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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of the Air Force

Effective upon publication in the FEDERAL REGISTER, paragraph (a)(2) of § 6.307 is amended as set out below.

§ 6.307 **Department of the Air Force.**

(a) *Office of the Secretary.*

* * * * *

(2) Five private secretaries. (For employment of private secretaries to officials in the Office of the Secretary who are appointed by the President or are appointed under subparagraph (1) of this paragraph.)

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 60-12087; Filed, Dec. 28, 1960; 8:49 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Commerce

Effective upon publication in the FEDERAL REGISTER, paragraph (d)(1) of § 6.312 is revoked and paragraph (a)(32) is added as set out below.

(a) *Office of the Secretary.*

* * * * *

(32) Director, Office of Field Services.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended, 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director, Bureau of Management Services.

[F.R. Doc. 60-12055; Filed, Dec. 28, 1960; 8:46 a.m.]

PART 27—EXCLUSIONS FROM PROVISIONS OF THE FEDERAL EMPLOYEES PAY ACT OF 1945, AS AMENDED, AND THE CLASSIFICATION ACT OF 1949, AS AMENDED, AND ESTABLISHMENT OF MAXIMUM STIPENDS FOR POSITIONS IN GOVERNMENT HOSPITALS FILLED BY STUDENT OR RESIDENT TRAINEES

Department of Health, Education, and Welfare

1. Effective January 1, 1961, the item under § 27.1 for student dietitians, Department of the Army, approved training after a minimum of three years college level training is amended as follows:

§ 27.1 **Exclusions from provisions of Federal Employees Pay Act and Classification Act.**

* * * * *

Student dietitians, Department of the Army and Department of Health, Education, and Welfare, approved training after a minimum of three years college level training.

2. Effective January 1, 1961, the maximum stipends prescribed under § 27.2 for positions of student dietitians, Department of the Army: Approved training after a minimum of three years' college level training, per month, $166.00, is amended as follows:

§ 27.2 **Maximum stipends prescribed.**

* * * * *

Student dietitians, Department of the Army and Department of Health, Education, and Welfare: Approved training after a minimum of three years' college level training, per month, $166.00.

(61 Stat. 727; 5 U.S.C. 1051-1058)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director, Bureau of Management Services.

[F.R. Doc. 60-12054; Filed, Dec. 28, 1906; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 60-1536; RM-210]

PART 15—INCIDENTAL AND RESTRICTED RADIATION DEVICES

Date When Certification Is Required

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 21st day of December 1960;

The Commission, having under consideration § 15.68(b) of its rules and regulations, and in particular the proviso therein permitting operation of UHF television receivers with field strength of 1000 uv/m at 100 feet until December 31, 1960, and a rule making petition, RM-210, filed October 14, 1960, by Electronic Industries Association requesting extension of such authority until December 31, 1962; and

It appearing that, no evidence has been brought to the attention of the Commission substantiating or supporting the need for a return to the 500 uv/m limit, at this time; and

It further appearing that, the "state of the art" in regard to controlling oscillator radiation from UHF television receivers has remained unchanged in the last two years; and

It further appearing that, the proposed amendment merely extends an existing provision; that operation under this provision during the past 2 years has had no adverse effect; that the Commission has no reason to believe that any party has an interest in discontinuing the provision, or that any party would submit comments to that effect if afforded an opportunity to do so; and hence, that notice and public procedure are unnecessary; and

It further appearing that, since the amendment herein ordered imposes no new requirements but rather relieves an existing requirement, the amendment may be made effective less than 30 days after publication as provided in section 4(c) of the Administrative Procedures Act; and

It further appearing that, the amendment adopted herein is issued pursuant to authority contained in sections 4(i), 301, 303(f), and 303(r) of the Communications Act of 1934, as amended;

It is ordered, That, the EIA petition RM-210 is granted and, effective December 31, 1960, § 15.68(b) of the rules and regulations is amended as follows:

§ 15.68 **Date when certification is required.**

* * * * *

(b) UHF television broadcast receivers manufactured after December 1957 shall comply with the certification requirements of this subpart: *Provided, however,* That, the limit of 500 uv/m appearing in the table contained in § 15.62 is temporarily increased to 1000 uv/m for all UHF television receivers until December 31, 1962.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082; 47 U.S.C. 301, 303)

Released: December 23, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-12088; Filed, Dec. 28, 1960; 8:49 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 1]

PART 468—MOHAIR

Subpart—Payment Program for Mohair

SUPPORT LEVEL FOR 1961 MARKETING YEAR

The Payment Program for Mohair issued by Commodity Credit Corporation and the Commodity Stabilization Service (§ 468.161, 24 F.R. 10191) is amended in its entirety to read as follows:

§ 468.161 Announcement of program.

The Commodity Stabilization Service and Commodity Credit Corporation hereby announce a payment program for mohair pursuant to the National Wool Act of 1954, as amended. The program will be carried out under the general supervision and direction of the Executive Vice President of Commodity Credit Corporation through the Commodity Stabilization Service.

§ 468.162 Method and level of support.

(a) *Method of support.* The price of mohair will be supported by payments to producers for any marketing year in which the national average return to the producers for all mohair sold by them is less than the support level announced for that marketing year.

(b) *Level of support for 1960 marketing year.* The price of mohair sold in the 1960 marketing year (April 1, 1960, through March 31, 1961) will be supported at a level which will yield a national average return to producers of 70 cents a pound for all mohair sold in that marketing year.

(c) *Level of support for 1961 marketing year.* The price of mohair sold in the 1961 marketing year (April 1, 1961, through March 31, 1962) will be supported at a level which will yield a national average return to producers of 73 cents a pound for all mohair sold in that marketing year. An announcement of this support level was made on August 16, 1960.

§ 468.163 Provisions of regulations.

If market conditions become such that it appears that payments to producers will be necessary for any marketing year, regulations containing detailed program requirements will be issued. Such regulations will be generally similar to the regulations dealing with shorn wool payments which are included in the Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool), issued by Commodity Credit Corporation and the Commodity Stabilization Service on January 27, 1959 (24 F.R. 649), as amended, except that there will be no deductions from payments under the mohair program based on any purchases of goats. Applicants for payments under the mohair program will submit sales documents meeting the requirements as to sales documents for shorn wool in the previously mentioned wool payment program (§§ 472.1007 and 472.1008 of this chapter), and producers of mohair are cautioned to obtain and keep such documents for use under the mohair program if mohair payments should be made.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 702–709, 68 Stat. 910–912, secs. 401–403, 72 Stat. 994–995; 15 U.S.C. 714c, 7 U.S.C. 1781–1787, 1446)

Issued this 22d day of December 1960.

WALTER C. BERGER,
Executive Vice President, Commodity Credit Corporation, and Administrator, Commodity Stabilization Service.

[F.R. Doc. 60–12063; Filed, Dec. 28, 1960; 8:48 a.m.]

