,[1] Amdt. 1]

BOLTS, NUTS, SCREWS AND RIVETS

A statement of considerations involved in the issuance of this Amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Maximum Price Regulation No. 147 is amended in the following respects:

1. Section 1368.5 is amended by inserting the following sentence before paragraph (a):

No filing is required from a producer whose bolts, nuts, screws and rivets are all made complete or in their first operation on automatic or hand screw machines, except insofar as such producer had list price schedules for any bolts, nuts, screws and rivets published and in effect between October 1 and October 15, 1941.

2. Section 1368.8 (a) (3) is amended to read as follows:

(3) "Bolts, nuts, screws and rivets" wherever used in this Regulation means and includes the following products when manufactured from ferrous and/or non-ferrous metals other than alumi-

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 3808, 3905, 8948.

[5] 7 F.R. 8961; 8 F.R. 3313, 3583, 6173.

num: (i) All types and sizes of the products mentioned in Appendix D of this Regulation and also every similar fastening, manufactured by any process to any specifications whatsoever; (ii) threaded studs of all types; headed or threaded rods; screw eyes, eye bolts, U-bolts and similar threaded products; socket head and recessed head bolts and screws; blank bolts; track bolts, track bolt nuts and screw spikes; lock nut speed nuts, wing nuts, thumb nuts, acorn nuts, cap nuts, clinch nuts; thumb screws; binding screws; split rivets and tubular rivets; clevis pins; wire spokes and spoke nipples; all of these when manufactured by any process to any specifications whatsoever, and (iii) miscellaneous headed, threaded, punched or bent products when manufactured by a person who is otherwise a "producer" by the use of any machine customarily used in the manufacture of any headed or punched product mentioned in Appendix D: *Provided,* That "bolts, nuts, screws and rivets" does not mean or include the following products: except for those mentioned in (i) or (ii) above, products manufactured complete or in their first operation on hand or automatic screw machines (Screw Machine Products—Maximum Price Regulation 136); products mentioned in (i), (ii) or (iii) above when sold as "Pole Line Hardware" for use in transmission or distribution line construction (Maximum Price Regulation 136); wire nails (Revised Price Schedule No. 6); cut nails, cut tacks, cotter pins or washers (General Maximum Price Regulation); pipe plugs or pipe fittings (Maximum Price Regulation 188); solid or flexible staybolts (Maximum Price Regulation 136).

3. Section 1368.12 (d) is amended to read as follows:

(d) For each producer the maximum prices for any bolts, nuts, screws and rivets other than those described in paragraphs (a), (b) or (c) of this Section shall be the prices such producer would have charged between October 1 and October 15, 1941 for like quantities of the same type, size and specifications determined by the labor rates, material costs and the methods of estimating costs and charges or allowances for delivery, and adjusted for customary discounts and allowances, all as in effect for such producer between October 1 and October 15, 1941: *Provided,* That (1) in the case of any such bolts, nuts, screws and rivets which are manufactured complete or in their first operation on hand or automatic screw machines and which are not carried as stock items, the words "on March 31, 1942" shall be substituted for the words "between October 1 and October 15, 1941"; (2) where overtime labor is performed at the purchaser's request and is actually required the excess of the overtime labor cost over the labor cost as figured on a straight-time basis may be added provided that it is shown as a separate charge on the invoice and contains no addition for profit or overhead; and (3) recomputation shall be made as hereinafter provided.

Recomputation. Maximum prices shall be recomputed for every contract. When the recomputed price per unit is higher than the price per unit on the next previous contract and the excess is greater than the increase in the tool and setup charge per unit resulting from using the total charge for tools and setup which was included in the next previous contract, such price shall be the maximum price only if approved in writing by the Office of Price Administration or not disapproved within 30 days after receipt of a report mailed by the producer within 10 days after acceptance of an order at the new price. This report shall contain (i) a full description of the item; (ii) the price on the contract prior to the price increase, the date of such contract, the quantity involved, and the name and address of the purchaser; (iii) the price charged between October 1 and October 15, 1941 or on March 31, 1942, whichever base date is applicable, or on the first contract subsequent thereto, the quantity involved and the date of such contract; (iv) the recomputed price, the date of producer's acceptance of the order at the recomputed price, the quantity ordered, and the name and address of the purchaser; (v) a complete statement of the cost factors, the method of price computation and the reasons for the increase in price. In lieu of approving or disapproving the recomputed price, the Office of Price Administration may approve such price as it deems fair and equitable on the basis of the report. Pending approval or disapproval, the producer may use the recomputed price subject to adjustment in accordance with the determination of the Office of Price Administration.

4. Section 1368.13 (d) is hereby revoked.

This amendment shall become effective June 22, 1943.

(Pub. Laws 1421, 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9754; Filed, June 16, 1943; 4:38 p. m.]

PART 1381—SOFTWOOD LUMBER

[Rev. MPR 222]

NORTHERN SOFTWOOD LUMBER

Maximum Price Regulation 222 is redesignated Revised Maximum Price Regulation 222 and is revised and amended to read as follows:

In the judgment of the Price Administrator, the maximum prices established by this regulation are and will be generally fair and equitable and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250. A statement of the considerations involved in the issuance of this regulation has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

§ 1381.251 *Maximum prices for Northern softwood lumber.* Under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, Revised Maximum Price Regulation 222 (Northern Softwood Lumber), which is annexed hereto and made a part hereof, is hereby issued:

AUTHORITY: § 1381.251 issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.

REVISED MAXIMUM PRICE REGULATION 222—NORTHERN SOFTWOOD LUMBER

ARTICLE I—SCOPE OF THE REGULATION

Sec.

ARTICLE II—MAXIMUM PRICES AND TERMS OF SALE

ARTICLE III—SPECIFIC DUTIES AND PROHIBITED PRACTICES

ARTICLE IV—MISCELLANEOUS

Article I—Scope of the Regulation

SECTION 1. *Prices higher than ceiling prohibited.* (a) On and after June 22, 1943, regardless of any contract or other obligation, no person shall sell or deliver, and no person shall buy or receive in the course of business, any Northern

*Copies may be obtained from the Office of Price Administration.

softwood lumber for direct-mill shipment at prices higher than the ceiling prices fixed by this regulation, and no person shall agree, offer or attempt to do any of these things.

(b) Prices lower than the ceiling prices may, of course, be charged and paid.

SEC. 2. *What transactions are covered.* (a) This regulation covers, under the name of "sales for direct-mill shipment" all sales of Northern softwood lumber, no matter who the seller is, and regardless of the quantity involved, except sales of Northern softwood lumber which was part of the regular stock of a distribution yard at the time the sale was made.

(b) *How to tell a mill from a distribution yard.* The term "mill", as used here, covers what are known in the trade as sawmills, planing mills and concentration yards. Three types of establishments are described below: the first, (1), a typical sawmill or planing mill; the second, (2), a typical concentration yard; and the third, (3), a typical distribution yard. An establishment which resembles (1) or (2) more than it does (3) is considered a mill and one which resembles (3) more than it does (1) or (2) is considered a distribution yard.

(1) "A typical sawmill or planing mill" is an establishment which is chiefly engaged in manufacturing lumber from logs or rough lumber by sawing or planing; which is located in or near a lumber producing area; which makes and sells chiefly Northern softwood lumber;

(2) "A typical concentration yard" is an establishment which concentrates and prepares lumber for commercial shipment, which keeps in stock mostly Northern softwood lumber, which has its lumber brought in chiefly in rough green form by truck from small local sawmills and sells chiefly for rail or full truckload shipment, and which has been located at its particular site to be near the lumber producing area;

(3) "A typical distribution yard" is a wholesale or retail lumber yard which gets lumber from mills or other yards; unloads, sorts, and resells or redistributes it; which regularly maintains a varied stock of lumber from different regions; which gets its lumber, except for local species, mostly by rail and sells mostly for truck shipment; which is equipped to make quick deliveries of many different items of lumber; and which has been located at its particular site in order to be near a lumber consuming area.

(c) *New yards or changed status.* In order to prevent violation of this regulation by unnecessary routing through yards, the Office of Price Administration will not recognize distribution yards, either new or resulting from a change in operations, set up after June 21, 1943, unless the yard writes to the Lumber Branch of the Office of Price Administration, Washington, D. C., and proves that it satisfies the requirements of the definition and that the purpose is not to get around this regulation by means of unnecessary yard business. Until approval is received, the new yard cannot consider itself a distribution yard for the purpose either of this regulation or of any other regulation issued by the Office of Price Administration.

(d) *"CPA contract yards".* "CPA yards" as defined in Maximum Price Regulation 215 [1] are considered distribution yards, regardless of the above requirements.

SEC. 3. *What products are covered.* (a) This regulation covers all items of Northern softwood lumber whether the items are specifically named in the price tables or not. It does not include glued stock, mine material, switch, cross or mine ties, small dimension stock, and posts, poles and piling.

(b) This regulation covers, under the name of "Northern softwood lumber", the following species produced in the states of Michigan, Wisconsin, and Minnesota or imported from the Canadian provinces of British Columbia, Alberta, Saskatchewan, Manitoba and that part of the Province of Ontario west of the 85th meridian: Northern white pine (Pinus strobus), Norway pine (Pinus resinosa), Nothern white cedar (Thuja occidentalis), Eastern spruce (Picea Glauca, Picea mariana, and Picea rubra), Western white spruce (Picea canadensis), Northern hemlock (Tsuga canadensis), Aspen (Populus tremuloides Michx) and Jack pine (Pinus banksiana).

SEC. 4. *What persons are covered.* Any person who makes the kind of sale or purchase described above, for himself or others, is subject to this regulation. The term "person" includes an individual, corporation, partnership, association or any other organized group, their legal successors and representatives, the United States or any government or any of their political subdivisions or any agency of any of the foregoing.

Article II—Maximum Prices and Terms of Sale

SEC. 5. *Basic prices and cash discount*—(a) *Basic prices.* The maximum f. o. b. mill prices for Northern hemlock lumber produced in the states of Wisconsin, Michigan and Minnesota are set forth in Appendix A. The maximum f. o. b. port of entry prices for Western white spruce are set forth in Appendix C. The maximum f. o. b. mill prices and the maximum f. o. b. port of entry prices for Northern white pine, Norway pine, Jack pine, Eastern spruce, Northern white cedar and Aspen lumber are set forth in Appendix B.

(b) *Cash.* If cash is paid the maximum price must be reduced by the seller's August 1941 cash discount. For example, if this discount was 2%, and if the maximum price without cash discount is $30.00, the maximum price when cash is paid is $29.40. In any case, on specific written allocations issued by the Office of the Chief of Engineers, War Department, the terms 30 days net may be used by the seller regardless of his established practice.

SEC. 6. *Addition for direct-mill retail sale.* An addition of $5.00 per thousand board feet may be made on a sale of less than 4.000 ft. BM to any buyer who does not purchase for resale, where the shipment originates at a mill and the seller:

(a) Delivers the lumber to the job site if required by the buyer at such time and in such manner as the buyer specifies;

(b) Gives the buyer the privilege of exchanging the lumber and returning unused material; and

(c) Agrees to make good any shortage promptly from stocks kept on hand for this purpose.

The size of the sale is determined by the total quantity involved in the transaction without regard to whether it is broken up into smaller orders or deliveries.

SEC. 7. *Transportation charges*—(a) *Rail charges.* (1) Only two methods of selling are recognized by this regulation. Any other method is prohibited, as a device to evade the ceiling by manipulation of freight.

The two permitted methods are: on a delivered basis using the estimated weights or on an f. o. b. mill basis (or in a proper case, on an f. o. b. port of entry basis) with actual freight (figured, of course, on actual weights) to be paid by the purchaser.

The two methods may not be combined in a single transaction; that is, a seller may not sell on a basis which gives him the benefit of favorable estimated weights but requires the use of actual weights on items where estimated weights would be unfavorable to him. Note that sales described as "ceiling delivered," or as f. o. b. mill with freight paid or included to a given destination, are to be treated as sales on a delivered basis. In such cases, the given estimated weights must be used. However, sales f. o. b. mill with seller to pay the freight to a stated destination and include it in his invoice to the buyer is a sale on an f. o. b. mill basis, and settlement on the basis of the actual weights must be made.

(2) The transportation charge, when estimated weights are used, must be evened out to the nearest quarter-dollar

[1] 3789, 5565, 6446.

per 1000 feet board measure (or nearest 5 cents per 1000 pieces of plastering lath).

(b) *Common or contract carrier (other than rail).* Where transportation is by common or contract carrier (other than rail) the only rule is that actual cost of transportation may be added to f. o. b. mill ceiling.

(c) *Private truck.* When shipment is by truck owned or controlled by the seller, the amount added for transportation may not be more than the "actual cost" to the seller of delivery by truck. The "actual cost" may not be higher than the over-all average trucking charge for a similar delivery, arrived at as of the six-month period ending June 30, 1942. In any event, the amount added may not be more than the rail carload rate for the most similar haul as applied to the quantity of lumber actually shipped. However, if this railroad charge is less than $1.50 per MBM, and if the actual cost of delivery is more than $1.50 per MBM, a transportation charge of $1.50 per MBM may be made.

(d) *Trucking to rail shipping point.* When a truck haul precedes rail shipment, as when a mill located away from a railhead hauls lumber by truck to the railroad, no addition may be made for the truck haul. However, in the following three cases a mill may apply for special permission to make an addition:

(1) Where the mill was located away from rail connections because it specialized in water-borne lumber, and where shortage of shipping has forced it to operate by rail;

(2) Where the mill, prior to the shortage of tires and gasoline, shipped lumber to the particular final destination principally by all-truck haul, and now wishes to convert to truck-and-rail haul to save tires and gasoline, and is a substantial distance from a railhead.

(3) Where a mill's rail connection has been abandoned since September 3, 1941, and it has no comparable rail shipping point.

The application should be made by letter to the Lumber Branch of the Office of Price Administration, Washington, D. C., and may be acted upon by letter or telegram. The addition may be made on quotations or sales until permission has been received.

(e) *Truck delivery after rail haul.* When truck delivery to yard or job site follows a rail haul, and is specified in the order, the actual cost of truck delivery may be added. This may include the actual cost of handling and reloading involved in transfer from rail cars to trucks.

(f) *All-truck haul.* When an all-truck haul ends in delivery to the job site, no special addition may be made above the charges provided in sub-paragraphs (b) and (c) of this section.

SEC. 8. *Sales for export.* The maximum price at which a person may export any Northern softwood lumber shall be determined in accordance with the provisions of the Second Maximum Export Price Regulation [2] issued by the Office of Price Administration.

Article III—Specific Duties and Prohibited Practices. SEC. 9. *What the invoice must contain*—(a) *F. O. B. mill price.* All invoices must contain a sufficiently complete description of the lumber to show whether the price is proper or not. Any working, specification, or extra which affects the maximum f. o. b. mill prices must be mentioned in the description. The amount added for these does not have to be separately shown.

(b) *Charges for transportation.* In all delivered sales, the invoice must contain the:

(1) Point of origin of shipment;

(2) Destination;

(3) Rail rate from domestic mill or from applicable port of entry in the case of imported lumber, if estimated weights are used; otherwise the actual amount added for transportation from domestic mill or applicable port of entry;

(4) The words "Direct-mill shipment".

(c) *Delivery and related charges.* Any separate charge which the seller is permitted to make for truck delivery after rail haul, or for trucking to railhead, must be separately shown on the invoice.

(d) *Direct-mill retail sale.* If the "direct-mill retail sale" mark-up is permissible and is added, this must be separately indicated in the invoice.

SEC. 10. *Special Rule on averaging out*—(a) *Different grades, classes or sizes.* Different grades, classes or sizes of lumber may be sold and invoiced at an average price if all of the following conditions are observed:

(1) The footage of each item must be shown separately, and a piece tally must be furnished for each shipment.

(2) The average price for the lumber actually shipped must not be higher than it would have been if all the individual grades, classes and sizes shipped had been sold separately at the individual ceiling price.

(3) If the order is shipped in more than a single carload, truck-load, or boat shipment the following invoicing and charging practice must also be followed:

(i) The invoice must show that it is part of a larger order and identify the order. It must also show the individual ceiling prices for the various items of lumber actually contained in each shipment, and the average selling price agreed upon.

(ii) The charges which may be made and collected on account for each shipment must not exceed the average price agreed upon or the total of the ceiling prices for the items in the particular shipment, whichever is the lower. Thus, if an average price was quoted on widths from 4" to 12", and if a car of all 4" was shipped, only the 4" price can be charged and collected on that car. But if a car of all 12" widths was shipped, only the average price quoted could be charged on that car.

(iii) Upon completion of the order the seller must render a final invoice showing the quantity of each shipment or delivery, the freight charge for each if sold on a delivered basis, the amount received on account, the total amount due on the order at the agreed average prices, and a reconciliation of the total amount so computed with the maximum prices permitted by this regulation. Final payment and all necessary adjustments between buyer and seller are to be made upon the final reconciliation.

(b) *Different freight rates.* When a single order, for which a single flat delivered price was quoted and accepted, is shipped from two or more mills to a single destination on varying freight rates, the seller may average-out the transportation charges. For example, if a wholesaler bids $33.00 per MBM on a single order of a hundred thousand feet of lumber, the ceiling price being $30.00 per MBM and the estimated freight $3.00, he can ship half of it on a rate resulting in a $2.00 freight charge and half on a rate resulting in a $4.00 freight charge.

(1) Where this practice is adopted, the seller must observe all of the following conditions:

(i) Each invoice must state that the particular shipment is part of a larger order and identify the order. It must also show the individual rates for each shipment or delivery.

(ii) The transportation charges which may be made and collected for each shipment or delivery, on account, must not exceed the average transportation charge figured on the entire order or the actual transportation charge for the particular shipment based upon the permitted estimated weights, whichever is the lower.

(iii) Upon completion of the order the seller must render a final invoice showing the individual f. o. b. mill prices separately, the amount shipped from each mill, the freight charge for each shipment, and a reconciliation of the total amount so computed with the agreed delivered selling prices and also with the maximum prices permitted by this regulation. In the event that the sale was made at an average price for different grades, classes or sizes of lumber as well as an averaging-out of trans-

[2] F.R. 4132, 5987.

portation charges, the provisions of (a) above shall also be observed. Final payment and all necessary adjustments between buyer and seller are to be made upon the final reconciliation.

SEC. 11. *What records must be kept.* All sellers of Northern softwood lumber must keep records which will show a complete description of the items of lumber sold (i. e. grade, condition of dressing, quantity, etc.) the name and address of the buyer, the date of the sale and the price, for a period of two years. Buyers must keep similar records, including the name and address of the seller. Failure to comply with this provision shall constitute a violation of this regulation. Persons violating are subject to all penalties, actions and proceedings provided for by the Emergency Price Control Act of 1942 as amended, including a fine of not more than $5,000 or imprisonment for not more than two years, or both.

SEC. 12. *Prohibited practices*—(a) *General.* Any practice which is a device to get the effect of a higher-than-ceiling price without actually raising the dollars-and-cents price is as much a violation of this regulation as an outright over-ceiling price. This applies to changes in credit practices and cash discounts and to devices making use of commissions, services, transportation arrangements, premiums, special privileges, tying agreements, trade understandings and the like.

(b) *Specific practices.* The following are some of the specific practices prohibited:

(1) Getting the effect of a higher price by changing credit practices from what they were in August 1941. This includes decreasing credit periods or making greater charges for extension of credit.

(2) Refusing, without good reason, to ship except in specified or restricted random lengths, or under other circumstances which bring the seller an extra return.