[Amdt. 5]

PART 472—WOOL

Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool)

INCENTIVE LEVEL FOR 1961 MARKETING YEAR AND OTHER AMENDMENTS

The regulations issued by Commodity Credit Corporation and the Commodity Stabilization Service containing the requirements with respect to the payment program for shorn wool and unshorn lambs (pulled wool), as amended (24 F.R. 649, 10191; 25 F.R. 1725, 2705, 5872), are further amended as follows:

1. At the end of § 472.1002, the following new paragraph (d) is inserted:

(d) *1961 marketing year.* For the 1961 marketing year, the price support level was announced on August 16, 1960, as 62 cents per pound of shorn wool, grease basis.

2. At the end of paragraph (a) of § 472.1006, the following new sentence is inserted: "If the producer files more than one application in the same county office or different county offices, all such applications may be considered together for the purpose of determining the amount of the payment based on the sales of shorn wool and the amount of the reduction on account of purchases of unshorn lambs."

3. In § 472.1006, the following is inserted at the end of paragraph (c): "If the amount of the reduction exceeds the payment computed on the shorn wool marketed, the liveweight of lambs which corresponds to the excess amount shall be carried forward and used to reduce payments on shorn wool or unshorn lambs marketed in future years."

4. In § 472.1023, the following is inserted at the end thereof: "If the liveweight reported pursuant to § 472.1026 exceeds the liveweight of the unshorn lambs sold or moved to slaughter during the marketing year for which the application is filed, such excess liveweight shall be carried forward and used to reduce payments on unshorn lambs or shorn wool marketed in future years. If the producer files more than one application in the same county office or in different county offices, all such applications may be considered together for the purpose of determining the amount of the payment based on the sales of unshorn lambs and the amount of the reduction on account of purchases of unshorn lambs."

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 702–709, 68 Stat. 910–912, secs. 401–403, 72 Stat. 994–995; 15 U.S.C. 714c, 7 U.S.C. 1781–1787, 1446)

Issued this 22d day of December 1960.

WALTER C. BERGER,
Executive Vice President, Commodity Credit Corporation, and Administrator, Commodity Stabilization Service.

[F.R. Doc. 60–12064; Filed, Dec. 28, 1960; 8:48 a.m.]

SUBCHAPTER D—REGULATIONS UNDER SOIL BANK ACT

[Amdt. 44]

PART 485—SOIL BANK

Subpart—Conservation Reserve Program for 1956 Through 1959

MISCELLANEOUS AMENDMENTS

The regulations governing the Conservation Reserve Program for 1956 through 1959, 21 F.R. 6289, as amended, are hereby further amended as follows:

1. Section 485.157(f)(1) is amended to read as follows:

(1) Effective August 1, 1959, if the county committee determines that an approved conservation use to which the land was devoted when it was placed under contract or which was established with or without cost-sharing after the land was placed under contract, has failed or deteriorated as a result of flood, drought, hurricane, or other natural disaster to the extent that it will not provide adequate soil protection, or satisfactory impoundment of water, as the case may be, the county committee may authorize cost-sharing for eligible measures which the county committee determines are needed to reestablish or restore the approved conservation use so as to provide adequate soil protection, or satisfactory impoundment of water, as the case may be, except that no cost-sharing shall be approved for reestablishment or restoration measures to be carried out during the last year of the contract period. Approvals of cost-sharing for reestablishment or restoration measures shall be at rates of cost-sharing not in excess of 50 percent of the current rates of cost-sharing for the measures for which cost-sharing is being approved. If the contract is for a period of less than 5 years, cost-sharing for reestablishment or restoration measures shall not be authorized.

2. Section 485.162(a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this paragraph, (1) rates of cost-sharing for approvals issued on or after January 1, 1961 for practice C–14 shall not exceed 50 percent of the average cost of performing such practice, and (2) rates of cost-sharing for approvals issued on or after January 1, 1961 for all other practices shall not exceed the rates of cost-sharing which would be applicable for such practices under the regulations governing the Conservation Reserve Program for 1960."

(Sec. 124, 70 Stat. 198; 7 U.S.C. 1812.)

Issued at Washington, D.C., this 22d day of December 1960.

WALTER C. BERGER,
Administrator, Commodity Stabilization Service.

[F.R. Doc. 60–12065; Filed, Dec. 28, 1960; 8:48 a.m.]

Title 27—INTOXICATING LIQUORS

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6521]

REPUBLICATION OF REGULATIONS

All regulations published under Title 27 of the Code of Federal Regulations, pursuant to the Federal Alcohol Administration Act, prior to September 1, 1960, are hereby republished for the purpose of making certain editorial changes, including corrections of form, style, and internal references, as well as conforming corrections required by the revision of Chapter 51 of the Internal Revenue Code of 1954 by section 201 of the Excise Tax Technical Changes Act of 1958, 72 Stat. 1313; 26 U.S.C. 5001.

Part

1 Basic permit requirements under the Federal Alcohol Administration Act.
2 Nonindustrial use of distilled spirits and wine.
3 Bulk sales and bottling of distilled spirits.
4 Labeling and advertising of wine.
5 Labeling and advertising of distilled spirits.
6 Inducements furnished to retailers.
7 Labeling and advertising of malt beverages.
8 Credit period to be extended to retailers of alcoholic beverages.

PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

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1.3 Forms prescribed.

Subpart B—Definitions

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1.8 Assistant Regional Commissioner.
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1.16 Resale at wholesale.
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Subpart C—Basic Permits

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1.30 Power of attorney; Form 1534.
1.31 Denial of permit applications.

Subpart D—Authorization

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1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.

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Subpart G—Miscellaneous

1.55 Recalling permits for correction.
1.56 Oaths and affirmations.
1.57 Procedure.
1.58 Filing of permits.
1.59 Public information as to applications acted upon.

AUTHORITY: §§ 1.1 to 1.59 issued under 49 Stat. 977, as amended; 27 U.S.C. 202 note.

Subpart A—Scope

§ 1.1 General.

The regulations in this part relate to requirements governing the issuance, amendment, denial, revocation, suspension, automatic termination, and annulment of basic permits and the duration of permits, except that the provisions of 26 CFR Part 200, Rules of Practice in Permit Procedings are hereby made applicable to administrative proceedings with respect to the application for, and to the suspension, revocation, or annulment of, basic permits under the Federal Alcohol Administration Act.

§ 1.2 Territorial extent.

The provisions of this part are applicable to the several States of the United States, the District of Columbia and Puerto Rico.

§ 1.3 Forms prescribed.

The Director, Alcohol, and Tobacco Tax Division, is authorized to prescribe all forms required by this part. Information called for shall be furnished in accordance with the instructions on the form or issued in respect thereto.

Subpart B—Definitions

§ 1.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

§ 1.6 Act.

"Act" shall mean the Federal Alcohol Administration Act.

§ 1.7 Applicant.

"Applicant" shall mean any person who has filed with the Assistant Regional Commissioner an application for a basic permit under the Federal Alcohol Administration Act.

§ 1.8 Assistant Regional Commissioner.

"Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to, and functions under, the direction and supervision of the Regional Commissioner.

§ 1.9 Basic permit.

"Basic permit" shall mean a formal document issued under the Act in the form prescribed by the Director, Alcohol and Tobacco Tax Division authorizing the person named therein to engage in the activities specified at the location stated.

§ 1.10 Commissioner.

"Commissioner" shall mean the Commissioner of Internal Revenue, and shall include anyone authorized to act in his place and stead.

§ 1.11 Director, Alcohol and Tobacco Tax Division.

"Director, Alcohol and Tobacco Tax Division" shall mean the Director of the Alcohol and Tobacco Tax Division of the Internal Revenue Service, Washington, D.C., and shall include anyone authorized to act in his place and stead.

§ 1.12 Other term.

Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

§ 1.13 Permittee.

"Permittee" shall mean any person holding a basic permit issued under the Federal Alcohol Administration Act.

§ 1.14 Person.

"Person" shall mean any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

§ 1.15 Regional Commissioner.

"Regional Commissioner" shall mean the Regional Commissioner of Internal Revenue of an internal revenue region.

§ 1.16 Resale at wholesale.

"Resale at wholesale" shall mean a sale to any trade buyer.

§ 1.17 Trade buyer.

"Trade buyer" shall mean any person who is a wholesaler or retailer of distilled spirits, wine or malt beverages.

Subpart C—Basic Permits

WHEN REQUIRED

§ 1.20 Importers.

No person, except pursuant to a basic permit issued under the act, shall:

(a) Engage in the business of importing into the United States distilled spirits, wine, or malt beverages; or, (b) while so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported.

§ 1.21 Domestic producers, rectifiers, blenders, and warehousemen.

No person, except pursuant to a basic permit issued under the Act, shall:

(a) 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; or (b) while so engaged, sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits or wine so distilled, produced, rectified, blended, or bottled, or warehoused and bottled.

§ 1.22 Wholesalers.

No person, except pursuant to a basic permit issued under the act, shall:

(a) Engage in the business of purchasing for resale at wholesale, distilled spirits, wine, or malt beverages; or, (b) While so engaged, receive, sell, offer or deliver for sale, contract to sell, or ship in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so purchased.

§ 1.23 State agencies.

This subpart shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency or officer or employee thereof shall be required to obtain a basic permit under this subpart.

PERSONS ENTITLED TO BASIC PERMITS

§ 1.24 Qualifications of applicants.

The application of any person shall be granted and the permit issued by the Assistant Regional Commissioner if the applicant proves to the satisfaction of the Assistant Regional Commissioner that:

(a) Such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has not, within 5 years prior to the date of application, been convicted of a felony under Federal or State law, and has not, within 3 years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; and

(b) Such person, by reason of his business experience, financial standing or trade connections, is likely to commence operations as a distiller, warehouseman and bottler, rectifier, wine producer, wine blender, importer, or wholesaler, as the case may be, within a reasonable period and to maintain such operations in conformity with Federal law; and

(c) The operations proposed to be conducted by such person are not in violation of the law of the State in which they are to be conducted.

APPLICATIONS FOR PERMITS

§ 1.25 General.

Applications for basic permits to engage in any of the operations set forth in §§ 1.20 to 1.22 shall be made on the appropriate form prescribed by the Director, Alcohol and Tobacco Tax Division, verified as required by § 1.56, and shall be accompanied by such affidavits, documents, and other supporting data, as the Director, Alcohol and Tobacco Tax Division or the Assistant Regional Commissioner shall require. All data, written statements, affidavits, documents, or other evidence submitted in support of the application, or upon hearing thereon, shall be deemed to be a part of the application. All applications shall be filed by mailing or delivering the same to the office of the Assistant Regional Commissioner.

§ 1.26 Incomplete or incorrectly executed applications.

Incomplete or incorrectly executed applications will not be acted upon, but the applicant shall be entitled to file a new application without prejudice, or to complete the application already filed.

§ 1.27 Change in ownership, management, or control of the applicant.

In the event of any change in the ownership, management, or control of the applicant (in case of a corporation, any change in the officers, directors, or persons holding more than 10 percent of the corporate stock), after the date of filing of any application for a basic permit and prior to final action on such application, the applicant shall notify the Assistant Regional Commissioner immediately of such change.

§ 1.28 Forms upon which to apply for basic permits.

The appropriate forms upon which to apply for basic permits may be secured from the assistant regional commissioner's office upon request.

§ 1.29 Individual plant or premises.

An application for basic permit must be filed, and permit issued, to cover each individual plant or premises where any of the businesses specified in section 3 of the act is engaged in, such application to be filed with and permit issued by the Assistant Regional Commissioner for the region wherein such plant or premises is located.

§ 1.30 Power of attorney; Form 1534.

If the application and other documents in support of such application are signed by an attorney in fact for an individual, partnership, association, or corporation, or by one of the members of a copartnership or association, or, in the case of a corporation by an officer or other person not authorized by the corporation's bylaws or by its board of directors to sign such applications and supporting documents, the applications must be supported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the documents to execute the same. Such powers of attorney will be executed on Form 1534, in triplicate, and submitted to the Assistant Regional Commissioner.

§ 1.31 Denial of permit applications.

If, upon examination of any application for a basic permit, the Assistant Regional Commissioner has reason to believe that the applicant is not entitled to such permit he shall institute proceedings for the denial of the application in accordance with the procedure set forth in 26 CFR Part 200, which part is made applicable to such proceedings.

Subpart D—Authorization

§ 1.35 Authority to issue, amend, deny, suspend, revoke, or annul basic permits.

The authority and power of issuing, amending, or denying basic permits, or amendments thereof, is conferred upon the Commissioner and (except as to agency initiated curtailment) upon the Assistant Regional Commissioner. The authority and power of suspending, revoking or annulling basic permits is conferred upon the Commissioner, and upon the hearing examiners referred to in 26 CFR Part 200. Any Assistant Commissioner of Internal Revenue, when designated to do so by the Commissioner, and the Director, upon consideration of appeals on petitions for review, may order the Assistant Regional Commissioner to issue, deny, suspend, revoke, and annul basic permits.

Subpart E—Amendment and Duration of Basic Permits

§ 1.40 Change of name.

In the event of any change in the name (trade or corporate name) of a permittee, or, in the event a permittee desires to engage in operations under an additional trade name, such permittee must file application (Form 1643), with the Assistant Regional Commissioner, for an amended basic permit, which application must be approved, and amended permit issued, before operations may be commenced under the new name.

§ 1.41 Change of address.

In the event of a change in address, the permittee must file application (Form 1643), with the Assistant Regional Commissioner, for an amended basic permit.

§ 1.42 Change in ownership, management, or control of business.

In the event of any change in the ownership, management, or control of any business operated pursuant to a basic permit (if the permittee is a corporation, if any change occurs in the officers, directors, or persons owning or controlling more than 10 percent of the voting stock of said corporation) the permittee shall immediately notify the Assistant Regional Commissioner of such change, giving the names and addresses of all new persons participating in the ownership, management, or control of such business, or in the case of a corporation, the names and addresses of such new officers, directors, or persons owning or controlling more than 10 percent of the voting stock. Notice to the Assistant Regional Commissioner of any such change shall be accompanied or supplemented by such data in reference to the personal or business history of such persons as the Assistant Regional Commissioner may require.

§ 1.43 Duration of permits.