(3) Selling as specified lengths or widths a specific lot or shipment of lumber which is substantially equivalent to random lengths or widths, or reselling intact as specified lengths or widths a specific lot or shipment bought by the seller as standard or random lengths or widths. This prohibition shall not apply to shipments or deliveries which have been sorted out as to widths and lengths and then resold.

(4) Grading as a special grade lumber which can be graded as a standard grade; or wrongly or falsely grading or invoicing lumber.

(5) Making additions for special specifications, services, or other extras which are not specifically permitted.

(6) Refusing to sell on an f. o. b. mill basis, and insisting on selling on a delivered basis except in the case of sales of imported Northern softwood lumber.

(7) Failing to invoice properly and in accordance with the requirements of this regulation.

(8) Unnecessarily routing lumber through a distribution yard.

(9) Quoting a gross price above the maximum price, even if accompanied by a discount the effect of which is to bring the net price below the maximum.

(10) Making additions for kiln-drying, or other services, treatments, or specifications unless they are expressly ordered by the buyer.

(11) Getting a higher price by charging the buyer for ripping or resawing, or charging on the basis of an original size larger than the item actually delivered: (for example: charging the price of 4 x 4 ripped to 2 x 4 on a sale and delivery of 2 x 4's) except where the items ordered and delivered are non-standard sizes not specifically priced in the tables. This prohibition has no application where the buyer specified the larger size to be ripped or resawn into items of smaller size and the resulting items are priced higher in the tables than the original larger size. for example; the buyer may order 2 x 6 R/L No. 2 Common Hemlock piece stuff, rough priced at $33.50 per M.B.M. ripped to 2 x 3. By buying the larger size ripped, the price is lower ($34.50) than it would have been had he ordered the 2 x 3 as such ($35).

(12) Making the buyer take something he does not want in order to get what he does want; for example, making a buyer who orders No. 2 Common take all the upper grades that develop.

(13) Breaking up an order or apportioning deliveries in order to get the direct-mill retail sale addition.

(c) *Adding commission to ceiling prohibited.* It is unlawful for any person to charge, receive, or pay a commission for the service of procuring, buying, selling or locating lumber, or for any related service (such as "expediting") which does not involve actual physical handling of lumber, if the commission plus the purchase price results in a total payment by the buyer of lumber which is higher than the maximum price of the lumber. For purposes of this regulation, a commission is any service charge or payment which is figured either directly or indirectly on the basis of the quantity, price, or value of the lumber in connection with which the service is performed.

(d) *Combination grades.* Lumber sold on combination grades (except those combination grades specifically priced herein) may not be sold above the maximum price for the lowest priced grade actually named in the combination. For example, the maximum price for lumber sold as No. 1 Common and better is the maximum price for No. 1 Common lumber. But it is permissible to quote a grade with specified percentages of higher grades, provided that when the lumber is shipped, lumber of each grade is tallied on a board-foot basis and invoiced separately at prices not in excess of ceiling prices for the respective grades.

(e) *Adjustable pricing.* Any person may agree to sell at a price which can be increased up to the maximum price in effect at the time of delivery; but no person may, unless authorized by the Office of Price Administration, deliver or agree to deliver at prices to be adjusted upward in accordance with action taken by the Office of Price Administration after delivery. Such authorization may be given when a request for a change in the applicable maximum price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Emergency Price Control Act of 1942, as amended. The authorization may be given by the Administrator or by any official of the Office of Price Administration to whom the authority to grant such authorization has been delegated. The authorization will be given by order, except that it may be given by letter or telegram when the contemplated revision will be the granting of an individual application for adjustment.

SEC. 13. *Special pricing rules.* (a) Where the buyer specifies restricted lengths or an average length and the shipment or order fails to conform, the entire shipment must be priced at the random length price (unless the agreed price is lower).

(b) Where the buyer orders a random length shipment, and the given percentages of lengths as specified in footnotes to each of the price tables are not met because there is too large a percentage of shorts, the excess shorts must be priced at the separate prices for the short lengths.

(c) Where the invoice does not specify the grade shipped or delivered, the price of the lowest grade in the shipment shall apply to the whole order.

(d) None of the additions contained in the footnotes to the tables in Articles V, VI and VII may be added to the prices of the various items set forth in the tables unless the order expressly requires the working grade, condition, size, or length for which the additions are permitted.

Article IV—Miscellaneous

SEC. 14. *Petitions for adjustment or amendment*—(a) *Government contracts.* (1) The term "Government contract" is here used to include any contract with the United States or any of its agencies or with the Government or any governmental agency of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled "An Act to promote the Defense of the United States" which also includes any subcontract under this kind of contract.

(2) Any person who has entered into or proposes to enter into a "Government contract," who believes that the maximum prices contained in this regulation impede or threaten to impede production of Northern softwood lumber essen-

tial to the war program, may file an application for adjustment in accordance with Procedural Regulation No. 6 [3] issued by the Office of Price Administration. As soon as the application is filed, contracts, deliveries, and payments may be made at the requested price, subject to refund if the requested price is disapproved or lowered. The seller must notify the buyer that the delivery is made subject to this refund.

(b) *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1 [4] issued by the Office of Price Administration.

SEC. 15. *Enforcement.* (a) Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, suits for treble damages, and proceedings for suspension of licenses provided for by the Emergency Price Control Act of 1942, as amended.

(b) War procurement agencies and their contracting or paying finance officers are not subject to any liability, civil or criminal, imposed by this regulation. Persons who make sales covered by this regulation to war procurement agencies and buyers to whom lumber has been allocated by any such agencies are, however, subject to all the liabilities imposed by this regulation. "War procurement agencies" include the War Department, the Navy Department, the United States Maritime Commission and the Lend-Lease Section in the Procurement Division of the Treasury Department, or any of their agencies.

SEC. 16. *Licensing.* All sellers under this regulation, except mills, are licensed by Supplementary Order 18. This order, in brief, provides that a license is necessary, except for mills, to make sales under this regulation. A license is automatically granted to all sellers making these sales. It is not necessary to apply specially for the license, but a registration may later be required. The Emergency Price Control Act of 1942, as amended, and Supplementary Order 18 tell the circumstances under which licenses may be suspended. The license cannot be transferred.

SEC. 17. *Grades.* The grades and terms in this regulation are based on the following grading rules and specifications:

(a) For Northern hemlock lumber: the "Official Grading Rules for Hemlock and Tamarack Timber and White Cedar Shingles" published by the Northern Hemlock and Hardwood Manufacturers' Association, effective June 27, 1941;

(b) For domestic and imported Northern white pine, Norway pine, Jack pine, Northern white cedar, Eastern spruce, Aspen and Western white spruce lumber in standard or near standard grades,

(1) Produced in mills located in the State of Minnesota and imported from Canada: the "Standard Grading Rules for Northern White Pine, Norway Pine, Jack Pine, Eastern Spruce, Western White Spruce, Balsam, Tamarack, and Aspen Lumber" published by the Northern Pine Manufacturers' Association effeltive May 1, 1939.

(2) Produced in mills located in the States of Michigan and Wisconsin: the "Official Grading Rules of the Northern Hemlock and Hardwood Manufacturers' Association for Northern White Pine, Norway Pine, Eastern Spruce, Balsam, Jack Pine, and Aspen", effective July 23, 1941.

SEC. 18. *Grades, services, or extras not listed.* (a) If a seller wishes to sell a grade which is not specifically priced in the price tables, or wishes to make an addition for special workings, specifications, services or other extras for which additions are not specifically permitted, he must apply to the Lumber Branch, Office of Price Administration, Washington, D. C., for a maximum price. He must provide the following information:

(1) The requested price;

(2) A complete description of the item to be priced; and

(3) The price differential between it and the most comparable item in the price tables, between January 1 and August 1, 1941, from the seller's own records, or if that is impossible, from the experience of the trade. If no established price differential existed, a detailed analysis of comparative value should be furnished.

(b) As soon as the request has been filed, quotations and deliveries may be made at the requested price, but the final payment may not be made until the price has been approved. Action on the request may be letter or telegram.

(c) In all cases where special prices have been approved by the Lumber Branch of the Office of Price Administration under § 1381.266, paragraph (c) of the earlier regulation, Maximum Price Regulation 222, those special prices shall no longer apply if specific prices for the items are established by this regulation, but if no specific prices are established in the price tables, the price approved under the earlier regulation shall continue in effect.

Article V—Appendix A: Northern Hemlock

The maximum prices for Northern hemlock lumber in standard or near-standard grades f. o. b. mill per one thousand feet board measure where shipment originates at the mill shall be as follows:

TABLE 1—HEMLOCK BOARDS

ROUGH

No. 1 Common

Thickness and width	Length						
	6′	8′	10′	12′	14′	16′	6 to 16′
1 x 4″	$32.50	$37.00	$38.00	$38.00	$38.00	$40.00	$38.00
1 x 6″	35.00	39.50	40.50	40.50	40.50	42.00	40.50
1 x 8″	35.00	39.50	40.50	40.50	40.50	42.00	40.50
1 x 10″	36.50	41.00	42.00	42.00	42.00	43.50	42.00
1 x 12″	37.50	42.00	43.00	43.00	43.00	44.50	43.00
Merchantable							
1 x 4″	$31.50	$36.00	$37.00	$37.00	$37.00	$39.00	$37.00
1 x 6″	33.00	37.50	38.50	38.50	38.50	40.00	38.50
1 x 8″	33.50	38.00	39.00	39.00	39.00	40.50	39.00
1 x 10″	33.50	38.00	39.00	39.00	39.00	40.50	39.00
1 x 12″	34.50	39.00	40.00	40.00	40.00	41.50	40.00
No. 2 Common							
1 x 4″	$33.50	$36.00	$36.00	$36.00	$36.00	$38.00	$36.00
1 x 6″	31.50	36.00	37.00	37.00	37.00	38.50	37.00
1 x 8″	32.00	37.00	38.00	38.00	38.00	39.50	38.00
1 x 10″	33.00	37.00	38.00	38.00	38.00	39.50	38.00
1 x 12″	33.00	38.00	39.00	39.00	39.00	40.50	39.00
No. 3 Common							
1 x 4″	$30.00	$33.00	$33.00	$33.00	$33.00	$34.00	$33.00
1 x 6″	30.00	34.50	35.00	35.00	35.00	36.00	35.00
1 x 8″	30.50	35.50	36.00	36.00	36.00	37.00	36.00
1 x 10″	31.50	35.50	36.00	36.00	36.00	37.00	36.00
1 x 12″	31.50	36.00	36.00	36.00	36.00	37.00	36.00
No. 3 Common and Better							
1 x 4″ and wider, 4′ long rough							$24.50
1 x 4″ and wider, 6′ long							26.50
No. 4 Common							
1 x 4″	$22.00	$25.00	$25.00	$25.00	$25.00	$26.00	$25.00
1 x 6″	22.50	25.50	25.50	25.50	25.50	26.50	25.50
1 x 8″	23.50	26.50	26.50	26.50	26.50	27.50	26.50
1 x 10″	23.50	26.50	26.50	26.50	26.50	27.50	26.50
1 x 12″	23.50	26.50	26.50	26.50	26.50	27.50	26.50
1 x 4″ and wider, 4′ long							18.00

[3] 7 F.R. 5087, 5664, 8 F.R. 6173, 6174.

[4] 7 F.R. 8961, 8 F.R. 3313, 3523, 6173.

No. 5 Common

1 x 4" and wider, 4' and longer..... $18.00

Grain and Coal Door Boards

Grain door boards 6' long..... 26.50
Grain door boards 7' long..... 29.50
Coal door boards 6' long..... 22.50
Coal door boards 7' long..... 24.50

Additions and deductions per MBM to the prices in table 1

For working:
1. Crosscutting, one cut, add $1.00. each additional cut, add $1.00.
2. Ripping, one cut, add $1.00. each additional cut, add $1.00.
3. Resawing, one cut, add $1.00. each additional cut, add $1.00.
4. S1S, S2S, S1E, S2E, add $1.00.
5. S1S1E, S2S1E, S1S2E, S4S, D+M, shiplap, add $1.50.
6. S2S and resaw one cut, add $2.00.
7. Drop siding ceiling, grooved roofing partition and fancy shiplap, add $3.00.
8. Log siding, add $5.00.
9. Bundling, add $1.00.

For length:
10. Odd or fractional lengths not listed: Price as and compute footage on next longer standard length.

Additions and deductions per MBM to the prices in table 1—Continued

For length—Continued.
11. Lengths longer than listed: For each 2 feet or fraction thereof over 16 feet, to the 16 feet price add $2.00.

For width:
12. Widths wider than listed: For each 2 in. or fraction thereof over 12 in. to the 12 in. price add $2.00.
13. Odd or fractional widths: Price as and compute footage on next wider standard width.
14. 1 x 2; to the price of 1 x 4 of the same length and grade add $1.00.
15. 1 x 3; to the price of 1 x 6 of the same length and grade add $1.00.

For thickness:
16. Thin and miscut: From the price of 1 in. of the same width, length, and grade, deduct 25%.
17. 5/4 and 6/4: To the price of 1 in. of the same width, length and grade add $4.00.

For grade:
18. "D" Selects: To the No. 1 price of the same width and length add $5.00.
19. Industrial No. 3: From the No. 3 price deduct $1.00.
20. No. 2 and better: Price as merchantable.
21. Barky crating: Price as No. 3 common of the same width and length.

TABLE 2—HEMLOCK DIMENSION

ROUGH

No. 1 Piece Stuff

Thickness and width	Length							
	6'	8'	10'	12'	14'	16'	18 and 20'	22 and 24'
2 x 3" and 2 x 4"	$30.50	$38.00	$37.00	$37.00	$37.00	$38.00	$41.00	$43.00
2 x 6"	29.50	36.00	36.00	36.00	36.00	36.00	41.00	43.00
2 x 8"	30.50	37.00	37.00	37.00	37.00	37.00	41.00	43.00
2 x 10"	31.50	39.00	40.00	40.00	40.00	40.00	43.00	45.00
2 x 12"	32.50	40.00	41.00	41.00	41.00	41.00	43.00	45.00

Merchantable Piece Stuff

2 x 3" and 2 x 4"	$29.50	$37.00	$36.00	$36.00	$36.00	$37.00	$40.50	$42.50
2 x 6"	28.50	35.50	35.50	35.50	35.50	35.50	39.50	41.50
2 x 8"	29.50	36.00	36.00	36.00	36.00	36.00	40.50	42.50
2 x 10"	30.50	37.50	38.50	38.50	38.50	38.50	41.50	43.50
2 x 12"	30.50	37.50	38.50	38.50	38.50	38.50	41.50	43.50

No. 2 Piece Stuff

2 x 3" and 2 x 4"	$28.50	$36.00	$35.00	$35.00	$35.00	$36.00	$39.00	$41.00
2 x 6"	28.00	33.50	33.50	33.50	33.50	33.50	37.00	39.00
2 x 8"	28.50	34.50	34.50	34.50	34.50	34.50	38.00	40.00
2 x 10"	29.00	35.50	36.50	36.50	36.50	36.50	38.50	40.50
2 x 12"	29.00	35.50	36.50	36.50	36.50	36.50	38.50	40.50

No. 3 Piece Stuff

2 x 3" and 2 x 4"	$25.50	$33.00	$32.00	$32.00	$32.00	$33.00	$35.00	$37.00
2 x 6"	25.50	31.00	31.00	31.00	31.00	31.00	34.00	36.00
2 x 8"	25.50	32.00	32.00	32.00	32.00	32.00	35.00	37.00
2 x 10"	25.50	32.00	32.00	32.00	32.00	32.00	36.00	38.00
2 x 12"	25.50	32.00	32.00	32.00	32.00	32.00	36.00	38.00

No. 3 and Better Piece Stuff

2 x 4" and wider, 4' long								$23.00
2 x 4" and wider, 6' long								25.00

No. 4 Piece Stuff

2 x 3" and 2 x 4"	$22.00	$26.00	$24.00	$24.00	$24.00	$25.00		
2 x 6"	21.50	22.50	22.50	22.50	22.50	23.50		
2 x 8"	22.00	24.00	24.00	24.00	24.00	25.00		
2 x 10"	22.00	24.00	24.00	24.00	24.00	25.00		
2 x 12"	22.00	24.00	24.00	24.00	24.00	25.00		
2 x 4" and wider 4 ft. long								$19.00

No. 5 Piece Stuff

2 x 4" and wider 4 ft. and longer								$18.00

Additions and deductions per MBM to the prices in table 2

For working:
1. Crosscutting, one cut add $1.00. each additional cut add $1.00.
2. Ripping, one cut add $1.00. each additional cut add $1.00.
3. Resawing, one cut add $1.00. each additional cut add $1.00.
4. S2S and resawing, one cut add $2.00. each additional cut add $1.00.
5. S1S, S2S, S1E, S2E add $1.00.
6. S1S1E, S2S1E, S1S2E, S4S, D+M, Shiplap add $1.50.
7. Log siding, silo staves, well curbing add $5.00.
8. Drop siding, ceiling, fancy shiplap, grooved roofing or partition add $3.00.
9. Bundling add $1.00.

For length:
10. 7 ft. lengths: to 14 ft. price add $1.00.
11. 9 ft. lengths: price as 18 ft. lengths.
12. Odd or fractional lengths not otherwise listed: Price as and compute footage on next longer standard length.
13. Lengths longer than listed: For each 2 ft. or fraction thereof over longest length listed to the price of the longest listed length add $2.00.

For width:
14. Widths wider than listed: For each 2 in. or fraction thereof over 12 in. to the 12 in. price add $2.00.
15. Odd or fractional widths: Price as and compute footage on next wider standard width.
16. 2 x 2": to the price of 2 x 4" of the same length and grade add $1.00.

For thickness:
17. Dimension surfaced to 1 9/16", hit or miss: From the S4S price deduct $3.00.

For grade:
18. Special construction grade: to the price of No. 3 piece stuff of the same width and length add $2.00.
19. No. 2 and Better: price as merchantable of the same width and length.

NOTE: For random lengths use 14 ft. price.

TABLE 3—HEMLOCK PLANK AND TIMBERS

ROUGH

Merchantable

Thickness and width	Length			
	10'	12' to 16'	18' and 20'	22' and 24'
3 x 6	$39.00	$36.00	$41.00	$43.00
3 x 8	39.00	36.00	41.00	43.00
3 x 10	41.00	38.00	43.00	45.00
3 x 12	42.00	39.00	44.00	46.00
4 x 4	39.00	36.00	41.00	43.00
4 x 6	39.00	36.00	41.00	43.00
4 x 8	40.00	37.00	42.00	44.00
4 x 10	41.00	38.00	43.00	45.00
4 x 12	42.00	39.00	44.00	46.00
6 x 6	40.00	37.00	42.00	44.00
6 x 8	40.00	37.00	42.00	44.00
6 x 10	41.00	38.00	43.00	45.00
6 x 12	42.00	39.00	44.00	46.00
8 x 8	40.00	37.00	42.00	44.00
8 x 10	41.00	38.00	43.00	45.00
8 x 12	42.00	39.00	44.00	46.00
10 x 10	41.00	38.00	43.00	45.00
10 x 12	42.00	39.00	44.00	46.00
12 x 12	42.00	39.00	44.00	46.00

Additions and deductions per MBM to the prices in table 3

For working:
1. Crosscutting, one cut add $1.00. each additional cut add $1.00.
2. Ripping, one cut add $1.00. each additional cut add $1.00.
3. S1S, S2S, S1E, S2E, 3 in. thicknesses in all widths add $1.50.
4. S1S, S2S, S1E, S2E, 4 in. & thicker in widths up to and including 8 in. add $1.50.

Additions and deductions per MBM to the prices in table 3—Continued

For working—Continued.

5. S1S, S2S, S1E, S2E, 4 in. & thicker in widths greater than 8 in. add $2.00.
6. S1S1E, S2S1E, S2E1S, S4S, 3 in. and thicker in widths up to and including 8 in. add $2.00.
7. S1S1E, S2S1E, S2E1S, S4S, 4 in. and thicker in widths up to and including 8 in. add $2.00.
8. S1S1E, S2S1E, S2E1S, 4 in. and thicker in widths greater than 8 in. add $2.50.
9. D & M or shiplap, 3 in. thicknesses, all widths add $2.50.
10. S4S, D & M, or shiplap 4 in. and thicker in widths up to and including 8 in. add $2.50.
11. S4S, D & M, or shiplap 4 in. and thicker in widths greater than 8 in. add $3.00.

For length:

12. Odd or fractional lengths: Price as and compute footage on next longer standard length.
13. Lengths longer than listed: For each 2 ft. or fraction thereof over 24 ft. to the 24 ft. price add $2.00.

For width:

14. Odd or fractional widths: Compute footage and price as next wider standard width.
15. For widths wider than listed: For each 2 in. or fraction thereof over 12 in. add $2.00.

For thickness:

16. 2½ in. thick: Compute footage as 2½ in. and price as 3 in.
17. Thicknesses greater than listed: For each 2 in. or fraction thereof over 12 in. add $2.00.

For grade:

18. No. 1: To the merchantable price of the same thickness width and length add $3.00.
19. No. 2: From the merchantable price of the same thickness and length deduct $2.00.

TABLE 4—HEMLOCK LATH

PATENT SHEATHING LATH

Worked from—	No. 1	Merchantable	No. 2	No. 3
4" 4' and longer, mixed, bundled	40.50	39.50	40.50	37.50
6" 4' and longer, mixed, bundled	41.50	40.00	41.00	37.00

LATH (MAXIMUM PRICES PER 1,000 PIECES)

48" No. 1	6.15
48" No. 2	5.40
48" No. 1 Snow Fence ½ x 1½	9.00
48" No. 3	4.40
32" Merchantable	3.35

TABLE 5—ESTIMATED AVERAGE WEIGHTS FOR HEMLOCK LUMBER

	Lbs. per MBM
1 in. thick; rough, S1E, S2E	2,500
1 in. thick; S1S, S2S, S1S1E, S2S1E, S1S2E, S2S & resawn	2,000
1 in. thick; S4S, S2S & M, S2S & resawn 2 cuts, fancy shiplap, shiplap, log siding, grooved roofing, partition, ceiling, drop siding	1,800
1 in. thick; resaw 1 cut rough	2,300
1 in. thick; resaw 2 cuts rough	2,100
5/4, 6/4, 8/4 thicknesses; rough, S1E or S2E	2,500
5/4, 6/4, 8/4 thicknesses; S1S1E, S1S, S2S, S2S1E	2,200

TABLE 5—ESTIMATED AVERAGE WEIGHTS FOR HEMLOCK LUMBER—Continued

	Lbs. per MBM
5/4, 6/4, 8/4 thicknesses; S4S, D & M, S2S & M, shiplap, log siding, silo staves, well curbing, S2S & resaw	2,000
5/4, 6/4, 8/4 thicknesses; resaw 1 cut, rough	2,300
5/4, 6/4, 8/4 thicknesses; resaw 2 cuts, rough	2,100
5/4, 6/4, 8/4 thicknesses; S2S and resawn	2,000
10/4, 12/4 thicknesses; rough, S1E, S2E	3,000
10/4, 12/4 thicknesses; and 4 x 4 to 8 x 8, S1S1E, S1S2E, S1S, S2S, S2S1E	2,700
10/4, 12/4 thicknesses; and 4 x 4 to 8 x 8, S4S, D & M, shiplap	2,500
4 x 10 to 12 x 12, rough, S1E, S2E	3,500
4 x 10 to 12 x 12, S1S1E, S2S1E, S1S2E, S1S, S2S	3,200
4 x 10 to 12 x 12, S4S, SL, D & M	3,000
4 x 4 to 8 x 8, rough	3,000
Sheathing lath	1,500

	Lbs. per M pieces
Lath—48 in	500
Lath—32 in	350
Lath—Snow Fence 48"	700

Article VI—Appendix B: Pines, White Cedar, Eastern Spruce, and Aspen

The maximum prices f. o. b. mill per one thousand feet board measure of Northern white pine, Norway pine, Jack pine, Northern white cedar, Eastern spruce, or Aspen lumber shipped from mills located in Wisconsin, Michigan and Minnesota and the maximum prices f. o. b. Baudette, Minnesota, for such lumber shipped from mills located in Saskatchewan and Manitoba, and the maximum prices f. o. b. Ranier, Minnesota, for such lumber shipped from mills located in that part of the province of Ontario, west of the 85th meridian shall be as follows:

TABLE 6—NORTHERN WHITE PINE SELECTS

ROUGH

6' to 16' lengths	"B" and Better	"C"	"D"
1 x 4"	$85.00	$75.00	$60.00
x 5"	98.00	88.00	77.00
x 6"	90.00	80.00	62.00
x 8"	90.00	80.00	62.00
x 10"	98.00	88.00	77.00
x 12"	130.00	120.00	100.00
x 13" and wider	135.00	125.00	105.00
x 6" and wider	97.00	87.00	68.00
x 8" and wider	102.00	92.00	73.00
5/4 and 6/4 x 4"	123.50	108.50	83.50
x 5"	133.50	118.50	98.50
x 6"	123.50	108.50	83.50
x 8"	128.50	113.50	93.50
x 10"	133.50	118.50	98.50
x 12"	143.50	128.50	108.50
x 13" and wider	148.50	133.50	108.50
x 6" and wider	128.50	113.50	88.50
x 8" and wider	133.50	118.50	98.50
8/4 x 4"	128.50	113.50	88.50
x 5"	138.50	123.50	103.50
x 6"	128.50	113.50	88.50
x 8"	133.50	118.50	98.50
x 10"	138.50	123.50	103.50
x 12"	148.50	133.50	113.50
8/4 x 13" and wider	153.50	138.50	113.50
x 6" and wider	133.50	118.50	93.50
x 8" and wider	138.50	123.50	103.50
10/4 and 12/4 x 8" and wider	181.50	166.50	131.50
16/4 x 8" and wider	201.50	186.50	141.50

TABLE 6—NORTHERN WHITE PINE SELECTS—Continued

ROUGH—Continued

4' to 6' lengths	"D" and Better		
4/4 x 4" and wider	$48.00		
5/4 and 6/4 x 4" and wider	65.00		
8/4 x 4" and wider	70.00		
4' to 8' lengths (25% 8')	"D" and Better	"C" and Better	
4/4 x 4" and wider	$52.00	$61.00	
5/4 and 6/4 x 4" and wider	69.00	78.00	
8/4 x 4" and wider	74.00	83.00	

Additions and deductions per MBM to the prices in table 6

For working: see rules at the end of this appendix.

For length:

1. 8' to 14' specified lengths in widths of 4", 6", and 8"; no addition.
2. 8' to 14' specified lengths in widths of 10" or wider; add 5.00.
3. 16' lengths in widths of 4", 6", and 8"; add 5.00.
4. 16' lengths in widths of 10" and wider; no addition.

For condition:

5. Stained; deduct 5.00.

For other additions and deductions see rules at the end of this appendix.

TABLE 7—NORTHERN WHITE PINE BEVEL AND BUNGALOW SIDING

Width and Thickness	"B" and Better	"C" and Better	"C"	"D"	"E"
½ x 4"	$40.50	$39.00	$37.50	$27.50	$19.50
½ x 6"	45.50	44.50	43.50	33.50	26.50
½ x 8"	49.50	47.50	46.50	37.50	31.50
¾ x 8"	79.00	---	72.00	60.00	---
¾ x 10"	92.00	---	79.00	65.00	---
¾ x 12"	96.00	---	83.00	---	---

TABLE 8—NORTHERN WHITE PINE MOULDINGS

Maximum prices shall be the prices listed in the 4th edition of the 8000 series of the Standard Moulding Book published by Shattock and McKay Company of Chicago, Illinois, revised on March 1, 1940, less the following discounts:

Where list price is less than $2.00: 30% discount.

Where list price is $2.00 or more: 25% discount.

TABLE 9—NORTHERN WHITE PINE SHOP

ROUGH

Thickness	No. 1 6" & wider; 8' & longer	No. 2 6" & wider; 8' & longer	No. 3 4" & wider; 4' & longer
4/4 rough	$69.00	---	---
5/4 rough	91.50	$64.50	$48.50
6/4 rough	91.50	68.50	48.50
8/4 rough	96.50	73.50	53.50
10/4 rough	131.50	103.50	53.50
12/4 rough	131.50	103.50	53.50
16/4 rough	141.50	129.50	70.50

SHOP COMMON

Thickness	6" & wider; 8' to 16'	8" & wider; 8' to 16'
4/4 rough	$47.00	$52.00

TABLE 10—NORTHERN WHITE PINE THICK COMMON

ROUGH

5/4, 6/4, and 8/4 thicknesses; 8' to 16' lengths

	4"	6"	8"	10"	12"	13" & wider	6" & wider
No. 1 Common	$68.50	$66.50	$66.50	$79.50	$100.50	$105.50	$77.50
No. 2 Common	62.50	60.50	60.50	62.50	69.50	79.50	62.50
No. 3 Common	47.50	48.50	48.50	49.50	50.50	52.50	48.50

No. 1, 2, & 3 Common—4 to 6' lengths—$43.50.

10/4 and 12/4 thicknesses; 8' to 16' lengths

No. 1 Common	$80.50	$80.50	$80.50	$85.50	$109.50	$81.50	$86.50
No. 2 Common	62.50	62.50	62.50	65.50	68.50	62.50	65.50
No. 3 Common	48.50	48.50	48.50	49.50	52.50	47.50	49.50

Additions and deductions per MBM to the prices in table 10.

For Length:

1. Specified lengths 8' to 14', add $5.00.
2. Specified lengths 16', add $2.00.

TABLE 11—NORTHERN WHITE PINE LATH

[Maximum Prices per 1,000 Pieces]

	Length	
No. 1	4'	$7.25
No. 1	32"	4.00
No. 2	4'	6.75
Merchantable	32"	3.75
No. 3 (mixed woods)	4'	5.25
No. 1 Snow Fence (White Pine or Spruce) ½ x 1½	4'	9.50
No. 1 Snow Fence (Mixed Woods) ½ x 1½	4'	9.00

TABLE 12—NORTHERN WHITE PINE BOARDS

ROUGH

No. 1 Common

[For Norway pine see notes 1, 2, 3 and 4. For Jack pine see notes 5, 6 and 7.]

Thickness and width	6'	8'	10'	12'	14'	16'	6 to 16'
1 x 4" rough	$46.00	$58.00	$58.00	$58.00	$58.00	$60.00	$58.00
6" rough	46.00	56.00	56.00	56.00	56.00	58.00	56.00
8" rough	46.00	56.00	58.00	58.00	56.00	56.00	56.00
10" rough	56.00	66.00	68.00	68.00	66.00	66.00	66.00
12" rough	81.00	87.00	89.00	89.00	87.00	87.00	87.00
13" & wider rough	86.00	92.00	94.00	94.00	92.00	92.00	92.00

No. 2 Common

1 x 4" rough	$44.00	$55.00	$55.00	$55.00	$55.00	$57.00	$55.00
6" rough	44.00	51.00	51.00	51.00	51.00	53.00	51.00
8" rough	44.00	51.00	53.00	53.00	51.00	51.00	51.00
10" rough	50.00	54.00	56.00	56.00	54.00	54.00	54.00
12" rough	56.00	61.00	63.00	63.00	61.00	61.00	61.00
13" & wider rough	60.00	65.00	67.00	67.00	65.00	65.00	65.00

No. 3 Common

1 x 4" rough	$35.00	$42.00	$42.00	$42.00	$42.00	$44.00	$42.00
6" rough	37.00	45.00	45.00	45.00	45.00	47.00	45.00
8" rough	38.00	45.00	47.00	47.00	45.00	45.00	45.00
10" rough	38.50	45.50	47.50	47.50	45.50	45.50	45.50
12" rough	42.00	47.00	49.00	49.00	47.00	47.00	47.00
13" & wider rough	43.00	48.00	50.00	50.00	48.00	48.00	48.00

No. 3 Common and Better

(No. 1, No. 2, and No 3 Common Not Over 50% No. 3 Common)

4' to 6' lengths

Random widths $40.50.

Additions and deductions per MBM to the prices in table 12

For Norway:

1. No. 1 Common; Price as No. 1 Common White pine.
2. No. 2 Common; From the price of No. 2 Common White pine deduct $2.00.

Additions and deductions per MBM to the prices in table 12—Continued

For Norway—Continued.

3. No. 3 Common; From the price of No. 3 Common White pine deduct $1.00.
4. No. 1, 2 & 3 Common; From the price of No. 1, 2 & 3 Common White pine deduct $1.00.

For Jack Pine:

5. No. 1 Common; From the price of No. 1 Common White pine deduct $2.00.
6. No. 2 Common; From the price of No. 2 Common White pine deduct $3.00.

Additions and deductions per MBM to the prices in table 12—Continued

For Jack Pine—Continued.

7. No. 3 Common; From the price of No. 3 Common White pine deduct $3.00.

For working: see rules at the end of this appendix.

For length:

8. 18' and 20' lengths in widths of 4" and 6"; price as 16 ft. lengths.
9. 18' and 20' lengths in widths of 8", 10", & 12"; to the 16 ft. price add $2.00.

For thickness:

10. 5/4 and 6/4 Norway; To the price of 4/4" Norway add $4.00.

For selection:

11. 1" x 6" Fence or Gate Boards; to the price of the same species, grade, and length add $2.00.
12. 1" x 5" Fence or Gate Boards; to the price of 1" x 10" boards in same species, grade, and length add $1.00.

TABLE 13.—MIXED NORTHERN SOFTWOODS COMMON BOARDS

[Box or crating]

ROUGH

6' and Longer	No. 4 Common	No. 5 Common
1 x 4"	$36.00	$28.00
6"	37.00	29.00
8"	38.00	31.00
10"	38.00	31.00
12"	38.00	31.00
12" and wider	39.00	32.00
1 x 4" and wider	37.00	30.00
1 x 6" and wider	37.50	30.50
5/4, 6/4 and 8/4 x 4" and wider	38.50	31.50
4' and Longer		**No. 6 Common**
1 x 4" and wider		$16.00
1 x 6" and wider		17.00

Additions and deductions per MBM to the prices in table 13

For length:

1. Specified lengths, in ¼ thickness; add $1.00.
2. Specified lengths, in 5/4, 6/4, and 8/4 thicknesses; add $2.00
3. All 6 ft. and 8 ft. lengths; deduct $2.00.
4. 4 ft. and longer No. 4 and No. 5 Common; deduct $1.00.
5. 10 ft. and longer No. 4 and No. 5 Common; add $1.00.
6. All 4 ft. to 8 ft. lengths; deduct $3.00.

For width:

7. Specified widths, in 5/4, 6/4, and 8/4 thicknesses; add $3.00.

For selection:

8. Barky crating strips; to the price of No. 5 Common; add $2.00.
9. All White Pine No. 4 and No. 5 Common; add $1.00.

For grade:

10. Jack Pine No. 4 Common and better: (60% No. 3 Common): to the price of No. 4 Common; add $3.00.

TABLE 14—NORTHERN PINE THIN BOARDS

[S1S, S2S, or S4S, or Shiplap; Hit or Miss to 11/16"]

8 to 16' Lengths	No. 2 Common	No. 3 Common	No. 4 Common
11/16" x 6" to 12"	$45.00	$37.00	*Mixed softwoods* $31.00

Note: No. 4 Common (mixed softwoods) may include Jack Pine.

TABLE 15—MIXED NORTHERN SOFTWOODS DIMENSION

[White Pine, Norway Pine, Eastern Spruce and Jack Pine]

No. 1

Thickness and width	Length							
	6'	8'	10'	12'	14'	16'	18' to 20'	22' to 24'
2 x 4"	$33.50	$41.00	$40.00	$40.00	$40.00	$41.00	44.00	$46.00
6"	32.50	39.00	39.00	39.00	39.00	39.00	44.00	46.00
8"	33.50	40.00	40.00	40.00	40.00	40.00	44.00	46.00
10"	34.50	43.00	43.00	43.00	43.00	43.00	46.00	48.00
12"	35.50	44.00	44.00	44.00	44.00	44.00	46.00	48.00

Additions and deductions per MBM to the prices in table 15

For length:

1. Random lengths 8' to 16'; price as 14' lengths.

For thickness:

2. Dimension surfaced to 1⅝" Hit or Miss; From the price of the same size, species and grade S4S deduct $3.00.

For grade:

3. Select Common; to the price of No. 1 Common add $5.00.
4. Merchantable; from the price of No. 1 Common deduct $1.00.
5. No. 2; from the price of No. 1 Common deduct $2.00.
6. No. 3; from the price of No. 1 Common deduct $6.00.

For selection:

7. All White Pine; to the price of the same grade and size add $5.00.
8. All Norway Pine; to the price of the same grade and size add $1.50.

For other additions and deductions see the rules at the end of this appendix.

TABLE 16—MIXED NORTHERN SOFTWOODS PLANK AND TIMBERS

[Norway Pine, Eastern Spruce, and Jack Pine]

ROUGH

No. 1

Thickness and width	Length	
	10' to 16'	18' to 24'
3 x 6 and 8"	$39.00	$41.00
3 x 10"	40.00	42.00
3 x 12"	40.00	42.00
4 x 4" to 8 x 8"	39.00	41.00
4 x 10" to 10 x 10"	41.00	43.00
4 x 12" to 12 x 12"	41.00	44.00
3 x 14" and larger	42.00	45.00

Additions and deductions per MBM to the prices in table 16

For grade:

1. Select common add $6.00.

For thickness:

2. 2½" thick; compute footage as 2½" and price as 3".

TABLE 17—NORWAY PINE SELECTS

ROUGH

	"C" and better	"D"
10' to 20' lengths:		
1 x 4"	$61.00	$52.00
5"	74.00	61.00
6"	66.00	54.00
8"	66.00	56.00
10"	74.00	61.00
12"	82.00	76.00
1 x 4" and wider	67.00	59.00
10' to 16' lengths:		
5/4 x 4" & wider	73.50	59.50
6/4 x 4" & wider	75.50	59.50
8/4 x 4" & wider	72.50	61.50
18' to 24' lengths:		
5/4 x 4" & wider	78.50	59.50
6/4 x 4" & wider	80.50	59.50
8/4 x 4" & wider	77.50	61.50

Additions and deductions per MBM to the prices in table 17

For Length:

1. Specified lengths; to the price of the same grade add $5.00.
2. 6 ft. and 8 ft. lengths, 1 x 4 and wider, D & Better; from the price of 10 ft. to 20 ft. deduct $5.00.
3. 4' lengths, 1 x 3 and wider, D & Better; from the price of 10 ft. to 20 ft. deduct $15.00.