A basic permit shall continue in effect until suspended, revoked, annulled, vol-

untarily surrendered, or automatically terminated, as provided in the act and in this part.

§ 1.44 Automatic termination of permits.

No basic permit shall be leased, sold, or otherwise voluntarily transferred, and, in the event of such lease, sale, or other voluntary transfer, the said basic permit shall automatically terminate thereupon. If any basic permit is transferred by operation of law or if actual or legal control of the permittee is acquired, directly or indirectly whether by stock ownership or in any other manner, by any person, then such permit shall be automatically terminated at the expiration of 30 days thereafter: *Provided*, That if within such 30-day period application for a new basic permit is made by the transferee or permittee, respectively, then the outstanding basic permit shall continue in effect until such time as the application is finally acted upon.

Subpart F—Revocation, Suspension, or Annulment of Basic Permits

§ 1.50 Revocation or suspension.

Whenever the Assistant Regional Commissioner has reason to believe that any permittee has willfully violated any of the conditions of his basic permit or has not engaged in the operations authorized by the permit for a period of more than two years, he shall institute proceedings for the revocation or suspension of such permit, in accordance with the procedure set forth in 26 CFR Part 200, which part is made applicable to such proceedings.

§ 1.51 Annulment.

Whenever the Assistant Regional Commissioner has reason to believe that any basic permit was procured through fraud, or misrepresentation or concealment of material fact, he shall institute proceedings for the annulment of such permit in accordance with the procedure set forth in 26 CFR Part 200, which part is made applicable to such proceedings.

§ 1.52 Disposition of stocks of alcoholic beverages upon revocation, annulment, or automatic termination of basic permit.

In the event of the revocation or annulment of a basic permit, pursuant to 26 CFR Part 200, or in the event such permit is automatically terminated by operation of law (27 U.S.C. 204(g)) and § 1.44, the Assistant Regional Commissioner may authorize the orderly disposition of stocks of distilled spirits, wines or malt beverages then held by the permittee or former permittee upon such conditions as may be considered proper.

Subpart G—Miscellaneous

§ 1.55 Recalling permits for correction.

Whenever it shall be discovered that any basic permit has been issued authorizing acts, or combinations of acts, which may not properly, under the law and regulations, as now or hereafter in force, be authorized, or that any material mistake has occurred in the issuance thereof, the holder of such permit shall forthwith surrender the same for correction or amendment upon demand of the Assistant Regional Commissioner.

§ 1.56 Oaths and affirmations.

Any document required by regulations or instructions of the Commissioner to be verified, shall be so verified upon oath or affirmation taken before a person authorized by the laws of the United States or by State or local law to administer oaths or affirmations in the State, Territory, or District wherein such document is to be executed.

§ 1.57 Procedure.

The procedures prescribed by the rules of practice in Permit Proceedings (26 CFR Part 200) are applicable to administrative proceedings for the issuance, amendment, denial, revocation, suspension, and annulment of basic permits, the issuance of subpoenas and the taking of depositions under the Federal Alcohol Administration Act.

§ 1.58 Filing of permits.

Every person receiving a basic permit under the provisions of this part must file the same, at the place of business covered by the basic permit, so that it may be examined by Government officers.

§ 1.59 Public information as to applications acted upon.

The Assistant Regional Commissioner shall cause to be maintained currently in his office for public inspection, until the expiration of one year following final action on the application, the following information with respect to each application for basic permit filed:

(a) The name, including trade name or names, if any, and the address of the applicant; the kind of permit applied for and the location of the business; whether the applicant is an individual, a partnership or a corporation; if a partnership, the name and address of each partner; if a corporation, the name and address of each of the principal officers and of each stockholder owning 10 percent or more of the corporate stock.

(b) The time and place set for any hearing on the application.

(c) The final action taken on the application. In the event a hearing is held upon an application for a basic permit, the Assistant Regional Commissioner shall make available for inspection at his office, upon request therefor: The transcript of the hearing, a copy of the examiner's recommended decision, a copy of the Assistant Regional Commissioner's decision and, in the event of an appeal to the Director, Alcohol and Tobacco Tax Division, the decision on appeal with the reasons given in support thereof.

PART 2—NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE

Subpart A—Scope of Regulations

Sec.
2.1 Nonindustrial use of distilled spirits and wine.

Subpart B—Definitions

2.5 Distilled spirits.
2.6 Wine.

Subpart C—Uses Regarded as Industrial

2.10 Use of distilled spirits.
2.11 Use of wine.
2.12 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.

Subpart D—Uses Classed as Nonindustrial

2.15 General.
2.16 Distilled spirits in containers of a capacity of one gallon or less.

AUTHORITY: §§ 2.1 to 2.16 issued under 49 Stat. 977, as amended; 27 U.S.C. 202 note.

Subpart A—Scope of Regulations

§ 2.1 Nonindustrial use of distilled spirits and wine.

The regulations in this part specify what uses of distilled spirits and wine are "nonindustrial," as that term is used in section 17 of the Federal Alcohol Administration Act. No procedural requirements are prescribed.

Subpart B—Definitions

§ 2.5 Distilled spirits.

Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

§ 2.6 Wine.

Section 17(a) of the Federal Alcohol Administration Act defines "wine" as (a) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045), as now in force or hereafter amended, and (b) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for nonindustrial use.

Subpart C—Uses Regarded as Industrial

§ 2.10 Use of distilled spirits.

The following uses of distilled spirits are regarded as "industrial" and will be excluded from any application of the term "nonindustrial use." The use of distilled spirits:

(a) Free of tax by, and for the use of, the United States or any governmental agency thereof, any State or Territory, any political subdivision of a State or Territory, or the District of Columbia, for nonbeverage purposes; or

(b) Free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale:

(1) For the use of any educational organization described in 26 U.S.C. 503(b)(2) which is exempt from income tax under 26 U.S.C. 501(a), or for the use of any scientific university or college of learning;

(2) For any laboratory for use exclusively in scientific research;

(3) For use at any hospital, blood bank, or sanitarium (including use in making analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses or tests, for hospitals or sanitariums; or

(4) For the use of any clinic operated for charity and not for profit (including use in compounding of bona fide medicines for treatment outside of such clinics of patients thereof); or

(c) Free of tax, after denaturation of such spirits in the manner prescribed by law for:

(1) Use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or

(2) Any other use in the arts and industries (except for uses prohibited by 26 U.S.C. 5273 (b) or (d)) and for fuel, light, and power.

§ 2.11 Use of wine.

The following uses of wine are regarded as "industrial" and will be excluded from any application of the term "nonindustrial". The use of wine:

(a) Without payment of tax for use in the production of vinegar; or

(b) Free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research; or

(c) Free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and Territories and the District of Columbia or of any political subdivision thereof or by any agency of such governments; or

(d) Which has been rendered unfit for beverage use.

§ 2.12 Use of distilled spirits or wine for experimental purposes and in manufacture of nonbeverage products.

The use of distilled spirits or wine for experimental purposes and in the manufacture of (a) medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; (b) toilet preparations; (c) flavoring extracts, syrups, or food products; or (d) scientific, chemical, mechanical, or industrial products, provided such products are unfit for beverage use, is regarded as "industrial," and will be excluded from any application of the term "nonindustrial use."