For Width:

4. Specified widths (5/4 and thicker) to price of the same grade add $5.00.

For Condition:

5. Stained; from the price of the same size deduct $5.00.

TABLE 18—NORWAY PINE BEVEL SIDING

	C and better
½ x 4"	$29.50
½ x 6"	36.50

TABLE 19—EASTERN SPRUCE BOARDS

	No. 3 common and better
6' to 16' Lengths (rough):	
1 x 4"	$43.00
1 x 6"	46.00
1 x 8"	46.00
1 x 10"	47.00
1 x 12"	55.00
4" & wider	42.00

Additions and deductions per MBM to the prices in table 19

For length:

1. Specified lengths; to the price of the same size add $2.00.

For thickness:

2. 5/4, 6/4 and 8/4; to the price of the same size add $4.00.

For grade:

3. No. 2 Common and better; to the price of No. 3 Common and better add $2.00.
4. No. 3 Common; from the price of No. 3 Common and better deduct $2.00.

NOTE: Barky crating strips; see table 13.

TABLE 20—WHITE CEDAR BOARDS

ROUGH

1 x 4" and wider—8' and longer:	
Shop and Better	$123.00
No. 4 Boards	33.00
No. 5 Boards	26.00

TABLE 21—WHITE CEDAR SHINGLES

	Prices per square
Extra "A"	$3.60
Standard	3.05
Sound Butt	2.30

TABLE 22—ASPEN

ROUGH

	No. 4 and better	No. 5
4/4, 5/4, and 6/4 x 3 and wider random length	$35.00	$25.00
8/4 x 3 and wider random length	34.00	24.00

Additions and deductions per M. B. M. to the prices of table 22

For working: see rules at the end of this appendix.

For length:

1. All 8 ft. and shorter; deduct $2.00.
2. All 100 in. scaled 8 ft.; deduct $1.00.

Additions and deductions per M. B. M. to the tables of this appendix for working, size, condition and selection, for which no price is otherwise provided:

		4/4 to 8/4	10/4 to 12/4	Thicker
For working:				
1. Crosscutting, per cut	add	$1.00	$1.00	$1.00
2. Ripping, per cut	add	1.00	1.00	1.00
3. Resaw, 1 cut rough	add	1.00	1.00	1.00
4. Resaw, 2 cuts rough	add	2.00	2.00	2.00
5. S2S and resaw	add	2.00		
6. S2S and resaw, 2 cuts	add	3.00		
7. S1E, S2E	add	1.00	1.00	1.50
8. S1S, S2S	add	1.00	1.50	1.50
9. S1S1E, S2S1E, S1S2E	add	1.50	2.50	2.50
10. S4S	add	1.50	3.00	3.00
11. Shiplap, D&M, S2S&M	add	1.50	3.50	3.50
12. Log siding	add	5.00	5.00	5.00
13. Drop siding, ceiling, partition, grooved roofing, fancy shiplap	add	2.00	2.00	2.00
14. Silo staves	add		5.00	
15. Well curbing	add	5.00	5.00	
16. Casing, jambs, pulley stiles, base, sillstock	add	5.00	5.00	
17. Bundling	add	1.00	1.00	1.00

For length:

18. Lengths longer than listed; for each 2 ft. or fraction thereof over longest length listed: to the price of the longest listed length add $2.00.
19. Odd or fractional lengths not listed; price and compute footage as next longer standard length.

For width:

20. Widths narrower than listed; to the price of the width from which it is ripped: add the ripping charge.
21. Odd or fractional widths not listed; price and compute footage on next wider standard width.
22. Widths wider than listed; for each 2" or fraction thereof over the widest width listed add $2.00.

For kiln drying:

23. Kiln drying the lumber to a moisture content not exceeding 7% as of the time the lumber leaves the kiln.
    ½", ⅝" and ¾" thicknesses, add $5.00.
    1" thick, add $6.00.
    1¼" thick, add $7.00.
    1½" thick, add $8.00.
    2" thick, add $9.00.
    2½" thick, add $11.00.
    3" thick, add $13.00.
24. Inspecting, grading and measuring after kiln drying to a moisture content not exceeding 7%; add 5% of the f. o. b. mill price of the lumber in a rough air dried condition. (This addition may be made only when the seller performs all three of these services at the request of the purchaser, after kiln drying.)

TABLE 23—ESTIMATED AVERAGE WEIGHTS

[Pounds per M. B. M.]

	Thickness	White Pine	Spruce	Norway and mixed softwoods	White Cedar	Jack Pine	Aspen
Rough	4/4	2,400	2,400	2,500	2,200	2,500	2,800
	5/4 to 8/4	2,500	2,500	2,600		2,600	3,000
	10/4 and thicker	2,500	3,000	3,200		3,200	3,000
S1E, S2E	4/4	2,400	2,400	2,500	2,200	2,500	2,800
	5/4 to 8/4	2,500	2,500	2,600		2,600	3,000
	10/4 and thicker	2,500	3,000	3,200		3,200	3,000
S1S, S2S, S3S	4/4	1,900	1,900	2,000	1,900	2,000	2,300
	5/4 to 8/4	2,200	2,200	2,300		2,200	2,500
	10/4 and thicker	2,200	2,400	2,700		2,700	2,500
S4S, D&M, S&SL, log siding, drop siding, ceiling, silo staves, well curbing, partition, gr. roofing, fancy s. l.	4/4	1,800	1,800	1,900		1,900	2,200
	5/5 to 8/4	2,000	1,900	2,100		2,100	
	10/4 and thicker	2,000	2,400	2,700		2,700	
Resawn, 1 cut rough	4/4	2,200	2,200	2,300	2,000	2,300	2,600
	5/4 to 8/4	2,300	2,300	2,400		2,400	2,800
	10/4 and thicker	2,300	2,800	3,000			
Resawn, 2 cuts rough	4/4	2,000	2,000	2,100	1,800	2,100	2,400
	5/4 to 8/4	2,100	2,100	2,200		2,200	2,600
	10/4 and thicker	2,100	2,600	2,800		2,800	2,600
S2S & resawn 1 cut	4/4	1,800	1,800	2,000	1,600	2,000	2,100
	5/4 to 8/4	2,000	2,000	2,100		2,100	2,300
	10/4 and thicker						
S2S & resawn 2 cuts	4/4	1,700	1,700	1,800	1,500	1,800	1,900
	5/4 to 8/4	1,800	1,800	1,900		1,900	2,100
	10/4 and thicker						
Bevel siding	3/4	1,100		1,150			
Bevel siding	1/2	800		850			
	Pounds per M pcs.						
Lath 48 inches		500					
Lath 32 inches		350					
Snow Fence Lath 4'		700					
	Pounds per square						
Shingles					180		

Article VII—Appendix C; Canadian Western White Spruce

The maximum prices f. o. b. Spokane, Washington, per one thousand feet board measure of imported Western white spruce lumber shipped from mills located in British Columbia, and Alberta, and the maximum prices f. o. b. Baudette, Minnesota, for such lumber shipped from mills located in Saskatchewan and Manitoba shall be as follows:

TABLE 24—WESTERN WHITE SPRUCE SELECTS AND BOARDS

ROUGH

Thickness and width	Length	"D" and Better	No. 2 Common	No. 3 Common	No. 4 Common	No. 5 Common
1 x 4"	6' to 16'	$43.75	$32.75	$29.75	$23.75	$21.75
1 x 6"	6' to 16'	46.75	34.75	32.75	26.75	23.75
1 x 8"	6' to 16'	49.75	34.75	32.75	26.75	23.75
1 x 10"	6' to 16'	52.75	35.75	32.75	26.75	23.75
1 x 12"	6' to 16'	69.75	43.25	33.75	27.75	23.75
1 x 4" and wider R/L					26.00	23.25
1 x 6" and wider R/L					26.75	23.75

Additions and deductions per MBM to the prices in table 24—Shipped from mills located in British Columbia and Alberta.

For length:

1. R. L. 8 ft. to 16 ft., D & Better; to the price of the same size add $2.00.
2. R. L. 8 ft. to 16 ft., No. 2 & No. 3 Common, no addition.
3. R. L. 8 ft. to 16 ft., No. 4 & No. 5 Common; to the price of the same size add $1.00.
4. Specified length 8 ft. to 16 ft. D & Better; to the price of the same size add $3.00.
5. Specified length 8 ft. to 16 ft. No. 2 & No. 3 Common; to the price of the same size add $1.00.
6. Specified length 8 ft. to 16 ft. No. 4 & No. 5 Common; to the price of the same size add $2.00.
7. Specified length 16 ft. to 20 ft. D & Better; to the price of the same size add $5.00.

Additions and deductions per MBM to the prices in table 24—Shipped from mills located in British Columbia and Alberta.—Continued.

For length—Continued.

8. Specified length 18 ft. to 20 ft. No. 2 Common; to the price of the same size add $3.00.
9. Specified length 18 ft. to 20 ft. No. 3, No. 4, No. 5 Common; to the price of the same size add $2.00.
10. R. L. 10 ft. & longer No. 2 & No. 3 Common; to the price of the same size add $1.00.
11. R. L. 10 ft. & longer D & Better; to the price of the same size add $2.00.
12. R. L. 10 ft. & longer No. 4 & No. 5 Common; to the price of the same size add $1.00.
13. All 6 ft. lengths D & Better; from the price of the same size deduct $5.00.
14. All 6 ft. lengths No. 1 to No. 5 Common; from the price of the same size and grade deduct $1.50.

Additions and deductions per MBM to the prices in table 24—Shipped from mills located in British Columbia and Alberta.—Continued.

For thickness:

15. 5/4, 6/4 & 8/4 thickness; to the price of the same width and length add $4.00.
16. 6/4 heavy cut; to the price of the same width and length add $5.75.

For grade:

17. No. 4 and better (35% to be No. 3 and better); to the price of No. 4 add $2.00.
18. Barky crating strips; to the price of No. 5 Common add $2.00.

The following applies to Western White Spruce Selects and boards—rough shipped from mills located in Manitoba and Saskatchewan:

19. To the prices for sizes, grades, and items in table 24 add $9.00.
20. Length additions and deductions shall be those above (rules 1 to 14).
21. 5/4 and 6/4 thickness; to the price of 4/4 of the same width and length add $5.00.
22. 6/4 heavy cut; to the price of 4/4 of the same width, length and grade add $6.25.
23. No. 4 and better (35% to be No. 3 and better); to the price of 4/4 No. 4 of the same width, length and grade add $2.00.
24. Barky crating strips; to the price of No. 5 Common add $2.00.

TABLE 25—WESTERN WHITE SPRUCE DIMENSION

ROUGH. No. 1

Thickness and Width (Rough)	Length 6'	8'	10'-12'-14'	16'	18/20'	22/24'
2 x 4"	$21.75	$29.25	$28.25	$29.25	$32.25	$34.25
2 x 6"	20.75	27.25	27.25	28.75	32.25	34.25
2 x 8"	21.75	28.25	28.25	28.25	32.25	34.25
2 x 10"	22.75	31.25	31.25	31.25	34.25	36.25
2 x 12"	23.75	32.25	32.25	32.25	34.25	36.25

Additions and deductions per MBM to the prices in table 25—Shipped from mills located in British Columbia and Alberta

For length:

1. Random length 8 to 16 ft.; price as 14 ft. lengths.

For thickness:

2. Dimension dressed to 1$^{9}/_{16}$" Hit or Miss; from the price of the same width and length S4S deduct $3.00.
3. Dimension dressed $^{1}/_{4}$" scant; to the price of the same width and length, add $2.00.

For grade:

4. Select Common, 4", 6" & 8" widths; to the price of the same length, add $6.00.
5. Select Common 10" & 12" widths; to the price of the same length, add $7.00.
6. No. 2 Common & Better (35% #1); from the price of No. 1 of the same width and length, deduct $2.00.
7. No. 2, 4", 6" & 8" widths; from the price of No. 1 of the same length, deduct $3.00.
8. No. 2, 10" & 12" widths; from the price of No. 1 of the same length, deduct $4.00.
9. No. 3; from the price of No. 1 of the same width and length, deduct $7.00.

The following applies to Western White Spruce Dimension shipped from mills located in Manitoba and Saskatchewan:

10. To the prices in table 25, add $10.00.
11. Lengths, thickness, and grade additions and deductions shall be those above (rules 1 to 9 inclusive).

TABLE 26—WESTERN WHITE SPRUCE PLANK AND TIMBERS

ROUGH—No. 1

Thickness and width	Length	
	8 to 16'	18 to 24'
3 x 6 and 8"	$25.00	$27.00
3 x 10"	26.00	28.00
3 x 12"	26.00	28.00
4 x 4" to 8 x 8"	25.00	27.00
4 x 10" to 10 x 10"	27.00	28.00
4 x 12" to 12 x 12"	27.00	30.00
3 x 14" and larger	28.00	31.00

Additions and deductions per MBM to the prices in table 26—Shipped from mills located in British Columbia and Alberta

For thickness:

1. 2½" thick: Compute footage as 2½" and price as 3".

For grade:

2. Select Common: to the price of No. 1 add $6.00.

The following applies to Western White Spruce Plank and Timbers shipped from mills located in Manitoba and Saskatchewan:

3. To the prices for sizes, grades and items in table 26 add $11.00.

4. Thickness and grade deductions shall be those above, (Rule 1 and 2).

Additions and deductions per MBM to the tables of this appendix for working, condition and selection for which no price is otherwise provided

	4/4	5/4 to 8/4	10/4 and thicker
For working:			
1. Crosscutting, per cut—add	$1.00	$1.00	$1.00
2. Ripping, per cut—add	1.00	1.00	1.00
3. Resawing rough, 1 cut—add	1.00	1.00	1.00
4. Resawing rough, 2 cuts—add	2.00	2.00	2.00
5. S2S and resawing, 1 cut—add	2.50	2.50	2.50
6. S2S and resawing, 2 cuts—add	3.50	3.50	3.50
7. Resawing and S2S—add	3.50	3.50	3.50
8. S1E, S2E, S1S, S2S—add	1.50	1.50	1.50
9. S3S—add	1.50	1.50	2.50
10. S4S—add	1.50	1.50	3.00
11. D&M, D&SL—add	1.50	3.00	3.00
12. Logsiding, standard casing, jambs, pulley stiles, sillstock, base, and similar patterns—add	5.00	5.00	5.00
13. Drop siding, ceiling, partition, grooved roofing, fancy shiplap—add	2.00		
14. Bundling—add	1.00	1.00	1.00

For length:

15. Lengths longer than listed; for each 2 ft. or fraction thereof over longest length listed; to the price of the longest listed length add $2.00.
16. Odd or fractional lengths not listed; price and compute footage as next longer standard length.

For width:

17. Widths narrower than listed; to the price from which it is ripped add the ripping charge.
18. Odd or fractional lengths not listed; price and compute footage on next wider standard width.
19. Widths wider than listed; for each 2 inches or fraction thereof over the widest width listed add $2.00.
20. Boards surfaced wider than standard, but not up to full nominal; to the standard surfaced price add $1.00.

For thickness:

21. Dimension surfaced ¼" scant (thickness only); to standard surfaced price add $1.00.
22. Boards surfaced to 13/16"; to standard surfaced price add $1.00.
23. Boards surfaced to ⅞" hit or miss; to standard surfaced price add $1.00.

TABLE 27—ESTIMATED WEIGHTS

Western White Spruce	Lbs. per M. B. M.		
	4/4	5/4 to 8/4	10/4 and thicker
Rough	2,400	2,500	3,000
S1E, S2E	2,400	2,500	3,000
S1S, S2S, S3S	1,900	2,200	2,400
S4S, D&M, S&L, log siding, drop siding, ceiling, partition, silo staves well curbing, grooved roofing, fancy shiplap	1,800	1,900	2,400
Resawn 1 cut rough	2,200	2,300	2,800
Resawn 2 cuts rough	2,000	2,100	2,600
S2S & Resawn 1 cut	1,800	2,000	
S2S & Resawn 2 cuts	1,700	1,800	

NOTE: All reporting and record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date

This regulation shall become effective June 22, 1943, except that:

(a) If lumber has been received before June 22, 1943, by a carrier other than one owned or controlled by the seller, for shipment to a buyer, that shipment is not subject to this Revised Regulation. It remains subject to the terms of the earlier regulation, Maximum Price Regulation 222.

(b) If this regulation lowers any maximum price below that fixed in the earlier regulations, contracts that were in existence before the date of issuance of this Revised Regulation at lawful prices may be completed according to their terms, if delivery is made on or before August 1, 1943.

NOTE: The mere fact that this revised regulation increases some maximum prices does not of itself allow any seller to apply the higher prices to existing uncompleted contracts without the consent of the buyer. The regulation permits the making of certain adjustable pricing agreements to cover such situations. Apart from that, increasing prices in existing uncompleted contracts to the level of increased maximum prices in the regulation is purely a matter of agreement between buyer and seller.)

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9762; Filed, June 16, 1943; 4:44 p. m.]

PART 1436—PLASTIC AND SYNTHETIC RESINS

[MPR 406]

SYNTHETIC RESINS AND PLASTIC MATERIALS

A statement of considerations involved in the issuance of this regulation has been issued simultaneously herewith and filed with the Division of the Federal Register.*

§ 1436.51 *Maximum prices for synthetic resins and plastic materials.* Under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order 9250 and 9328, Maximum Price Regulation No. 406 (Synthetic Resins and Plastic Materials) which is annexed hereto and made a part hereof, is hereby issued.

AUTHORITY: § 1436.51 issued under Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681.

MAXIMUM PRICE REGULATION 406—SYNTHETIC RESINS AND PLASTIC MATERIALS

ARTICLE I—PROHIBITIONS AND SCOPE OF REGULATION

Sec.

1. Prohibition against dealing in synthetic resins or plastic materials above maximum prices.
2. Less than maximum prices.
3. Relationship of this to other maximum price regulations.
4. Geographical applicability.

ARTICLE II—MAXIMUM PRICES AND TERMS OF SALE

5. Maximum prices for synthetic resins and plastic materials which are the same as products delivered prior to June 22, 1943.
6. Maximum prices for synthetic resins and plastic materials which are "nearly the same" as products for which maximum prices have already been established.
7. Maximum prices for synthetic resins and plastic materials which are "related" to products for which maximum prices have already been established.
8. Maximum prices for "nearly related" synthetic resins and plastic materials.
9. Exclusion of "experimental" synthetic resins and plastic materials.
10. Maximum prices for synthetic resins and plastic materials which are not subject to sections 5, 6, 7, 8, or 9.
11. Fractions of a cent in establishing maximum prices under sections 7, 8, and 10.
12. Discounts, allowances, and containers.
13. Special treatment for certain increases and reductions in cost.

ARTICLE III—MISCELLANEOUS

14. Records and reports.
15. Evasion.
16. Enforcement.
17. Definitions.
18. Petitions for amendment.

Appendix A: Report form.

ARTICLE I—PROHIBITIONS AND SCOPE OF REGULATION

SECTION 1. *Prohibition against dealing in synthetic resins or plastic materials above maximum prices.* On or after June 22, 1943, regardless of any contract or other obligation;

*Copies may be obtained from the Office of Price Administration.

No manufacturer shall sell or deliver any synthetic resin or plastic material at a price higher than the maximum price established by this regulation;

No person in the course of trade or business shall buy or receive any synthetic resin or plastic material at a price higher than the maximum price established by this regulation: *Provided, however,* That such a buyer shall be deemed to have complied with this paragraph if, prior to payment by him, he obtains from the seller a written statement that to the best of the seller's knowledge the price does not exceed the maximum price established by this regulation, and if the buyer has no reason to doubt the truth of this statement;

No person shall agree to, offer to do, or attempt any of the foregoing prohibited acts.