Subpart D—Uses Classed as Nonindustrial

§ 2.15 General.

All uses of distilled spirits and wines, except as provided in Subpart C of this part, are regarded as "nonindustrial." Such "nonindustrial" use shall include, but not be limited to, distilled spirits or wine used for beverage purposes, or in the manufacture, rectification, or blending of alcoholic beverages; or in the preparation of food or drink by a hotel, restaurant, tavern, or similar establishment; or for sacramental purposes; or as a medicine.

§ 2.16 Distilled spirits in containers of a capacity of one gallon or less.

Distilled spirits in containers of a capacity of one wine gallon or less, except anhydrous alcohol and alcohol which may be withdrawn free of tax under the internal revenue laws, will be deemed to be for nonindustrial use.

PART 3—BULK SALES AND BOTTLING OF DISTILLED SPIRITS

Subpart A—Scope of Part

Sec.

3.1 Bulk sales and bottling of distilled spirits.

Subpart B—Definitions

3.5 Distilled spirits.
3.6 Brandy.
3.7 In bulk.
3.8 Other terms.

Subpart C—Bulk Sales and Bottling

3.10 Sales of distilled spirits in bulk.
3.11 Importation of distilled spirits in bulk.
3.12 Acquiring or receiving distilled spirits in bulk for warehousing and bottling.
3.13 Acquiring or receiving distilled spirits in bulk for rectification or fortification.
3.14 Acquisition of distilled spirits in bulk by Government agencies.

Subpart D—Warehouse Receipts

3.20 Distilled spirits in bulk.
3.21 Bottled distilled spirits.

Subpart E—Sales of Distilled Spirits for Industrial Use

3.25 General.

AUTHORITY: §§ 3.1 to 3.25 issued under 49 Stat. 985, as amended; 27 U.S.C. 206.

Subpart A—Scope of Part

§ 3.1 Bulk sales and bottling of distilled spirits.

This part, issued pursuant to section 6 of the Federal Alcohol Administration Act (27 U.S.C. 206), contains the substantive requirements relative to bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk. No procedural requirements are prescribed.

Subpart B—Definitions

§ 3.5 Distilled spirits.

Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

§ 3.6 Brandy.

As used in this part, the term "brandy" means brandy or wine spirits for addition to wines as permitted by Internal Revenue law and the term "alcohol" means ethyl alcohol distilled at or above 190° proof.

§ 3.7 In bulk.

As used in this part, the term "in bulk" shall mean in containers having a capacity in excess of 1 wine gallon.

§ 3.8 Other terms.

Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.

Subpart C—Bulk Sales and Bottling

§ 3.10 Sales of distilled spirits in bulk.

It is unlawful for any person to sell, offer to sell, contract to sell, or otherwise dispose of distilled spirits in bulk, for nonindustrial use, except for export or to the classes of persons enumerated in §§ 3.12, 3.13 and 3.14.

§ 3.11 Importation of distilled spirits in bulk.

It is unlawful for any person to import distilled spirits in bulk, for nonindustrial use, except for sale to or for use by the classes of persons enumerated in §§ 3.12, 3.13 and 3.14.

§ 3.12 Acquiring or receiving distilled spirits in bulk for redistillation, processing, rectification, warehousing, or warehousing and bottling.

Persons holding basic permits (issued under 27 CFR Part I) authorizing the distilling, rectifying, or warehousing and bottling of distilled spirits, or operating permits (issued under 26 CFR 201.136 et seq.) may acquire or receive in bulk distilled spirits as follows:

(a) *Proprietor of a distilled spirits plant having distilling or bonded storage facilities.* If the permittee is authorized to operate distilling or bonded storage facilities of a distilled spirits plant, he may acquire or receive in bulk, and redistill or otherwise process, or warehouse, or warehouse and bottle domestic untax-determined distilled spirits.

(b) *Proprietor of a distilled spirits plant having bottling premises for bottling taxpaid distilled spirits.* If the permittee is authorized to operate tax-paid bottling premises of a distilled spirits plant, he may acquire or receive in bulk, and warehouse and bottle imported tax-paid distilled spirits and domestic distilled spirits on which all applicable taxes imposed by law have been determined or paid as provided by law. If he is authorized to rectify distilled spirits, he may acquire or receive in bulk taxpaid imported distilled spirits, and domestic distilled spirits on which all applicable taxes imposed by law have been determined or paid as provided by law, for use in rectifying and blending or for warehousing and bottling.

(c) *Proprietor of class 8 customs bonded warehouse.* If the permittee operates a class 8 customs bonded warehouse, he may acquire or receive in bulk, and warehouse and bottle, imported distilled spirits, so far as permitted by the customs laws.

§ 3.13 Acquiring or receiving distilled spirits in bulk for addition to wine.

Persons holding permits as producers and blenders of wine, may, pursuant to such permit, acquire or receive in bulk alcohol or brandy for addition to wines.

§ 3.14 Acquisition of distilled spirits in bulk by Government agencies.

Any agency of the United States, or of any State or political subdivision thereof, may acquire or receive in bulk, and warehouse and bottle, imported and domestic distilled spirits in conformity with the internal revenue laws.

Subpart D—Warehouse Receipts

§ 3.20 Distilled spirits in bulk.

By the terms of the Federal Alcohol Administration Act (27 U.S.C. 206), all warehouse receipts for distilled spirits in bulk must require that the warehouseman shall package such distilled spirits, before delivery, in bottles labeled and marked in accordance with law, or deliver such distilled spirits in bulk only to persons to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.

§ 3.21 Bottled distilled spirits.

The provisions of the Federal Alcohol Administration Act, which forbid any person to sell, offer to sell, contract to sell, or otherwise dispose of warehouse receipts for distilled spirits in bulk, do not apply to warehouse receipts for bottled distilled spirits.

CROSS REFERENCE: For labeling of distilled spirits, see Part 5 of this chapter.

Subpart E—Sales of Distilled Spirits for Industrial Use

§ 3.25 General.

Distillers, rectifiers, and other permittees engaged in the sale or other disposition of distilled spirits for nonindustrial use shall not sell or otherwise dispose of distilled spirits in bulk (other than alcohol) for industrial use, unless such distilled spirits are shipped or delivered directly to the industrial user thereof.

PART 4—LABELING AND ADVERTISING OF WINE

Subpart A—Scope

Sec.
4.1 General.
4.2 Territorial extent.

Subpart B—Definitions

4.10 Meaning of terms.

Subpart C—Standards of Identity for Wine

4.20 Application of standards.
4.21 The standards of identity.
4.22 Blends, cellar treatment, alteration of class or type.
4.23 Grape type designations.
4.24 Generic, semi-generic, and non-generic designations of geographic significance.
4.25 Appellations of origin.

Subpart D—Labeling Requirements for Wine

4.30 General.
4.31 Misbranding.
4.32 Mandatory label information.
4.33 Brand names.
4.34 Class and type.
4.35 Name and address.
4.36 Alcoholic content.
4.37 Net contents.
4.38 General requirements.
4.39 Prohibited practices.