SEC. 2. *Less than maximum prices.* Lower prices than those established by this regulation may be charged, demanded, paid, or offered.

SEC. 3. *Relationship of this to other maximum price regulations*—(a) *General Maximum Price Regulation.*[1] The provisions of this regulation supersede the provisions of the General Maximum Price Regulation with respect to sales and deliveries for which maximum prices are established by this regulation, except as otherwise specifically provided in this regulation.

(b) *Sales to United States Agencies (Revised Supplementary Regulation No. 1*[2] *applicable.* The exceptions to the General Maximum Price Regulation set forth in Article IV, Revised Supplementary Regulation No. 1, for certain sales and deliveries shall also constitute exceptions to this regulation insofar as the commodities and transactions there excepted would otherwise have been subject to this regulation.

(c) *Imports (Revised Supplementary Regulation No. 12*[3] *applicable).* The provisions of this regulation do not apply to the purchases, sales or deliveries of the commodities named in this regulation if they originate outside of and are imported into the continental United States. Sales, purchases and deliveries of such imported commodities are governed by the provisions of the General Maximum Price Regulation, and especially Revised Supplementary Regulation No. 12.

(d) *Exports (Second Revised Maximum Export Price Regulation*[4] *applicable).* The maximum prices at which a person may export synthetic resins and plastic materials shall be determined in accordance with the provisions of the Second Revised Maximum Export Price Regulation.

(e) *Natural resins (Maximum Price Regulation No. 297*[5] *applicable).* This regulation does not establish maximum prices for any commodity for which maximum prices are established by Maximum Price Regulation No. 297—Natural Resins.

SEC. 4. *Geographical applicability.* The provisions of this regulation shall be applicable to the forty-eight states of the United States and the District of Columbia.

Article II—Maximum Prices and Terms of Sale

SEC. 5. *Maximum prices for synthetic resins and plastic materials which are the same as products delivered prior to June 22, 1943.* The maximum price for any synthetic resin or plastic material which is the same as a synthetic resin or plastic material for which the seller has established a maximum price in accordance with the General Maximum Price Regulation and made a delivery thereof prior to June 22, 1943, shall be the maximum price so established.

SEC. 6. *Maximum prices for synthetic resins and plastic materials which are "nearly the same" as products for which maximum prices have already been established*—(a) *Definition.* A synthetic resin or plastic material which is newly offered for sale is "nearly the same" as another if:

(1) It is produced by the same manufacturer

(2) By substantially the same process,

(3) Has the same general use and serviceability, and

(4) Varies not more than 2 per cent in total direct cost from the total direct cost of the product with which it is being compared. Total direct cost shall be computed by the method provided in section 7.

Slight differences in shape, dimension, or composition shall not prevent a product from being "nearly the same" as another.

(b) *Maximum prices.* The maximum price of any "nearly the same" synthetic resin or plastic material shall be the maximum price, to buyers of the same class, of the synthetic resin or plastic material with which the product is compared under section 6 (a) above.

SEC. 7. *Maximum prices for synthetic resins and plastic materials which are "related" to products for which maximum prices have already been established*—(a) *Definition.* A synthetic resin or plastic material which is newly offered for sale is "related" to another if

(1) It is produced by the same manufacturer

(2) By substantially the same process,

(3) Has the same general use and serviceability,

(4) Varies more than 2 per cent but not more than 25 per cent in total direct cost from the total direct cost of the product with which it is being compared; and

(5) *Provided,* That it shall not be compared with a product for which a maximum price has been established under § 1499.2 (b) (2) of the General Maximum Price Regulation.

If two or more products could be chosen under the foregoing for purposes of comparison with the "related" product, then the one to be used shall be the one with total direct cost nearest to total direct cost of the "related product."

(b) *Maximum prices.* The maximum price of any "related" synthetic resin or plastic material shall be the lesser of (1) the maximum price, or (2) the selling price in effect at the time of determining a maximum price hereunder to buyers of the same class, of the product selected for comparison under section 7 (a), adjusted by adding thereto or subtracting therefrom, as the case may be, the difference in the total direct cost between the "related" product being priced and the product chosen for comparison.

(c) *Definition of total direct cost.* "Total direct cost" shall mean the sum of the per unit direct labor and material cost of a synthetic resin or plastic material, computed on the basis of the following wage rates, material prices, and operating conditions:

(1) *Wage rates.* The applicable wage rate shall be no higher than the average wage rate in effect in the manufacturer's plant at the time of determining a maximum price hereunder for each class of labor involved in the production of a synthetic resin or plastic material: *Provided,* That no wage rates subject to War Labor Board approval but not so approved shall be recognized in this computation.

(2) *Material costs.* The cost of any material used in a synthetic resin or plastic material shall be calculated as follows:

(i) If the manufacturer purchases such material, the lower of the following shall be taken:

(a) The maximum delivered price for the sale of the material to the manufacturer by his supplier, or

(b) Actual delivered purchase price.

(ii) If the manufacturer himself produces a raw material which enters into the cost of the product to be priced hereunder, he shall use as the cost thereof the lowest price he charges f. o. b. his plant for such raw material on sales to other manufacturers of synthetic resins or plastic materials, or, in the absence of such sales, the lowest price f. o. b. supplier's plant he would have to pay for such raw material if he purchased it from another supplier.

(3) *Operating conditions.* Using the wage rates and material prices determined under (1) and (2), the manufacturer shall compute the cost per unit of direct labor and materials on the basis of actual volume of production in the case of a product used for comparison, and upon the basis of contemplated volume of production in the case of a product for which a maximum price is being determined hereunder.

(4) *Unusual development and manufacturing costs.* A manufacturer may submit in Appendix A, item A6 and the Administrator shall consider, unusual development and manufacturing costs to which the manufacturer is subject in producing a newly offered product. Such costs may be allowed wholly or in part in the computation of total direct costs when, in the Administrator's opinion, failure to so allow would impose a substantial hardship on the manufacturer.

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[1] 8 F.R. 3096, 3849, 4347, 4486, 4724, 4978, 4848, 6047, 6962.

[2] 8 F.R. 4978, 6055, 6363, 6547, 6615, 6852, 6964, 7261, 7270, 7349.

[3] 7 F.R. 10532; 8 F.R. 611, 2035.

[4] 8 F.R. 4135, 5987.

[5] 8 F.R. 263.

(d) *Reports and adjustments of maximum prices.* Before offering a "related" synthetic resin or plastic material for which a maximum price must be determined under this section, the manufacturer shall report its costs and proposed maximum price to the Office of Price Administration, Chemicals and Drugs Price Branch, Washington, D. C., on a form shown in Appendix A of this regulation. As soon as he has mailed such report, the manufacturer shall be entitled to offer the "related" synthetic resin or plastic material for sale at the price specified in the report. For 20 days after the mailing of the report the maximum price reported shall, at the discretion of the Administrator, be subject to retroactive adjustment.

Unless notice of such adjustment is received by the manufacturer within the 20 day period, his proposed maximum price is automatically authorized, subject, however, to revision by the Administrator after 120 days from the time of mailing the report.

At any time within 6 months after the mailing of this initial report by the manufacturer, the Office of Price Administration may in writing require such manufacturer to submit the form shown in Appendix A with computations based on typical production volume and experience during the preceding month of the manufacture of the product. This report must be mailed to the Office of Price Administration, Chemicals and Drugs Price Branch, Washington, D. C., within 30 days after mailing of such request. The Office of Price Administration may on the basis of the data submitted revise the maximum price for the product in question, notifying the manufacturer thereof in writing. Such new maximum price shall not be retroactive in effect.

The manufacturer may at his own election at any time within 6 months after the mailing of the initial report resubmit the form shown in Appendix A with computations based on a typical production volume and experience and on the basis of these data may ask the Administrator to revise the price authorized originally if the product was priced under sections 6, 7, 8, or 10 of this regulation. In such cases the Administrator shall consider the resubmitted data and may raise or lower the maximum price of the product as the case may be if, in his opinion, a substantial hardship has resulted because of an original underestimate, or, if the maximum price originally authorized is deemed to be too high because of an original overestimate.

SEC. 8. *Maximum price for "nearly related" synthetic resins and plastic materials*—(a) *Definition.* A "nearly related" synthetic resin or plastic material is one which is newly offered for sale and would be "related" to another synthetic resin or plastic material under section 7, were it not for a variance in total direct cost of more than 25 per cent.

(b) *Maximum prices.* The maximum price of any "nearly related" synthetic resin or plastic material shall be the total direct cost (computed as provided in section 7) for the "nearly related" product plus the percentage of mark up which the manufacturer obtains on the product which would be available for comparison (hereinafter referred to as the "comparison product") under section 7 were it not for the variance in total direct cost of more than 25 per cent.

(c) *Definition of percentage mark up over total direct cost.* The percentage mark up over total direct cost on the "comparison product" shall be computed in the following manner:

(1) Compute the total direct cost of the "comparison product" according to the method set forth in section 7.

(2) Ascertain the maximum price of the "comparison product" per unit.

(3) Compute the percentage mark up by subtracting the total direct cost determined under (1) from the maximum price determined under (2) and dividing the resulting figure by such total cost.

(d) *Reports and adjustments of maximum prices.* The provisions of section 7 (d) above shall be applicable to pricing under this section.

SEC. 9. *Exclusion of "experimental" synthetic resins and plastic materials*—(a) *Definitions:* An "experimental" synthetic resin or plastic material is one offered for sale on or after June 22, 1943, which has been made for test or experimental purposes. Such product shall cease to become an "experimental" product as soon as the producer thereof has sold in excess of $2,500.00 worth in any period of 12 consecutive months.

(b) *Exclusion from maximum price regulation.* An "experimental" synthetic resin or plastic material is not subject to this regulation or to the General Maximum Price Regulation.

SEC. 10. *Maximum prices for synthetic resins and plastic materials which are not subject to sections 5, 6, 7, 8, or 9*—(a) *Maximum prices.* The maximum price for a synthetic resin or plastic material which is not subject to the provisions of sections 5, 6, 7, 8, or 9 of this regulation shall be a price in line with the level of maximum prices established by this regulation, set forth in a letter signed by the Price Administrator, upon application of the manufacturer.

(b) *Applications and adjustments.* Prior to offering for sale any synthetic resin or plastic material which is not subject to the provisions of sections 5, 6, 7, 8, or 9 of this regulation, the manufacturer shall submit to the Office of Price Administration, Chemicals and Drugs Price Branch, Washington, D. C., an application for a maximum price under this section stating why a maximum price cannot be determined under sections 5, 6, 7, or 8 together with the form shown in Appendix A filled out as completely as possible.

The applicant shall name a requested maximum price in such application and may sell and deliver the product at such price after the mailing of the application. The adjustment and subsequent report provisions set forth in section 7 (d) with reference to "related" products shall apply to the proposed price in the application under this section, with the following variation: On all such products the manufacturer shall submit a second form based on the third month of actual production such as that shown in Appendix A between the 90th and 105th day after mailing the initial application. (As to "related" products the second report is necessary only when the Office of Price Administration specifically requires it.)

SEC. 11. *Fractions of a cent in establishing maximum prices under sections 7, 8, and 10.* Maximum prices calculated under sections 7, 8, or 10 shall be calculated to the smallest fraction of a cent which is the custom of the manufacturer in pricing products in the same line.

SEC. 12. *Discounts, allowances, and containers.* All discounts, allowances, provisions for containers, practices with reference to the payment of transportation costs, and price differentials used for determining prices to purchasers of different classes, applicable to the synthetic resin or plastic material by which the maximum price for the "same," "nearly the same," "related," or "nearly related" product was determined shall also apply to the product for which a maximum price is newly established.

SEC. 13. *Special treatment for certain increases and reductions in cost.* (a) If a raw material which is now selling below its maximum price enters into the computations of a price, and if later the raw material rises in price and in so rising causes a substantial hardship to the manufacturer who has computed his price based on the less than maximum price to him of the raw material, the Administrator shall give consideration to the increase in costs and may raise the maximum price of the product if, in his opinion, a substantial hardship has resulted.

(b) If the manufacturer of a synthetic resin or plastic material is required by a War Production Board allocation order to substitute therein a raw material having a lower cost, and the product thus altered becomes "related" to the original product, the manufacturer need not recalculate his maximum price in accordance with the method set forth in section 7 until sixty days after the effective date of the cost reduction, unless the reduction in total direct cost is more than a 10 per cent reduction, in which case the recalculation for the "related" product must be made under section 7 prior to its offer for sale.

Article III—Miscellaneous

SEC. 14. *Records and reports*—(a) *Records.* Every person making sales or purchases of a synthetic resin or plastic material in lots of 50 pounds or more for which maximum prices are established by this regulation, after June 21, 1943, shall keep for inspection by the Office of Price Administration for so long as the Emergency Price Control Act of 1942, as amended, remains in effect, accurate records of each such sale or purchase, showing the date, the name and address of the buyer and the seller, the price contracted for or received, the quantity of each type and grade of synthetic resin or plastic material purchased or

sold, and the type and capacity of the container in which delivery was made. This requirement may be met by preservation of invoices containing the listed information for the required period of time.

In addition, manufacturers shall keep records for the same period of time showing the computation pursuant to which maximum prices were established under this regulation.

(b) *Additional reports and records.* The persons named in paragraph (a) shall submit such reports to the Office of Price Administration and keep such other records in addition to or in place of the records required by that paragraph as the Office of Price Administration may from time to time require.

SEC. 15. *Evasion.* Any practice which is a device to obtain the effect of a higher-than-ceiling price without actually raising the dollars-and-cents price is as much a violation of this regulation as an outright over-ceiling price. This applies to devices making use of commissions, services, transportation arrangements, premiums, special privileges, tying agreements, trade understandings, transactions with or through the agency of subsidiaries or affiliates, or the like.

SEC. 16. *Enforcement.* Persons violating any provisions of this regulation are subject to the criminal penalties, civil penalties, civil enforcement actions, and suits for treble damages provided for by the Emergency Price Control Act of 1942, as amended.

SEC. 17. *Definitions.* (a) When used in this regulation, the term:

(1) "Manufacturer" means any person engaged in the manufacture or production of synthetic resins or plastic materials, and all prices, prohibitions, obligations, or other limitations or duties specified, imposed, or required by this regulation shall apply to all persons affiliated with, subject to the control of, acting as agent for, or selling on the behalf of such manufacturer.

(2) "Purchaser (or buyer) of the same class" refers to the practice adopted by the seller in setting different prices for commodities for sales to different purchasers or kinds of purchasers (for example, manufacturer, wholesaler, jobber, retailer, government agency, public institution, individual consumer) or for purchasers located in different areas or for different quantities or under different conditions of sale.

(3) "Delivered." A synthetic resin or plastic material shall be deemed to have been "delivered" during any period specified in this regulation if during such period it was physically received by the purchaser or by any carrier, including a carrier owned or controlled by the seller, for shipment to the purchaser.

(4) "Newly offered" means any synthetic resin or plastic material, the chemical formula of which is different from any formula already priced by the same manufacturer under the General Maximum Price Regulation or this regulation.

(5) Synthetic resins or plastic materials shall include:

(i) Resins or plastic types as enumerated herein in all forms of condensation and polymerization in the forms of solids, semi-solids, granules, powders, emulsions or liquids. They are generally complex amorphous organic compounds to which fillers, plasticizers, extenders, lubricants, pigments, modifying chemicals or liquids are frequently added. Such materials may be in extruded shapes, flat sheets (including continuous sheets), rods, tubes, blocks and preforms, before fabrication or printing.

Following are examples of the principal classes of resins and plastic materials covered by this regulation:

(*a*) *Phenolic type resins,* including reaction products of phenols, cresols, xylenols, or cresylic acid or any other alkyl or aryl substituted phenols, with an aldehyde such as formaldehyde, paraformaldehyde, or furfural, and cashew oil resins, in any stage of condensation, with or without modification with rosin, rosin esters, alcohols, oils or fatty acids.

(*b*) *Alkyd type resins,* including all reaction products of di, or polybasic acids with di, or polyhydric alcohols, with or without modification with an oil or fatty acid, in any stage of condensation.

(*c*) *Amine-aldehyde type resins,* including all reaction products of amines, such as urea, thiourea, melamine or aniline with formaldehyde, paraformaldehyde, etc., in any stage of combination or condensation, with or without further modification with alcohols, ethers, esters or hydrocarbons.

(*d*) *Coumarone-indene type resins,* including resins formed from either coumarone or indene or mixtures thereof—in any stage of polymerization—illustrative but not limiting are the "Paradene," "Cumar" and "Piccoumaron" resins.

(*e*) *Terpene resins,* including resins produced by oxidation or polymerization of alpha pinene, beta pinene, dipentene, or pine oil, in any stage of polymerization—illustrative but not limiting are the "Nypene" and "Piceolyte" resins.

(*f*) *Petroleum resins,* including resins obtained as residue of petroleum distillation, or by polymerization of olefins, diolefins or cyclo olefins—illustrative but not limiting are the "Vanadiset" and "Petropol" resins.

(*g*) *Acrylate and methacrylate type resins,* in all stages of polymerization.

(*h*) *Vinyl type resins,* including polyvinyl esters, ethers, formals, acetals, butyrals, chlorides, and alcohols in all stages of polymerization.

(*i*) *Vinylidene chloride type resins* in all stages of polymerization.

(*j*) *Styrene and styrene-homolog type resins* in all stages of polymerization.

(*k*) *Cellulose ethers and esters* such as cellulose nitrate (except cellulose nitrate of nitration greater than 12.5 per cent) cellulose acetate, cellulose acetobuyrate, cellulose aceto propionate, cellulose triacetate, ethyl cellulose, methy cellulose, benzyl cellulose.

(*l*) *Lignin type resins,* including all resins or plastic materials derived from lignin.

(*m*) *Protein plastic materials* such as casein or isolated soy bean protein or zein in the hardened or non-hardened states in the forms of sheets, rods, tubes, and ribbons.

(*n*) *Esters of complex natural organic acids* such as resin, with or without combination with di- or poly-basic acids, oils or fatty acids.

(*o*) *Sulfonamid-aldehyde type resins.*

(*p*) *Ion-exchange resins.*

(*q*) *Vulcanized fibre, laminated plastics* in the form of sheets, rods and tubes.

(*r*) *Mixtures or combinations (by addition or chemical reaction)* of a resin or plastic material or its reacting ingredients, with another resin or plastic material, or its reacting ingredients, of the same type, as outlined above (types *a–q*).

(*s*) *Mixtures or combinations (by addition or chemical reaction),* of a resin or plastic material one type with another resin or plastic material of a different type, or with natural resins (types a–r).

(6) Synthetic resins or plastic materials shall not include:

(i) Plastic objects or parts that have been obtained by further processing of materials defined in this section paragraph (5) (i) above, i. e. by molding, forming, casting, blowing, or laminating under pressure and/or heat, or plastic objects or parts that have been produced therefrom by punching, stamping or other fabricating methods.

(ii) Ready-to-be-applied (with or without dilution or thinning) protective or decorative coating compositions intended to be used as such for application to wood, metal, masonry, stone or plastic surfaces; or compositions sold primarily as lacquer bases or dopes or any dispersion of pigments for use in the coating or printing industries.

(iii) Applied protective or decorative coating compositions.

(iv) Synthetic fibres; gummed tapes; X-ray, photographic or motion picture film.

(v) Synthetic rubber; which means for the purpose of this regulation, a material obtained by chemical synthesis, possessing the approximate physical properties of natural rubber, when compared in either the vulcanized or unvulcanized condition, which can be vulcanized with sulphur or other chemicals with the application of heat, and which, when vulcanized, is capable of rapid elastic recovery after being stretched to at least twice its length at temperatures ranging from 0° F. to 150° F. at any humidity.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942, as amended, and in the General Maximum Price Regulation shall apply to other terms used herein.

SEC. 18. *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1.[6]

[6] 7 F.R. 8961; 8 F.R. 3313, 3533, 6173.

Appendix A: Report Form.

OPA Form No. 692:326 Form Approved
Budget Bureau No. 08-R266

Mail to
The Chemicals and Drugs Price Branch
Office of Price Administration
Washington, D. C.

Appendix A—Report form. Manufacturer's report of proposed maximum price for synthetic resin or plastic material

(As required by MPR 406 when pricing under sections 7, 8, and 10. Terms in this form are defined in the regulation.)

Check whether:
☐Related ☐Nearly related ☐Other

Company.....
Division.....
Address—Street and No.....
City and State.....
No. of product to be priced.....
Name of product to be priced.....

Date of Initial Sale of New Product: (a) Experimental ..... (b) Regular.....
Brief Description and Use. Include name, number, chemical type, form and specification.

Product to be priced

Product used as pricing base

Lowest selling price to any class of buyer $.... per ....

1. *Quantity and class-of-customer differentials.* List all proposed differentials for product to be priced; also for product used as pricing base. Use separate sheets if necessary.
2. *Transportation charges.* Show complete schedule for product to be priced and for product used as pricing base. Use separate sheets if necessary.
3. *Estimated monthly sales* (in total units, not dollars): *Quantity* *Unit*
Product to be priced[1] ....
(Sixth month after the date of this application)
Product used as pricing base ....
(Second month before the date of this application)

A. PRODUCT TO BE PRICED

A-1 Raw materials cost for 1 unit

Major raw materials	Quantity used	Cost per unit [1]	Total cost

A-2 Total raw materials cost for one (Unit)..... $.....
A-3 Direct labor cost..... $.....
A-4 Total direct cost (Sum of A-2 and A-3)..... $.....
A-5 Add whichever applicable; if pricing under:
Sect. 7—Item B-6..... $.....
Sect. 8—Item B-8..... $.....
Sect. 10—Insert requested markup..... $.....
A-6 Add costs for which hardship is claimed [2]... $.....
A-7 Requested maximum price (Sum of A-4, A-5, and A-6)..... $.....

B. PRODUCT USED AS PRICING BASE

B-1 Raw materials cost for 1 unit

Major raw materials	Quantity used	Cost per unit [1]	Total cost

B-2 Total raw materials cost for one (Unit)..... $.....
B-3 Direct labor cost..... $.....
B-4 Total direct cost (Sum of B-2 and B-3)..... $.....
B-5 Largest quantity maximum price..... $.....
B-6 B-5 minus B-4..... $.....
B-7 B-6 divided by B-4..... %.....
B-8 B-7 multiplied by A-4..... $.....

4. Identify below all other products of the same class, up to five in number which you manufacture and sell:

Trade name	Mnfrs. No.	Total direct costs	Maximum price, specify unit and quantity

5. If pricing under Section 10, enter the following information as completely as possible; List three competing materials of the same class as the product to be priced which are being offered for sale by your competitors.

Trade name	Mnfrs. No.	Manufactured by	List price, specify unit and quantity

Date: .....
Submitted by: .....
(Name)
.....
(Title)

[1] Cost per unit of raw material as defined in Regulation.
[2] Instructions for Item A-6: Only unusual manufacturing costs or unusual development costs which impose substantial hardship on the manufacturer may be included. See section 7 (c) (4) MPR 406. Explain in detail on a separate sheet attached.

This regulation shall become effective June 22, 1943.

NOTE.—All reporting and record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9755; Filed, June 16, 1943; 4:40 p. m.]

PART 1499—COMMODITIES AND SERVICES

[MPR 165,[1] Supp. Service Reg. 7, as Amended June 16, 1943]

COMMISSION SALES OF FUEL AND HEATING OILS

A statement of the considerations involved in the issuance of Supplementary Service Regulation No. 7, as amended, issued simultaneously herewith, has been filed with the Division of the Federal Register.* Supplementary Service Regulation No. 7 is amended to read as follows:

§ 1499.657 *Modification of maximum prices established by Maximum Price Regulation No. 165, as amended, for commission selling of fuel and heating oils in certain states and District of Columbia.* (a) Any person engaged in the service of commission selling or commission distribution, from tank wagons, of fuel oil and heating oil, including but not limited to kerosene, range oil, Nos. 1, 2, 3, 4, 5 and 6 fuel oil, Diesel oil and gas oil in the States of Connecticut, Delaware, Florida (east of the Apalachicola River), Georgia, Idaho (counties of Adah, Adams, Benewah, Boise, Bonner, Boundary, Canyon, Clearwater, Elmore, Gem, Kootenai, Idaho, Latah, Lewis, Nez Perce, Owyhee, Fayette, Shoshone, Valley, Washington), Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, and in the District of Columbia, is hereby permitted to charge, and any person purchasing such service is hereby permitted to pay, three-tenths of a cent per gallon in addition to the maximum price established for such seller under this regulation.

(b) This Supplementary Service Regulation No. 7, as amended (§ 1499.657), shall become effective June 22, 1943.

(Pub. Laws 421 and 729, 77th Cong., E.O. 9250, 7 F.R. 7871)

Issued this 16th day of June, 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9753; Filed, June 16, 1943; 4:38 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 6428, 6966, 8239, 8431, 8798, 8943, 8948, 9197, 9342, 9343, 9785, 9971, 9972, 10480, 10557, 10719, 10718, 11010; 8 F.R. 1060, 3324, 4782, 5681, 5755, 5933, 6364.

PART 1364—FRESH, CURED AND CANNED MEAT AND FISH

[Rev. MPR 148, Amdt. 5]

DRESSED HOGS AND WHOLESALE PORK CUTS

Correction

In the table in § 1364.35 (e) of the document appearing on page 7671 of the issue for Wednesday, June 9, 1943, item 6 should read "Blade meat.....Fresh or frozen, $32.25."

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[MPR 149,[1] Amdt. 11]

MECHANICAL RUBBER GOODS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The effective date provision of Amendment No. 9 to Maximum Price Regulation 149 is amended to read as follows:

Amendment No. 9 shall become effective July 10, 1943.

This amendment shall become effective June 17, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9751; Filed, June 16, 1943; 4:35 p. m.]

[1] 7 F.R. 3889, 7173, 8899, 8942, 10103, 10143, 10993; 8 F.R. 1312, 4130, 3942, 7495, 7818.

PART 1340—FUEL

[RPS 88,[1] Amdt. 109]

PETROLEUM AND PETROLEUM PRODUCTS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 1340.159 (c) (1) (vii) (f) is added to read as follows:

(f) *Panhandle area.* The maximum price at the receiving tank for crude petroleum of 40° A. P. I. gravity and above produced in Carson, Gray, Hutchinson, Moore, and Wheeler Counties, Texas shall be $1.22 per barrel, with the customary differentials for lower gravities.

This amendment shall become effective June 16, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9732; Filed, June 16, 1943; 2:48 p. m.]

PART 1418—TERRITORIES AND POSSESSIONS

[MPR 183,[2] Amdt. 41]

PUERTO RICO

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

The table following § 1418.14 (ff), (2) is amended by adding four new items to read as follows:

	To wholesalers	At wholesale	At retail
Tampieri, 28 pkgs. (1 lb. pkg.)	$4.22	$4.64	$0.21
Ranzoni Brand Naples Style, 20 pkgs. (1 lb. pkg.)	2.90	3.20	.20
Ranzoni Brand Genova Style, 20 pkgs. (1 lb. pkg.)	3.30	3.65	.23
Ranzoni Brand Egg Noodle Style, 12 pkgs. (8 oz. pkg.)	1.80	2.00	.21

This amendment shall become effective as of June 12, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 16th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9736; Filed, June 16, 1943; 2:48 p. m.]

*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 3718, 3795, 3845, 4130, 4131, 3841, 4252, 4334, 4783, 4840, 5386, 6044, 6120, 6543, 6617, 6673, 6849, 6617, 7199, 7351 7382, 7489, 7264.

[2] 8 F.R. 4122, 4351, 4781, 4788, 5486, 5739, 5742, 5819, 6000, 6001, 6139, 6359, 6446, 6614, 6621, 6964, 7261, 7354, 7392, 7456, 7594.

PART 1499—COMMODITIES AND SERVICES

[Order 60 Under SR 15 to GMPR]

LESTER BARTON

Order No. 60 under § 1499.75 (a) (8) of Supplementary Regulation No. 15 to the General Maximum Price Regulation; Docket No. GF3-3211.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1360 *Adjustment of maximum prices for contract carrier services by Lester Barton, Johnson City, New York.* (a) Lester Barton of Johnson City, New York, may sell and deliver contract carrier services to International Business Machines Corporation, Endicott, New York, at prices not to exceed $1.64 per hour for truck and driver.

(b) All requests of the application not granted herein are denied.

(c) This Order No. 60 (§ 1499.1360) is hereby incorporated as a section of Supplementary Regulation No. 14 which contains modifications of maximum prices established by § 1499.2.

(d) This Order No. 60 (§ 1499.1360) may be revoked or amended by the Price Administrator at any time.

(e) This Order No. 60 (§ 1499.1360) shall become effective June 18, 1943.

(Pub. Laws No. 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 17th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9780; Filed, June 17, 1943; 12:03 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 26 Under § 1499.29 of GMPR]

NATCHEZ VENEER AND LUMBER COMPANY

Natchez Veneer and Lumber Company of Natchez, Mississippi, has made application for approval of a maximum price of $51.60 per M surface feet, for 3/8" 3 ply plywood. Said application was filed under § 1499.29 (b) of the General Maximum Price Regulation. Due consideration has been given the application, and an opinion in support of this order, issued simultaneously herewith, has been filed with the Division of the Federal Register. For the reasons set forth in the opinion and under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order 9250, *It is ordered:*

§ 1499.426 *Approval of maximum price for 3/8" 3 ply plywood.* (a) On and after the effective date of this order, Natchez Veneer and Lumber Company, Incorporated, Natchez, Mississippi, may sell and deliver to Reynolds Metal Works, Richmond, Virginia, and Reynolds Metal Works may buy and receive from Natchez Veneer and Lumber Company 3/8" 3 ply plywood panels, at a price not to exceed $51.60 per 1,000 surface feet, delivered at Sheffield, Alabama.

(b) This order may be amended or revoked by the Price Administrator at any time.

The effective date of this order shall be April 8, 1943.

Issued this 17th day of June 1943.

PRENTISS M. BROWN,
Administrator.

[F. R. Doc. 43-9781; Filed, June 17, 1943; 12:03 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

[Special Permission M-3677]

TARIFFS TO COVER CIRCUS OUTFITS

NOTE: The following document was filed by the Interstate Commerce Commission on June 16, 1943: Special Permission No. M-3677, dated October 6, 1936; File No. 43-9738.

[Released Rates Order MC-1]

TARIFFS TO COVER MISCELLANEOUS COMMODITIES

NOTE: The following document was filed by the Interstate Commerce Commission on June 16, 1943: Released Rates Order MC-No. 1 dated January 16, 1936, File No. 43-9739.

[Released Rates Order MC-2]

TARIFFS TO COVER HOUSEHOLD AND OFFICE FURNITURE

NOTE: The following document was filed by the Interstate Commerce Commission on June 16, 1943: Released Rates Order MC-No. 2 dated January 29, 1936. File No. 43-9740.

Chapter II—Office of Defense Transportation

[General Order ODT 17, Amdt. 8A]

PART 501—CONSERVATION OF MOTOR EQUIPMENT

SUBPART K—MOTOR CARRIERS OF PROPERTY

Pursuant to Executive Orders 8989 and 9156, *It is hereby ordered,* That Amendment 3 to General Order ODT 17, as amended (7 F.R. 5678, 7694, 9623; 8 F.R. 6968) is superseded by the following, and that §§ 501.65 and 501.70 of said order are hereby amended to read as hereinafter set forth, and that said order is hereby amended by changing the number of original § 501.75 to § 501.78 and by adding three new sections designated, respectively, as § 501.75, § 501.76, and § 501.77, and an Appendix No. 2, said new sections and appendix to read as hereinafter set forth:

§ 501.65 *Definitions.* As used herein:

(a) The term "person" means any individual, partnership, corporation, association, joint-stock company, business trust, or other organized group of persons, or any trustee, receiver, assignee, or personal representative, and includes any department or agency of the United

States, any State, the District of Columbia, or any other political, governmental or legal entity.

(b) The term "property" means anything, except persons, capable of being transported by motor truck.

(c) The terms "motor carrier" and "carrier" means any person other than a person which holds itself out to the general public to engage in the transportation of property for compensation, which engages in the transportation of property by motor truck, and includes contract carriers by motor truck and private carriers by motor truck.

(d) The terms "motor truck" and "truck" mean either (1) a straight truck, (2) a combination truck-tractor and semi-trailer, (3) a full trailer, (4) or any combination thereof, (5) or any other rubber-tired vehicle propelled or drawn by mechanical power or animals when used in the transportation of property, other than a motor vehicle engaged primarily in the transportation of persons.

(e) The term "operating unit" means those motor truck operations performed by a motor carrier wholly within a local area (i. e., within any municipality or urban community or contiguous municipalities or urban communities and a zone extending 25 air miles from the boundaries thereof), together with motor truck operations serving a point or points beyond the local area from a home or base terminal located within such local area, as well as operations performed outside such local area by motor trucks which are operated, maintained, serviced and routed under immediate supervision, direction and control exercised in such local area.

(f) The term "gross weight" means the aggregate weight of a motor truck and its lading.

(g) The term "rated load carrying ability" as applied to a truck means the weight which the tires mounted on the load bearing wheels of such truck are capable of carrying as determined in the manner set forth in Appendix No. 1 attached hereto.

(h) The terms "capacity load" or "loaded to capacity" as applied to a truck mean either (1) the quantity of property, by weight, which may be carried in said truck, determined by deducting the weight of said truck from its rated load carrying ability, or (2) the maximum quantity of property, by volume, which may be stowed by efficient methods and safely transported in the load-bearing space of the truck, whichever quantity is the lesser in weight.

(i) The term "delivery" means the operation of a motor truck by a motor carrier from any one point to any other point for the purpose of enabling such motor carrier to relinquish possession of property after transportation or to take possession of property for transportation, or both, and includes an offer or attempt to so relinquish or take possession of such property.

(j) The term "special delivery" means a delivery other than one made in the course of a normal delivery service.

(k) The term "call back" means any call made by a motor truck of a motor carrier at any given premises, other than for the purpose of making a delivery or for the purpose of repairing, servicing or maintaining such truck.

(l) The term "over-the-road service" means all operations of a motor truck except: (1) those within an area which includes any municipality or urban community and a zone extending twenty-five (25) air miles from the boundaries thereof; (2) those within and between contiguous municipalities or urban communities; (3) those not more than twenty-five (25) miles in length.

(m) The term "local delivery service" means all operations of a motor truck except over-the-road service.

(n) The term "special equipment" means any low-bed motor truck, or any motor truck the primary carrying capacity of which is occupied by mounted machinery.

(o) The term "wholesale delivery" means the transportation of property by motor truck (1) from any place of business to any place of business at which such property, or service thereon or service utilizing such property, is sold or offered for sale at retail, or (2) from any such retail establishment to any place from which such property or service is supplied to such retail establishment.

(p) The term "retail delivery" means the transportation of property by motor truck, or of fresh milk or cream (or other products when delivered in combination therewith) by any vehicle propelled or drawn by mechanical power or animals, (1) to any person who acquires at retail that property, or service thereon, for personal, family, or household, use or consumption, or (2) from any such person to any business establishment at which such property, or service thereon, is supplied at retail. The term "retail delivery" shall also include the transportation of property to be sold or offered for sale from any such vehicle to any person for personal, family, or household, use or consumption.

§ 501.70 *Exemptions.* (a) The provisions of § 501.67 (relating to mileage reduction), paragraph (a) (prohibiting special deliveries) and paragraph (c) (relating to prohibition of more than one delivery a day) of § 501.68, paragraph (a) (requiring full loads and leasing) of § 501.69, and § 501.75 (requiring establishment of delivery areas or routes) and § 501.76 (limiting the number of wholesale and retail deliveries weekly), of this subpart shall not apply to or include the following:

(1) Any motor truck while actually transporting exclusively any explosive listed in Part 2 of "Regulations for Transportation of Explosives and Other Dangerous Articles" (5 F.R. 4905), promulgated and published by the Interstate Commerce Commission by order of August 16, 1940, effective January 7, 1941, in Docket No. 3666, as amended, pursuant to the provisions of Title 18, Section 383, U. S. Code, including explosives, materials and accessories, such as ammunition, black powder, low explosives, liquid nitroglycerine, fireworks, smokeless powder, cordeau detonant, fuzes, igniters or primers, and in addition blasting agents and blasting accessories necessary for the use of any of said explosives: *Provided, however,* That nothing contained in this subparagraph shall be so construed as to relieve any motor carrier from any rule, regulation or order of the Interstate Commerce Commission or other requirement of law pertaining to the transportation exempted hereby;

(2) Any motor truck when engaged exclusively in the transportation of repair or service men and their supplies or equipment;

(3) Any motor truck operated exclusively for the purpose of collecting and disposing of sewage or garbage or rendering other sanitation services, pursuant to Government order, regulation, or contract;

(4) Any motor truck operated exclusively in connection with the construction and maintenance of essential telegraph, telephone, organized radio communications, electric light and power, gas and water supply utilities, and pipe lines, railroads, street railways, and public highways;

(5) Any motor truck while operated under direction of the armed forces of the Federal or a State government;

(6) Any motor truck operated in emergencies exclusively for the purpose of making deliveries of medicines or other supplies or equipment necessary for the protection or preservation of life, health, or for public safety;

(7) Any motor truck operated exclusively for the purpose of making deliveries of telegraph, radio, and cable communications or the United States mail.

(b) The provisions of § 501.67 (requiring mileage reduction), paragraphs (a) (prohibiting special deliveries) and (c) (relating to prohibition of more than one delivery a day) of § 501.68, paragraphs (a) (requiring full loads and leasing) and (b) (prohibiting overloads) of § 501.69, and § 501.75 (requiring establishment of delivery areas or routes) and § 501.76 (limiting the number of wholesale and retail deliveries weekly), of this subpart shall not apply to or include the operation of any special equipment.

(c) The provisions of this subpart shall not apply to or include the following:

(1) Any motor truck, the primary carrying capacity of which is occupied by a mounted tank or tanks;

(2) Any motor truck controlled and operated by any person or persons principally engaged in farming, when used in the transportation of agricultural commodities and products thereof, from a farm or farms, or in the transportation of farm supplies to a farm or farms: *Provided,* That this exemption shall not apply to the transportation of agricultural commodities or products thereof in retail delivery;

(3) Any motor truck owned, controlled, or operated by the armed forces of any State or of the United States;

(4) Any motor truck engaged in the transportation of property wholly within the boundaries of any industrial or manufacturing plant, or between units of such plant separated only by a public highway, when such transportation is an

integral part of the business of such industrial or manufacturing plant.