Subpart E—Requirements for Withdrawal of Wine From Customs Custody

Sec.
4.40 Label approval and release.

Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

4.50 Certificates of label approval.
4.51. Exhibiting certificates to Government officials.
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Subpart G—Advertising of Wine

4.60 Application.
4.61 Definitions.
4.62 Mandatory statements.
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Subpart H—Standards of Fill for Wine

4.70 Application.
4.71 Standard wine containers.
4.72 Standards of fill.

Subpart I—General Provisions

4.80 Exports.

AUTHORITY: §§ 4.1 to 4.80 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

CROSS REFERENCES: Other regulations relating to this part are as follows:

27 CFR, Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR, Part 5—Labeling and Advertising of Distilled Spirits.
27 CFR, Part 7—Labeling and Advertising of Malt Beverages.
26 CFR, Part 200—Rules of Practice in Permit Proceedings.
26 CFR 240—Wine.
26 CFR, Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
26 CFR, Part 251—Importation of Distilled Spirits, Wines and Beer.
26 CFR, Part 252—Exportation of Liquors.

Subpart A—Scope

§ 4.1 General.

The regulations in this part relate to the labeling and advertising of wine.

§ 4.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

Subpart B—Definitions

§ 4.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

(a) *Act.* "Act" means the Federal Alcohol Administration Act.

(b) *Assistant Regional Commissioner.* "Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to, and functions under the direction and supervision of the Regional Commissioner.

(c) *Director.* "Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

(d) *Permittee.* "Permittee" means any person holding a basic permit under the Federal Alcohol Administration Act.

(e) *Wine.* "Wine" means: (1) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

(f) *Pure condensed must.* "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° (Balling), the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(g) *Added brandy or alcohol.* As used in the phrase "added brandy or alcohol" the term "brandy" means brandy or wine spirits for use in the fortification of wine as permitted by internal revenue law. The term "alcohol" means ethyl alcohol distilled at or above 190° proof.

(h) *Vintage wine.* "Vintage wine" means a wine made wholly from grapes gathered in the same calendar year and grown and fermented in the same viticultural area, and conforming to the standards prescribed in Classes 1, 2, and 3 of § 4.21.

(i) *Container.* "Container" means any bottle, barrel, cask or other closed receptacle irrespective of size or of the material from which made for use for the sale of wine at retail. The term "bottler" means any person who places wine in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places wine in containers of a capacity in excess of 1 gallon.

(j) *Gallon.* "Gallon" means United States gallon of 231 cubic inches of alcoholic beverage at 60° F. All other liquid measures used are subdivisions of the gallon as so defined.

(k) *Brand label.* "Brand label" means the label carrying, in the usual distinctive design, the brand name of the wine.

(l) *United States.* "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

(m) *Interstate commerce.* "Interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(n) *Person.* "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a

State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

(o) *Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Subpart C—Standards of Identity for Wine

§ 4.20 Application of standards.

The standards of identity for the several classes and types of wine set forth herein shall be applicable to all regulations and permits issued under the act. Whenever any term for which a standard of identity has been established herein is used in any such regulation or permit, such term shall have the meaning assigned to it by such standard of identity.

§ 4.21 The standards of identity.

Standards of identity for the several classes and types of wine set forth in this part shall be as follows:

(a) *Class 1; grape wine.* (1) "Grape wine" is wine produced by the normal alcoholic fermentation of the juice of sound, ripe grapes (including restored or unrestored pure condensed grape must), with or without the addition, after fermentation, of pure condensed grape must, and with or without added grape brandy or alcohol, but without other addition or abstraction except as may occur in cellar treatment: *Provided,* That the product may be ameliorated before, during or after fermentation by either of the following methods:

(i) By adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent; but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) By adding, separately or in combination, not more than 20 percent by weight of dry sugar, or not more than 10 percent by weight of water.

(iii) In the case of domestic wine, in accordance with section 5383 of the Internal Revenue Code.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural red wine, more than 0.14 gram, and for other grape wine, more than 0.12 gram, per 100 cubic centimeters (20° C.). Grape wine deriving its characteristic color or lack of color from the presence or absence of the red coloring matter of the skins, juice, or pulp of grapes may be designated as "red wine," "pink (or rose) wine," "amber wine," or "white wine" as the case may be. Any grape wine containing no added grape brandy or alcohol may be further designated as "natural."

(2) "Table wine" is grape wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated as "light wine," "red table wine," "light white wine," "sweet table wine," etc., as the case may be.

(3) "Dessert wine" is grape wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume. Dessert wine having the taste, aroma and characteristics generally attributed to sherry and an alcoholic content, derived in part from added grape brandy or alcohol, of not less than 17 percent by volume, may be designated as "sherry". Dessert wines having the taste, aroma and characteristics generally attributed to angelica, madeira, muscatel and port and an alcoholic content, derived in part from added grape brandy or alcohol, of not less than 18 percent by volume, may be designated as "angelica," "madeira," "muscatel," or "port" respectively. Dessert wines having the taste, aroma, and characteristics generally attributed to any of the above products and an alcoholic content, derived in part from added grape brandy or alcohol, in excess of 14 percent by volume but, in the case of sherry, less than 17 percent, or, in other cases, less than 18 percent by volume, may be designated as "light sherry," "light angelica," "light madeira," "light muscatel" or "light port," respectively.

(b) *Class 2; sparkling grape wine.* (1) "Sparkling grape wine" (including "sparkling wine," "sparkling red wine" and "sparkling white wine") is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(2) "Champagne" is a type of sparkling light wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the champagne district of France.

(3) A sparkling light wine having the taste, aroma, and charcteristics generally attributed to champagne but not otherwise conforming to the standard for "champagne" may, in addition to but not in lieu of the class designation "sparkling wine" be further designated as "champagne style" or "champagne type" or "American (or New York State, California, etc.) champagne—bulk process"; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine".

(4) "Crackling wine", "petillant wine", "frizzante wine" (including cremant, perlant, reciotto and other similar wine) is sparkling light wine normally less effervescent than champagne or other similar sparkling wine, but containing sufficient carbon dioxide in solution, derived solely from limited fermentation within the bottle, to produce, upon pouring under normal conditions, after the disappearance of air bubbles, a slow and steady effervescence evidenced by the formation of gas bubbles flowing up through the wine.

(c) *Class 3; carbonated grape wine.* "Carbonated grape wine" (including "carbonated wine" "carbonated red wine," and "carbonated white wine") is grape wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank or bottle.

(d) *Class 4; citrus wine.* (1) (i) "Citrus wine" or "citrus fruit wine" is wine produced by the normal alcoholic fermentation of the juice of sound, ripe citrus fruit (including restored or unrestored pure condensed citrus must), with or without the addition, after fermentation, of pure condensed citrus must, and with or without added citrus brandy or alcohol, but without any other addition or abstraction except as may occur in cellar treatment: *Provided,* That a domestic product may be ameliorated or sweetened in accordance with the provisions of section 5384 of the Internal Revenue Code and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural citrus wine, more than 0.14 gram, and for other citrus wine, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(iii) Any citrus wine containing no added brandy or alcohol may be further designated as "natural."

(2) "Citrus table wine" or "citrus fruit table wine" is citrus wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated "light citrus wine," "light citrus fruit wine," "light sweet citrus fruit wine," etc., as the case may be.

(3) "Citrus dessert wine" or "citrus fruit dessert wine" is citrus wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(4) Citrus wine derived wholly (except for sugar, water, or added alcohol) from one kind of citrus fruit, shall be designated by the word "wine" qualified by the name of such citrus fruit, e.g., "orange wine," "grapefruit wine." Citrus wine not derived wholly from one kind of citrus fruit shall be designated as "citrus wine" or "citrus fruit wine" qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Citrus wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as "sparkling"; and citrus wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as "carbonated."

(e) *Class 5; fruit wine.* (1) (i) "Fruit wine" is wine (other than grape wine or

citrus wine) produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (including restored or unrestored pure condensed fruit must), with or without the addition, after fermentation, of pure condensed fruit must, and with or without added fruit brandy or alcohol, but without other addition or abstraction except as may occur in cellar treatment: *Provided*, That a domestic product may be ameliorated or sweetened in accordance with the provisions of section 5384 of the Internal Revenue Code and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will increase the volume of the resulting product, in the case of wines produced from loganberries, currants, or gooseberries, having a normal acidity of 20 parts or more per thousand, not more than 60 percent, and in the case of other fruit wines, not more than 35 percent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(iii) Any fruit wine containing no added brandy or alcohol may be further designated as "natural."

(2) "Berry wine" is fruit wine produced from berries.

(3) "Fruit table wine" or "berry table wine" is fruit or berry wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated "light fruit wine," or "light berry wine."

(4) "Fruit dessert wine" or "berry dessert wine" is fruit or berry wine having an alcoholic content in exces of 14 percent but not in excess of 24 percent by volume.

(5) Fruit wine derived wholly (except for sugar, water, or added alcohol) from one kind of fruit shall be designated by the word "wine" qualified by the name of such fruit, e. g., "peach wine," "blackberry wine." Fruit wine not derived wholly from one kind of fruit shall be designated as "fruit wine" or "berry wine," as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines which are derived wholly (except for sugar, water, or added alcohol) from apples or pears may be designated "cider" and "perry," respectively, and shall be so designated if lacking in vinous taste, aroma, and characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as "sparkling"; and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as "carbonated."

(f) *Class 6; wine from other agricultural products.* (1) (i) Wine of this class is wine (other than grape wine, citrus wine, or fruit wine) made by the normal alcoholic fermentation of sound fermentable agricultural products, either fresh or dried, or of the restored or unrestored pure condensed must thereof, with the addition before or during fermentation of a volume of water not greater than the minimum necessary to correct natural moisture deficiencies in such products, with or without the addition, after fermentation, of pure condensed must, and with or without added alcohol or such other spirits as will not alter the character of the product, but without other addition or abstraction except as may occur in cellar treatment: *Provided*, That a domestic product may be ameliorated or sweetened in accordance with Subpart T of 26 CFR Part 240, and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 percent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation of more than 13 percent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or a total solids content of more than 22 grams per 100 cubic centimeters.

(ii) The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural wine of this class, more than 0.14 gram, and for other wine of this class, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(iii) Wine of this class containing no added alcohol or other spirits may be further designated as "natural".

(2) "Table wine" of this class is wine having an alcoholic content not in excess of 14 percent by volume. Such wine may also be designated as "light".

(3) "Dessert wine" of this class is wine having an alcoholic content in excess of 14 percent but not in excess of 24 percent by volume.

(4) "Raisin wine" is wine of this class made from dried grapes.

(5) "Sake" is wine of this class produced from rice in accordance with the commonly accepted method of manufacture of such product.

(6) Wine of this class derived wholly (except for sugar, water, or added alcohol) from one kind of agricultural product shall, except in the case of "sake," be designated by the word "wine" qualified by the name of such agricultural product, e.g., "honey wine," "raisin wine," "dried blackberry wine." Wine of this class not derived wholly from one kind of agricultural product shall be designated as "wine" qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Wine of this class rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of wine within a closed container, tank, or bottle shall be further designated as "sparkling"; and wine of this class rendered effervescent by carbon dioxide otherwise derived shall be further designated as "carbonated."

(g) *Class 7; aperitif wine.* (1) "Aperitif wine" is wine having an alcoholic content of not less than 15 percent by volume, compounded from grape wine containing added brandy or alcohol, flavored with herbs and other natural aromatic flavoring materials, with or without the addition of caramel for coloring purposes, and possessing the taste, aroma, and characteristics generally attributed to aperitif wine and shall be so designated unless designated as "vermouth" under paragraph (b) of this section.

(2) "Vermouth" is a type of aperitif wine compounded from grape wine, having the taste, aroma, and characteristics generally attributed to vermouth, and shall be so designated.

(h) *Class 8; imitation and substandard wine.* (1) "Imitation wine" shall bear as a part of its designation the word "imitation," and shall include:

(i) Any wine containing synthetic materials.

(ii) Any wine made from a mixture of water with residue remaining after thorough pressing of grapes, fruit, or other agricultural products.

(iii) Any class or type of wine the taste, aroma, color, or other characteristics of which have been acquired in whole or in part, by treatment with methods or materials of any kind, if the taste, aroma, color, or other characteristics of normal wines of such class or type are acquired without such treatment.

(iv) Any wine made from must concentrated at any time to more than 80° (Balling).

(2) "Substandard wine" shall bear as a part of its designation the word "substandard," and shall include:

(i) Any wine having a volatile acidity in excess of the maximum prescribed therefor in §§ 4.20 to 4.25.

(ii) Any wine for which no maximum volatile acidity is prescribed in §§ 4.20 to 4.25, inclusive, having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20° C.).

(iii) Any wine for which a standard of identity is prescribed in this §§ 4.20 to 4.25, inclusive, which, through disease, decomposition, or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard.

(iv) Any "grape wine," "citrus wine," "fruit wine," or "wine from other agricultural products" to which has been added sugar and water solution in an amount which is in excess of the limitations prescribed in the standards of identity for these products, unless, in the case of "citrus wine," "fruit wine" and "wine from other agricultural products" the normal acidity of the material from which such wine is produced is 20 parts or more per thousand and the volume of the resulting product has not been increased more than 60 percent by such addition.

(i) *Class 9, retsina wine.* "Retsina wine" is grape table wine fermented or flavored with resin.

CROSS REFERENCE: For Internal Revenue regulations relating to fortified wine, see 26 CFR Part 240.

§ 4.22 Blends, cellar treatment, alteration of class or type.

(a) If the class or type of any wine shall be altered, and if the product as so altered does not fall within any other class or type either specified in §§ 4.20–4.25 or known to the trade, then such wine shall, unless otherwise specified in this section, be designated with a truthful and adequate statement of composition in accordance with § 4.34.

(b) Alteration of class or type shall be deemed to result from any of the following occurring before, during, or after production.