(d) The provisions of paragraph (b) (limiting frequency of delivery operation on routes or within areas) of § 501.75 and § 501.76 (limiting number of deliveries weekly) of this subpart shall not apply to deliveries which are exempted by general or special permit from the provisions of paragraph (c) (relating to prohibition of more than one delivery a day) of § 501.68.

§ 501.75 *Establishment of delivery areas or routes.* (a) On or before June 8, 1943, every motor carrier shall establish, within the territory presently served by each operating unit of such motor carrier, delivery areas or delivery routes that are neither duplicating nor overlapping, and such carrier shall prepare and currently maintain an appropriate map showing the routes so established or the territorial limits of such delivery areas, for each operating unit.

(b) No motor carrier shall perform wholesale or retail delivery service, respectively, over any given route or within any given delivery area on any greater number of days in any calendar week than the maximum weekly number of wholesale or retail deliveries, respectively, specified in Appendix No. 2 attached hereto for any commodity being delivered over that route, or within that delivery area, by such carrier during that week: *Provided,* That the foregoing restriction shall not apply to any transportation performed for the purpose of making any wholesale or retail delivery, respectively, from one point of origin to one consignee at one point of destination of any shipment constituting a capacity load of the largest motor truck ordinarily operated by the motor carrier in making such delivery.

§ 501.76 *Number of wholesale and retail deliveries limited.* (a) Except as provided in paragraph (b) of this § 501.76, no person shall cause to be made, and no motor carrier shall make, from any one point of origin to any one point of destination during any calendar week:

(1) More than the maximum number of wholesale deliveries and retail deliveries specified in Appendix No. 2 attached hereto for the particular commodity or commodities being delivered: *Provided,* That on any day on which a wholesale or retail delivery is made, one additional wholesale or retail delivery, respectively, may be made if (i) such additional delivery involves property requiring the use of a motor truck other than the type used in making the other delivery, when such truck used in making the additional delivery is specially adapted for and used exclusively in the transportation of such property, and if (ii) both deliveries do not involve the same commodities;

(2) On Sunday, any wholesale deliveries, except of ice, or any retail deliveries, except of ice, or fresh milk or cream, or other related dairy products, fruit or vegetable juices or products thereof, or eggs, when delivered in combination with fresh milk or cream;

(3) Any retail delivery unless the article, package or lot of goods to be delivered to any individual acquirer thereof, irrespective of the size and weight of individual packages comprising such lot, exceeds sixty (60) inches in combined length (i. e., the distance in a straight line between the ends of the article, package or lot) and girth (i. e., the distance around the article, package or lot at the thickest portion) or weighs more than five (5) pounds: *Provided,* That the provisions of this subparagraph (3) shall not apply to the following deliveries or combinations thereof:

(i) To deliveries of fresh milk or cream, or other related dairy products, fruit or vegetable juices or products thereof, or eggs, when delivered in combination with fresh milk or cream;

(ii) To deliveries of bread or perishable bakery products, when delivered by a person engaged exclusively in the sale of bread or bakery products;

(iii) To deliveries of eggs, fresh or frozen fruits or vegetables, fresh, frozen or preserved meat or poultry, or fish or shell fish, when delivered by a person engaged exclusively in the retail sale of any or all of such commodities;

(iv) To deliveries of laundry and garments or fabrics the subject of dry cleaning, dyeing, tailoring, or storage;

(v) To deliveries of articles which are altered or processed after and as a part of the sale thereof;

(vi) To deliveries of medicines or medical supplies;

(vii) To deliveries of parts and supplies for repairs.

(b) The provisions of paragraph (a) of this § 501.76 shall not apply:

(1) When a wholesale or retail delivery consigned from one point of origin to one consignee at one point of destination constitutes a capacity load of the largest motor truck ordinarily operated by the carrier in making such delivery and

(2) To the transportation of a shipment transported or to be transported by common carrier or freight forwarder more than 25 air miles from the boundaries of the municipality or urban community in which such shipment originates or originated, or a shipment which is transported or to be transported by common carrier or freight forwarder a distance of more than 25 miles if the shipment does not originate or has not originated in a municipality or urban community.

§ 501.77 *Limited applicability.* The provisions of §§ 501.75 and 501.76 shall apply only in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania (except that portion which lies within the corporate limits of the cities of Sharon, Sharpsville, Farrel, and Wheatland), Rhode Island, Vermont, Virginia (except the portions which lie within the corporate limits of the cities of Bristol and Bluefield), the District of Columbia, and the portion of West Virginia which lies within and east of the counties of Mineral, Grant and Pendleton.

Amendment 3 to General Order ODT 17 is hereby revoked effective on the effective date of this Amendment 3A.

This Amendment 3A shall become effective June 18, 1943.

(E.O. 8989, 9156; 6 F.R. 6725, 7 F.R. 3349)

Issued at Washington, D. C., this 16th day of June 1943.

JOSEPH B. EASTMAN,
Director,
Office of Defense Transportation.

APPENDIX NO. 2

Commodities	Maximum weekly number of wholesale deliveries	Maximum weekly number of retail deliveries
(1) Fresh or frozen meat, poultry, eggs, fruits, vegetables, fish and shell fish, or live plants for food production	5	3
(2) Bread and perishable bakery products (excluding dry biscuits, crackers, pretzels, and similar bakery products in packages designed to retain their palatability for an extended period)	6	3
(3) Alcoholic beverages or wines not including malt beverages	1	*1*
(4) Non-alcoholic beverages (excluding fresh milk or cream, and drinking water when transported in containers exceeding one gallon in capacity), manufactured tobacco products, confectioneries, or a combination thereof	2	*1*
(5) Malt beverages		*1*
In bottles	1	
In kegs	2	
Provided, That when a combination delivery of bottled and keg malt beverages is made from one truck, no more than 2 wholesale deliveries may be made during that week.		
(6) Fresh milk or cream, *or other related dairy products, fruit or vegetable juices or products thereof, or eggs,* when delivered in combination with fresh milk or cream: *Provided,* That no two retail deliveries shall be made on the same or consecutive days	6	4
(7) Ice cream or ices (including ice cream mix and frozen desserts)	4	*1*
(8) Magazines and periodicals	4	*1*
(9) Laundry, or garments or fabrics the subject of dry cleaning, dyeing, or tailoring: *Provided,* That one additional wholesale delivery of laundry may be made to hotels and restaurants, and one additional retail delivery of laundry may be made when the shipment consists exclusively of damp wash	5	2
(10) Ice	7	7
(11) Parts or supplies for repairs	6	6
(12) Cut flowers	5	*1*
(13) Any commodity for which no maximum number of deliveries is specified above in this Appendix No. 2	2	2

[F. R. Doc. 43-9782; Filed, June 17, 1943; 11:45 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-374]

R. C. TWAY COAL SALES CO.

NOTICE OF AND ORDER FOR HEARING

The Bituminous Coal Division (the "Division") finds it necessary in the proper administration of the Bituminous Coal Act of 1937 (the "Act") and the Bituminous Coal Code (the "Code") promulgated thereunder, to determine:

I. Whether the R. C. Tway Coal Sales Company, a corporation, registered distributor, Registration No. 9155, Louisville, Kentucky (the "Distributor") has willfully violated any provisions of section 4 II (i) of the Act, pertinent orders of the Division, including the marketing rules and regulations, and rules and regulations for the registration of distributors, and its agreement dated December

18, 1939, filed with the Division in connection with its application for registration as a distributor (the "Agreement"), and in particular, whether the distributor has violated section 4 II (i) 11 and 12 of the Act, § 317.19 (formerly § 304.19) of said rules and regulations for the registration of distributors, and paragraphs (c), (d), (e), and (g) of the agreement by accepting and retaining registered distributors' discounts on coal purchased from various code member producers listed below, and resold to retail dealers who were either wholly owned or controlled by the Distributor or who were operated as departments or branches of the Distributor, as follows:

A. Coal resold to James Coal Company, Louisville, Kentucky, during the period October 1, 1940, to December 31, 1941, inclusive, on all of which, discounts ranging from 2 cents per net ton to 22 cents per net ton from minimum prices were accepted and retained by the Distributor:

Producer	Mine index No.	Dist. No.	Net tons	Size	Total discount
Carter Coal Co., McDowell, W. Va.	133, 134	7	652.90	¾ x ¼" Stoker	$26.77
New River Coal Co., Fayette, W. Va.	179	7	183.30	5" Block	17.96
Blue Diamond Coal Co., Harlan, Ky.	143	8	1,869.60	5" Block	387.96
Blue Diamond Coal Co., Harlan, Ky.	143	8	50.90	4" Block	3.56
Blue Diamond Coal Co., Harlan, Ky.	143	8	1,697.55	2" N&S	203.71
Blue Diamond Coal Co., Harlan, Ky.	143	8	46.00	3 x 5" Egg	7.82
Clover Fork Coal Co., Harlan, Ky.	121	8	149.70	6" Block	32.93
Clover Fork Coal Co., Harlan, Ky.	121	8	1,531.10	5" Block	336.84
Clover Fork Coal Co., Harlan, Ky.	121	8	2,066.05	2" N&S	319.93
Harlan-Wallins Coal Corp., Harlan, Ky.	316	8	754.40	1 x ¼" Stoker	75.44
Harlan-Wallins Coal Corp., Harlan, Ky.	167	8	96.00	1 x ¼" Stoker	9.60
Harlan-Wallins Coal Corp., Harlan, Ky.	34	8	157.35	2" N&S	26.75
Ky. Blue Grass Mng. Co., Perry, Ky.	58	8	97.10	2" N&S	11.65
Black Gold Mng. Co., Perry, Ky.	48	8	220.80	2" N&S	26.50
Mary Helen Coal Corp., Harlan, Ky.	322	8	149.85	6" Block	32.97
Mary Helen Coal Corp., Harlan, Ky.	322	8	112.90	2" N&S	13.55
Berger Coal Mng. Co., Harlan, Ky.	430	8	1,130.85	1 x ¼" Stoker	113.99
Cameo Splint Coal Co., Boone, W. Va.	81	8	1,999.55	5" Block	257.07
Cameo Splint Coal Co., Boone, W. Va.	81	8	42.35	3 x 5" Egg	9.32
Cameo Splint Coal Co., Boone, W. Va.	81	8	103.85	2" N&S	10.39
W. Va. Coal & Coke Co., Logan, W. Va.	359	8	155.25	3 x 5" Egg	26.39
W. Va. Coal & Coke Co., Logan, W. Va.	448	8	57.80	5" Block	6.94
Harlan Central Coal Co., Harlan, Ky.	233	8	154.00	2" N&S	18.48
Oakwood Smokeless Coal Corp., Buchanan, Va.	355	8	32.75	3 x 7" Egg	5.99
Truax-Traer Coal Co., Kanawha, W. Va.	1	8	121.00	5" Block	8.47
Koppers Coal Co., Boone, W. Va.	489	8	53.75	5" Block	11.83
Cornett-Lewis Coal Co., Harlan, Ky.	138	8	47.10	1 x ¼" Stoker	4.53
Cornett-Lewis Coal Co., Harlan, Ky.	138	8	226.30	2" N&S	98.24
Harlan Collieries Co., Harlan, Ky.	68	8	756.05	2" N&S	6.25
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	52.10	1¼" Scr'gs	11.60
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	52.70	3" Lump	116.95
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	531.60	6" Lump	73.02
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	429.55	6 x 1¼" Egg	173.81
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	1448.45	2" N&S	8.48
Lou. Gas & Elec. Co., Muhlenberg, Ky.	708	9	49.90	6 x 1¼" Egg	24.00
Lou. Gas & Elec. Co., Muhlenberg, Ky.	708	9	109.10	6" Lump	18.97
Williams Coal Company, Christian, Ky.	87	9	158.10	2" N&S	12.06
W. A. Wickliffe Coal Co., Muhlenberg, Ky.	11	9	54.80	6" Lump	36.50
West Ky. Coal Co. Rescreening Plant, Union, Ky.		9	214.70	1¼ x ¼" Pea	92.94
Maginis Coal Company, Union, Ky.	88	9	546.70	6 x 1¼" Egg	12.06
Maginis Coal Company, Union, Ky.	88	9	54.80	3" Lump	6.07
Fort Hartford Coal Co., Ohio, Ky.	5	9	50.80	2" N&S	6.23
R. I. Brown, Christian, Ky.	97	9	51.90	2" N&S	17.04
Crescent Coal Co., Muhlenberg, Ky.	89	9	100.25	1¼" x ⅜" Stoker	17.10
Crescent Coal Co., Muhlenberg, Ky.	89	9	100.55	6 x 1¼" Egg	

B. Coal resold to Atlanta Coal Company, Atlanta, Georgia, during the period October 1, 1940, to December 31, 1941, inclusive, on all of which discounts ranging from 10 cents per net ton to 22 cents per net ton from minimum prices were accepted and retained by the distributor:

Producer	Mine index No.	Dist. No.	Net tons	Size	Total discount
Clover Fork Coal Co., Harlan, Ky.	121	8	101.60	6" Block	$22.35
Clover Fork Coal Co., Harlan, Ky.	121	8	105.90	2" N&S	12.71
Blue Diamond Coal Co., Harlan, Ky.	143	8	155.90	5" Block	34.30
Bell Coal Co., Bell. Ky.	37	8	480.50	⅛ x ⅞" Stoker	67.36

C. Coal resold to Kentucky Mfg. Co., Louisville, Kentucky, during the period October 1, 1940, to December 31, 1941, inclusive, on all of which discounts ranging from 12 cents per net ton to 23 cents per net ton from minimum prices were accepted and retained by the distributor:

Producer	Mine index No.	Dist. No.	Net tons	Size	Total discount
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	987.80	2 x 1¼" Nut	$167.99
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	615.20	3 x 1¼" Nut	104.61
Kirk Coal Mining Co., Muhlenberg, Ky.	44	9	52.25	6 x 1¼" Egg	8.88
Lou. Gas & Elec. Co., Muhlenberg, Ky.	708	9	390.85	2 x 1¼" Nut	66.46
Lou. Gas & Elec. Co., Muhlenberg, Ky.	708	9	816.10	3 x 1¼" Nut	138.77
Beech Creek Coal Co., Muhlenberg, Ky.	1	9	306.05	2 x 1¼" Nut	39.79
Maginis Coal Co., Union, Ky.	88	9	50.45	6 x 1¼" Egg	8.58
West Ky. Coal Co., Hopkins, Ky.	62	9	49.25	2 x 1¼" Nut	5.91
Stirling Coal Co., Hopkins, Ky.	17	9	54.85	3 x 1¼" Nut	9.32
Crescent Coal Co., Muhlenberg, Ky.	89	9	597.55	2 x 1¼" Nut	72.87
Duvin Coal Co., Webster, Ky.	25	9	208.60	2 x 1¼" Nut	35.45
Bevier Lamb Mng. Co., Muhlenberg, Ky.	3	9	47.65	3 x 1¼" Nut	8.11
W. A. Wickliffe Coal Co., Muhlenberg, Ky.	10	9	259.85	2 x 1¼" Nut	44.18
W. A. Wickliffe Coal Co., Muhlenberg, Ky.	10	9	207.50	3 x 1¼" Nut	35.29

II. Whether the registration of said R. C. Tway Coal Sales Company, Registration No. 9155, should be revoked or suspended or other appropriate order should be entered.

It is, therefore, ordered, That a hearing pursuant to § 317.19 (formerly § 304.19) of the rules and regulations for the registration of distributors be held on the 23d day of July 1943, at 10:00 a. m., at a hearing room of the Bituminous Coal Division at the Post Office Building, Louisville, Kentucky, to determine whether the aforementioned R. C. Tway Coal Sales Company has committed violations in the respects heretofore described, and whether the registration of said distributor should be revoked or suspended or other appropriate order should be entered.

It is further ordered, That Charles O. Fowler, or any other officer or officers of the Bituminous Coal Division duly designated for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, take evidence, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit proposed findings of fact and conclusions and recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to the Distributor and to all other persons or entities having an interest in this proceeding. Application for disposition of this proceeding without formal hearing, and intervening petitions may be filed as provided by the rules of practice and procedure before the Division in such matters.

Notice is hereby given that an answer setting forth the position of the Distributor on the matters hereinabove described shall be filed with the Division within twenty (20) days after the date of service of a copy hereof on the Distributor; and the failure to file answer within such period, unless otherwise ordered, shall be deemed to be an admission by the Distributor of the matters hereinabove described, and its consent to the entry of an appropriate order on the basis of the fact stated.

All persons are notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically mentioned, all matters incidental or related thereto, whether raised by amendment, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

Dated: June 14, 1943.

[SEAL] DAN H. WHEELER,
Director.

[F. R. Doc. 43-9711; Filed, June 16, 1943; 10:45 a. m.]

SERVICE COAL CO.

APPLICATION FOR REGISTRATION AS DISTRIBUTOR

To all district boards, code members, distributors, the Consumers' Counsel and other interested persons.

An application for registration as a distributor has been filed by the following and is under consideration by the Director:

Name and address:	*Date application filed*
M. J. Conners (Service Coal Company), 704 Old First Bank Bldg., Fort Wayne, Indiana	5-27-43

Any district board, code member, distributor, the Consumers' Counsel, or any other interested person, who has pertinent information concerning the eligibility of the above-named applicant for registration as a distributor under the provisions of the Bituminous Coal Act and the Rules and Regulations for the Registration of Distributors, is invited to furnish such information to the Division on or before July 12, 1943. This information should be mailed or presented to the Bituminous Coal Division, Department of the Interior, Washington, D. C.

Dated: June 15, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-9765; Filed, June 17, 1943; 10:39 a. m.]

[Docket No. B. 343]

ELZA PARKE

NOTICE OF AND ORDER FOR HEARING

A complaint dated May 29, 1942, pursuant to the provisions of section 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), having been duly filed on June 3, 1942, by the Bituminous Coal Producers Board for District No. 11, complainant, with the Bituminous Coal Division (the "Division"), alleging willful violation by Elza Parke (the "Code Member"), of the Bituminous Coal Code (the "Code"), or rules and regulations thereunder; and

Said complaint having been amended upon motion of the complainant filed on September 14, 1942;

It is ordered, That a hearing in respect to the subject matter of such complaint as amended be held on July 20, 1943, at 10 a. m., at a hearing room of the Bituminous Coal Division at the County Court House, Evansville, Indiana.

It is further ordered, That Charles O. Fowler, or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, to take evidence, and to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to the code member and to all other persons or entities having an interest in this proceeding. Application for disposition of this proceeding, without formal hearing, and intervening petitions may be filed as provided by the Rules of Practice and Procedure before the Division in such matters.

Notice is hereby given that an answer setting forth the position of the code member in the matters herein above described, shall be filed with the Division within twenty (20) days after the date of service of a copy hereof on the code member; and the failure to file answer within such period, unless otherwise ordered, shall be deemed to be an admission by the code member of the matters herein above described. And his consent to the entry of an appropriate order on the basis of the facts stated.

Notice is also hereby given that if it shall be determined that the code member has willfully committed any one or more of the violations alleged in the complaint, an order may be entered either revoking the membership of the code member in the Code and the code member's right to an exemption from the taxes imposed by section 3520 (b) (1) of the Internal Revenue Code, or directing the code member to cease and desist from violating the Code and regulations made thereunder.

All persons are notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically mentioned, all matters incidental or related thereto, whether raised by amendment, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned therewith is in regard to the complaint, as amended, filed by said complainant alleging that said Elza Parke, Oakland City, Indiana, a code member since January 3, 1938, operator of the Parke Mine, Mine Index No. 127, located in District No. 11, Pike County, Indiana, has willfully violated the Act, the Code, or rules and regulations thereunder as follows:

1. That subsequent to October 14, 1940, Elza Parke sold coal produced from the Parke Mine, Mine Index No. 127, for which minimum prices, temporary or final, had not been established by the Division, including sales during the period from March 1, 1941, to March 22, 1941, both dates inclusive, to various purchasers of approximately 552 tons of 3/4" forked lump coal at a price of $1.80 per net ton f. o. b. the said mine, resulting in violation of order dated October 9, 1940, entered in General Docket No. 19.

2. (a) That subsequent to March 25, 1941, Elza Parke sold to various purchasers coal produced at the aforesaid mine below the effective minimum prices established therefor in the Schedule of Effective Minimum Prices for District No. 11, for Truck Shipment, as amended by Supplement "T" annexed to and made a part thereof by an order of the Director dated March 25, 1941, granting temporary and conditionally final relief in Docket No. A-773, including sales during the period from March 25, 1941, to December 31, 1941, both dates inclusive, of approximately 5,745 net tons of 3/4" forked lump coal at a price of $1.80 per net ton f. o. b. said mine, whereas said coal is classified as Size Group No. 6 and priced at $2.20 per net ton f. o. b. said mine, resulting in violation of section 4 II (e) of the Act and Part II (e) of the Code; or

(b) By selling during the period March 25, 1941, to December 31, 1941, both dates inclusive, to various purchasers approximately 5,745 net tons of 3/4" forked lump coal, produced at the aforesaid mine, at the effective minimum price of $2.20 per net ton f. o. b. said mine, as established in the schedule as amended and referred to in Paragraph 2 (a) above, and employing said purchasers for the purpose of loading the coal so purchased by them into their respective trucks and paying to each of them 40 cents per net ton for such loading, which compensation was obviously disproportionate to the ordinary value of the services rendered and whose employment by the code member was made with the primary purpose and intention of securing preferment with the purchasers of said coal resulting in a violation of section 4 Part II (i) 13 of the Act and Part II (i) 13 of the Code, and Rule 13 of section XIII of the Marketing Rules and Regulations.

Dated: June 16, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-9767; Filed, June 17, 1943; 10:39 a. m.]

[Dockets Nos. 476-FD and 622-FD]

RAILWAY FUEL COMPANY

ORDER EXTENDING EFFECTIVE DATE OF DENIAL OF APPLICATIONS FOR EXEMPTION

An order was issued in this proceeding June 1, 1943, denying the applications of Railway Fuel Company for exemption, effective fifteen (15) days from the date thereof. Thereafter, on June 12, 1943, Railway Fuel Company filed an application requesting that the effective date of the order denying its applications for exemption be extended to July 16, 1943 or until such time as minimum prices shall be established for its coals sold for railroad fuel use. Applicant alleges that it filed with the Division its acceptance of the Bituminous Coal Code on June 11, 1943 and that it will on or before June 15, 1943, file a petition for the establishment of minimum prices for railroad fuel use applicable to the coal sold by it. Railway Fuel Company alleges further that, unless the effective date of the order denying its application for exemption be extended, it may become liable for taxes on coals produced by it.

I find that there is a reasonable showing of necessity for extension of the effective date of the order denying Railway Fuel Company's applications for exemption. Applicant is entitled to a

reasonable time to secure minimum prices for its coals under established procedures. Accordingly, the third paragraph of the order denying the applications of Railway Fuel Company for exemption, dated June 1, 1943, should be amended to read as follows:

It is hereby further ordered, That, effective July 16, 1943, the applications of the Railway Fuel Company are denied.

It is so ordered.

Dated: June 16, 1943.

[SEAL] DAN H. WHEELER, *Director.*

[F. R. Doc. 43-9766; Filed, June 17, 1943; 10:39 a. m.]

FEDERAL SECURITY AGENCY.

Food and Drug Administration.

[Docket No. FDC-40]

LIMITATION ON MONOCHLORACETIC ACID IN WINES

NOTICE OF HEARING

In the matter of a public hearing for the purpose of receiving evidence relating to a proposal that regulations be promulgated limiting the use of monochloracetic acids in wines.

Notice is hereby given that, upon an application of The Wine Institute of California, a substantial portion of the interested industry, proposing that regulations be promulgated limiting the quantity of monochloracetic acid in wines to .05 percent of the finished product, the Administrator of the Federal Security Agency will, pursuant to sections 406 (a) and 701 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. secs. 346 (a) and 371, hold a public hearing commencing at 10 o'clock in the morning of August 3, 1943, at The National Archives (Room 105 Pennsylvania Avenue entrance), Pennsylvana Avenue between 7th and 9th Streets, Washington, D. C., for the purpose of receiving evidence pertinent to such proposal, as a basis for determining whether pursuant to said section 406 (a) of the Act a regulation should be prescribed limiting the quantity of monochloracetic acid in wines and, is so, the limitation of quantity necessary for the protection of the public health. Evidence will be received upon all questions relevant and material to such determinations, including the questions of whether monochloracetic acid is a poisonous or deleterious substance and whether it is required in the production of wines, or cannot be avoided by good manufacturing practice.

All interested persons are invited to attend the hearing and to offer evidence which is relevant and material to the subject matter of the hearing.

Alvin M. Loverud hereby is designated as presiding officer to conduct the hearing, in the place of the Administrator, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearing.

The hearing will be conducted in accordance with the Rules of Practice provided for such hearing, as published in 21 Code of Federal Regulations, §§ 2.701-2.705 (Supp. 1939).

Affidavits submitted in lieu of oral testimony as provided in the Rules of Practice applicable to this hearing (21 CFR 2.701 et seq.) shall be submitted by delivering them to the presiding officer in care of the hearing clerk at Room 2242, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., on or before the date of the opening of the hearing. Such affidavits are required to be submitted in quintuplicate, and, if relevant and material, may be received and made a part of the record at the hearing, but the Administrator will consider the lack of opportunity for cross-examination in determining the weight to be given to statements in the affidavits. Every interested person will be permitted to examine the affidavits proffered and to file with the presiding officer during the hearing affidavits counter to relevant and material statements of fact and opinion in such original affidavits.

Washington, D. C., June 15, 1943.

[SEAL] WATSON B. MILLER, *Acting Federal Security Administrator.*

[F. R. Doc. 43-9764; Filed, June 17, 1943; 10:09 a. m.]

OFFICE OF PRICE ADMINISTRATION.

Regional Office Orders.

[Region VIII Rev. Order G-2, Amdt. 3]

MILK IN CALIFORNIA

Amendment No. 3 to Revised Order No. G-2 under § 1499.18 (c), as amended, of the General Maximum Price Regulation.

Fluid milk prices at wholesale and retail in certain localities in the State of California.

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Regional Administrator by the Emergency Price Control Act of 1942 and § 1499.18 (c) of the General Maximum Price Regulation as amended, and in accordance with authority reserved in paragraph (5) of Revised Order No. G-2 issued pursuant to said § 1499.18 (c) to amend the said order at any time, the said Revised Order No. G-2 is hereby amended in the following particulars:

(1) Schedule C is hereby amended by striking out the heading "Humboldt marketing area" and the schedule of prices thereunder and by substituting therefor the following:

HUMBOLDT MARKETING AREA

Not less than	Wholesale delivered		Retail store		Retail home delivered	
	3.5% milk fat	4.2% milk fat	3.5% milk fat	4.2% milk fat	3.5% milk fat	4.2% milk fat
Milk prices:						
Gallon	$0.45	$0.47	$0.51	$0.53	$0.53	$0.57
Half-gallon	.23	.24	.26	.27	.27	.29
Quart	.12	.125	.135	.14	.14	.15
Pint	.065	.07	.08	.085	.085	.09
Half-pint	0.39	.042				

(2) The Term "Humboldt marketing area" means the area as defined by the Bureau of Markets, Department of Agriculture, State of California, prior to March 20, 1943.

(3) This Amendment No. 3 may be revoked or amended by the Office of Price Administration at any time.

(4) This Amendment No. 3 to Revised Order No. G-2 shall become effective April 15, 1943.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 12th day of April 1943.

LEO F. GENTNER, *Acting Regional Administrator.*

[F. R. Doc. 43-9757; Filed, June 16, 1943; 4:43 p. m.]

[Region VIII Rev. Order G-2, Amdt. 4]

FLUID MILK AND CREAM IN CALIFORNIA

Amendment No. 4 to Revised Order No. G-2 (formerly Revised Order No. 3) under § 1499.18 (c), as amended, of the General Maximum Price Regulation.

Adjusted maximum prices of fluid milk and cream at wholesale and retail in certain localities in the State of California.

For the reasons set forth in an opinion issued simultaneously herewith and pursuant to the authority vested in the Regional Administrator by the Emergency Price Control Act of 1942 and § 1499.18 (c) of the General Maximum Price Regulation as amended, and in accordance with the authority reserved in paragraph (5) of Order No. G-2 issued pursuant to said § 1499.18 (c) to amend the said order any time, the said Order No. G-2 as revised is hereby amended in the following particulars:

(1) Schedule B of said Revised Order No. G-2 as amended is hereby further amended by striking out the schedule of prices under the heading "Butte, Colusa, Glenn, Sutter, and Yuba Counties" and by substituting therefor the following schedule of prices:

BUTTE, COLUSA, GLENN, SUTTER, AND YUBA COUNTIES

Not less than	Wholesale delivered		Retail store		Retail home delivered	
	3.5% milk fat	4.2% milk fat	3.5% milk fat	4.2% milk fat	3.5% milk fat	4.2% milk fat
Milk prices:						
Half gallon	$0.245	$0.265	$0.28	$0.30	$0.29	$0.31
Quart, glass	.1225	.1325	.14	.15	.145	.155
Quart, fibre	.1275	.1375	.14	.15	.145	.155
Pint, glass	.075	.075	.085	.09	.085	.09
Pint, fibre	.08	.08				
Half-pint, glass	.038	.041				
Half-pint, fibre	.043	.046				

(2) Schedule B of said Revised Order No. G–2 as amended is hereby further amended by striking out, in the schedule of prices headed "Sacramento Marketing Area, and that portion of Yolo County not contained within the Sacramento Marketing Area", the prices provided for pint and half-pint containers and substituting therefor the following schedule for pint and half-pint containers:

	Wholesale delivered	
	Not less than 3.5% milk fat	Not less than 4.2% milk fat
Milk prices:		
Pint, glass	$0.0725	$0.0775
Pint, fibre	.0775	.08
Half-pint, glass	.038	.04
Half-pint, fibre	.043	.045

(3) This Amendment No. 4 may be amended or revoked by the Office of Price Administration at any time.

(4) This Amendment No. 4 shall become effective upon its issuance.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 29th day of April 1943.

FRANK E. MARSH,
Regional Administrator.

[F. R. Doc. 43–9758; Filed, June 16, 1943; 4:43 p. m.]

[Region VIII Rev. Order G–2, Amdt. 5]

FLUID MILK AND CREAM IN CALIFORNIA

Amendment No. 5 to Revised Order No. G–2 under § 1499.18 (c) as amended of the General Maximum Price Regulation (formerly Revised Order No. 3 under section 18 (c) as amended of the General Maximum Price Regulation).

Adjusted maximum prices of fluid milk and cream at wholesale and retail in certain localities in the State of California.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.18 (c) of the General Maximum Price Regulation, *It is hereby ordered*, That Revised Order No. G–2 under § 1499.18 (c) as amended of the General Maximum Price Regulation (formerly Revised Order No. 3 under section 18 (c) as amended of the General Maximum Price Regulation) be amended as set forth below:

(a) Schedule B is hereby amended by striking out and eliminating the heading "Fresno, Mariposa, Madera and Merced Counties" and the schedule of prices thereunder and in place and stead thereof substituting the following:

FRESNO, MARIPOSA, MADERA AND MERCED COUNTIES EXCEPT THE LOCALITIES LISTED BELOW

Not less than	Wholesale delivered		Retail store		Retail home delivered	
	3.5% milk fat	4.2% milk fat	3.5% milk fat	4.2% milk fat	3.5% milk fat	4.2% milk fat
MILK PRICES						
Gallon	$0.45	$0.49	$0.50	$0.54	$0.52	$0.56
Half gallon	.245	.265	.27	.29	.28	.30
Quart, glass	.1225	.1325	.14	.15	.145	.155
Quart, fibre	.13	.14	.15	.16	.15	.16
Pint, glass	.067	.07	.08	.085	.085	.09
Pint, fibre	.072	.075	.08	.09	.085	.09
Half-pint	.04	.042				
AUBERRY						
Quart	.13	.14	.155	.165		
Half-pint	.042	.045				
DUNLAP, PINEHURST, COARSEGOLD NORTH FORK, FISH CAMP, SHAVER LAKE, MEADOW LAKES, BASS LAKE						
Quart	.135	.145	.16	.17		
Half-pint	.042	.045				
BIG CREEK, DINKEY CREEK, HUME, KING'S CANYON NATIONAL PARK						
Quart	.14	.15	.165	.175		
Half-pint	.043	.045				
HUNTINGTON LAKE						
Quart	.145	.155	.17	.18		
Half-pint	.045	.0475				
YOSEMITE NATIONAL PARK						
Quart	.14	.15	.165	.175		
Half-pint	.043	.045				

NOTE: In all of Fresno, Mariposa, Madera, and Merced Counties, the adjusted maximum price for sales of milk iced and packed for shipment f. o. b. distributor's platform shall be as follows:

	Wholesale F. O. B. distributor's platform	
	Not less than 3.5% milk fat	Not less than 4.2% milk fat
Quart, glass	$0.11	$0.12
Quart, fibre	.115	.125
Half-pint	.038	.04

and the maximum price for sales of milk, iced and packed for shipment, f. o. b. local depot shall be as follows:

	Wholesale F. O. B. local depot	
	Not less than 3.5% milk fat	Not less than 4.2% milk fat
Quart, glass	$0.12	$0.13
Quart, fibre	.125	.135
Half-pint	.04	.042

(b) Schedule B as amended is hereby further amended by striking out the heading "Kings and Tulare Counties" and by substituting in place and stead thereof the heading "Kings and Tulare Counties except Sequoia National Park".

(c) Schedule B as amended is hereby further amended by adding under the heading "Kings and Tulare Counties except Sequoia National Park" the following:

SEQUOIA NATIONAL PARK

Not less than	Wholesale delivered		Retail store	
	3.5% milk fat	4.2% milk fat	3.5% milk fat	4.2% milk fat
Quart	$0.135	$0.145	$0.16	$0.17
Half-pint	.042	.045		

This amendment to Order No. G–2 shall become effective upon issuance.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 4th day of June 1943.

L. F. GENTNER,
Acting Regional Administrator.

[F. R. Doc. 43–9759; Filed, June 16, 1943; 4:43 p. m.]

[Region VIII Rev. Order G–2, Amdt. 6]

FLUID MILK AND CREAM IN CALIFORNIA

Amendment No. 6 to Revised Order No. G–2 under § 1499.18 (c) as amended of the General Maximum Price Regulation (formerly Revised Order No. 3 under section 18 (c) as amended of the General Maximum Price Regulation).

Adjusted maximum prices of fluid milk and cream at wholesale and retail in certain localities in the State of California.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.18 (c) of

the General Maximum Price Regulation, it is hereby ordered that Revised Order No. G–2 under § 1499.18 (c) as amended of the General Maximum Price Regulation (formerly Revised Order No. 3 under section 18 (c) as amended of the General Maximum Price Regulation) be amended as set forth below:

(a) Schedule B is hereby amended by adding after each of the headings "El Dorado and Amador Counties" and "Placer and Nevada Counties" the words "except the portion east of the crest of the Sierra Nevada."

(b) Schedule B is hereby further amended by adding at the end thereof the following:

THAT PORTION OF PLACER, NEVADA, AND EL DORADO COUNTIES EAST OF THE CREST OF THE SIERRA NEVADA

[Not less than 3.5% milk fat]

	Wholesale delivered	Retail store
Quart container	$0.1375	$0.16
Half-pint container	.045	

This amendment to Order No. G–2 shall become effective upon issuance.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 8th day of June 1943.

FRANK E. MARSH,
Regional Administrator.

[F. R. Doc. 43–9760; Filed, June 16, 1943; 4:42 p. m.]

[Region VIII Rev. Order G–2, Amdt. 7]

FLUID MILK AND CREAM IN CALIFORNIA

Amendment No. 7 to Revised Order No. G–2 under § 1499.18 (c) as amended of the General Maximum Price Regulation (formerly Revised Order No. 3 under section 18 (c) as amended of the General Maximum Price Regulation).

Adjusted maximum prices of fluid milk and cream at wholesale and retail in certain localities in the State of California.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.18 (c) of the General Maximum Price Regulation, it is hereby ordered that Revised Order No. G–2 under § 1499.18 (c) as amended of the General Maximum Price Regulation (formerly Revised Order No. 3 under section 18 (c) as amended of the General Maximum Price Regulation) be amended as set forth below:

(a) Schedule A as amended is hereby further amended by striking out the heading "Los Angeles marketing area" and substituting in place and stead thereof "Los Angeles marketing area except Catalina Island".

(b) Schedule A is hereby further amended by adding at the end of Schedule A the following:

CATALINA ISLAND (LOS ANGELES COUNTY)

[Not less than 3.4% milk fat]

	Wholesale delivered	Retail store
Milk prices:		
Half-gallon, glass	$0.2575	$0.29
Half-gallon, fibre	.2575	.29
Quart, glass	.139	.145
Quart, fibre	.1275	.14
Coffee cream (not less than 19%):		
Quart, glass	.435	
Half-pint, glass	.125	.15
"Half and half" (not less than 12%):		
Quart, glass	.29	.32
Pint, fibre	.145	.16

NOTE: The adjusted maximum price of milk and cream purchased f. o. b. shipping point in Los Angeles for shipment to Catalina Island shall be the wholesale delivered prices as specified above for the Los Angeles marketing area excluding Catalina Island.

(c) Schedule A is hereby further amended by inserting after the schedule of prices under the heading "San Bernardino-Riverside marketing area", the following:

NOTE: In the villages of Crestline, Arrowhead, Big Bear, and Forrest Home in San Bernardino County an additional sum equal to $.005 per quart may be charged.

This amendment to Order G–2 shall become effective upon issuance.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 10th day of June 1943.

L. F. GENTNER,
Acting Regional Administrator.

[F. R. Doc. 43–9761; Filed, June 16, 1943; 4:42 p. m.]

SELECTIVE SERVICE SYSTEM.

ORDER AUTHORIZING PHYSICAL EXAMINATION FOR REGISTRANTS RECOMMENDED FOR PAROLE

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C., Sup. 301–318, inclusive); E.O. No. 8545, 5 F.R. 3779; E.O. No. 8641, 6 F.R. 563; E.O. No. 9279, 7 F.R. 10177; and the authority vested in me by the Chairman of the War Manpower Commission in Administrative Order No. 26, 7 F.R. 10512; and more particularly § 643.5, Selective Service Regulations, Second Edition, I hereby authorize Public Health Service physicians attached to each Federal prison to physically examine registrants who have been recommended for parole for assignment to work of national importance. Such examination shall be conducted in the manner provided in the Selective Service Regulations for final-type physical examination of registrants in Class IV–E. The provisions of MR 1–9 will be used as a basis for determining standards of acceptability.

LEWIS B. HERSHEY,
Director.

JUNE 16, 1943.

[F. R. Doc. 43–9749; Filed, June 16, 1943; 4:16 p. m.]