(1) Treatment of any class or type of wine with substances foreign to such wine which remain therein: *Provided,* That the presence in finished wine of not more than 350 parts per million of total sulphur dioxide, or sulphites expressed as sulphur dioxide, shall not be precluded under this paragraph.

(2) Treatment of any class or type of wine with substances not foreign to such wine but which remain therein in larger quantities than are naturally and normally present in other wines of the same class or type not so treated.

(3) Treatment of any class or type of wine with methods or materials of any kind to such an extent or in such manner as to affect the basic composition of the wine so treated by altering any of its characteristic elements.

(4) Blending of wine of one class with wine of another class or the blending of wines of different types within the same class.

(5) Treatment of any class or type of wine for which a standard of identity is prescribed in this article with sugar or water in excess of the quantities specifically authorized by such standard: *Provided,* That the class or type thereof shall not be deemed to be altered (i) where such wine (other than grape wine) is derived from fruit, or other agricultural products, having a high normal acidity, if the total solids content is not more than 22 grams per 100 cubic centimeters, and the content of natural acid is not less than 7.5 parts per thousand and (ii) where such wine is derived exclusively from fruit, or other agricultural products, the normal acidity of which is 20 parts or more per thousand, if the volume of the resulting product has been increased not more than 60 percent by the addition of sugar and water solution, for the sole purpose of correcting natural deficiencies due to such acidity, and (except in the case of such wines when produced from loganberries, currants, or gooseberries) there is stated as a part of the class and type designation the phrase "Made with over 35 percent sugar solution".

(c) Nothing in this section shall preclude the treatment of wine of any class or type in the manner hereinafter specified, provided such treatment does not result in the alteration of the class or type of the wine under the provisions of paragraph (b) of this section.

(1) Treatment with filtering equipment, and with fining or sterilizing agents.

(2) Treatment with pasteurization as necessary to perfect the wines to commercial standards in accordance with acceptable cellar practice but only in such a manner and to such an extent as not to change the basic composition of the wine nor to eliminate any of its characteristic elements.

(3) Treatment with refrigeration as necessary to perfect the wine to commercial standards in accordance with acceptable cellar practice but only in such a manner and to such an extent as not to change the basic composition of the wine nor to eliminate any of its characteristic elements.

(4) Treatment with methods and materials to the minimum extent necessary to correct cloudiness, precipitation, or abnormal color, odor, or flavor developing in wine.

(5) Treatment with constituents naturally present in the kind of fruit or other agricultural product from which the wine is produced for the purpose of correcting deficiencies of these constituents, but only to the extent that such constituents would be present in normal wines of the same class or type not so treated.

§ 4.23 Grape type designations.

A name indicative of a variety of grape may be employed as the type designation of a grape wine if the wine derives its predominant taste, aroma, and characteristics, and at least 51 per cent of its volume, from that variety of grape. If such type designation is not known to the consumer as the name of a grape variety, there shall appear in direct conjunction therewith an explanatory statement as to the significance thereof.

§ 4.24 Generic, semi-generic, and non-generic designations of geographic significance.

(a) (1) A name of geographic significance which is also the designation of a class or type of wine, shall be deemed to have become generic only if so found by the Director.

(2) Examples of generic names, originally having geographic significance, which are designations for a class or type of wine are: Vermouth, Sake.

(b) (1) A name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Director. Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and if the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations in this part or, if there be no such standard, to the trade understanding of such class or type.

(2) Examples of semi-generic names which are also type designations for grape wine are Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine (syn. Hock), Sauterne, Haut Sauterne, Sherry, Tokay.

(c) (1) A name of geographic significance, which has not been found by the Director to be generic or semi-generic may be used only to designate wines of the origin indicated by such name, but such name shall not be deemed to be the distinctive designation of a wine unless the Director finds that it is known to the consumer and to the trade as the designation of a specific wine of a particular place or region, distinguishable from all other wines.

(2) Examples of non-generic names which are not distinctive designations of specific wines are: American, California, Lake Erie Islands, Napa Valley, New York State, French, Spanish.

(3) Examples of non-generic names which are also distinctive designations of specific grape wines are: Bordeaux Blanc, Bordeaux Rouge, Graves, Medoc, St. Julien, Chateau Yquem, Chateau Margaux, Chateau Lafite, Pommard, Chambertin, Montrachet, Rhone, Liebfraumilch, Rudesheimer, Forster, Deidesheimer, Schloss Johannisberger, Lagrima, Lacryma Christi.

(4) Examples of names, not generic or semi-generic, which are distinctive designations of specific natural table wines, when qualified by the word "wine," or its French or German equivalent: Bordeaux, Medoc, St. Julien, Margaux, Graves, Barsac, Pomerol, St. Emilion; Bourgogne, Grand Chablis or Bourgogne des Environs de Chablis, Cote de Nuits, Gevrey-Chambertin, Morey, Chambolle-Musigny, Flagey-Echezeaux, Vosne-Romanee, Nuits or Nuits-St. Georges, Cote de Beaune, Aloxe-Corton, Savigny, Beaune, Pommard, Volnay, Santenay, Meursault, Puligny-Montrachet, Chassagne-Montrachet, Cote Maconnaise or Maconnais, Macon, Cote Beaujolaise, Beaujolais; Rhone or Cote du Rhone, Cote Rotie, Hermitage, Chateauneuf-du-Pape, Tavel; Loire, Anjou, Coteaux du Layon, Coteaux re la Loise, Saumur, Anjou-Saumur, Touraine, Vouvray; Alsace or Alsatian; Mosel-Saar-Ruwer, Mosel; Swiss or Suisse.

§ 4.25 Appellations of origin.

(a) A wine shall be entitled to an appellation of origin if (1) at least 75 percent of its volume is derived from fruit or other agricultural products both grown and fermented in the place or region indicated by such appellation, (2) it has been fully manufactured and finished within such place or region, and (3) it conforms to the requirements of the laws and regulations of such place or region governing the composition, method of manufacture and designation of wines for home consumption.

(b) Wines subjected to cellar treatment outside the place or region of origin under the provisions of § 4.22(c), and blends of wines of the same origin blended together outside the place or region of origin (if all the wines in the blend have a common class, type or other designation which is employed as the designation of the blend) shall be entitled to the same appellation of origin to which

they would be entitled if such cellar treatment or blending took place within the place or region of origin.

Subpart D—Labeling Requirements for Wine

§ 4.30 General.

(a) *Application.* No person engaged in business as a producer, rectifier, blender, importer, or wholesaler, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine in containers unless such wine is packaged, and such packages are marked, branded, and labeled in conformity with this article. Wine domestically bottled or packed prior to Dec. 15, 1936, and imported wine entered in customs bond in containers prior to that date shall be regarded as being packaged, marked, branded and labeled in accordance with this article, if the labels on such wine (1) bear all the mandatory label information required by § 4.32, even though such information is not set forth in the manner and form as required by § 4.32 and other sections of this title referred to therein, and (2) bear no statements, designs, or devices which are false or misleading.

(b) *Alternation of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate or remove any mark, brand, or label upon wine held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law, or except as provided in subparagraph (2) of this paragraph: *Provided,* That the Assistant Regional Commissioner, Alcohol and Tobacco Tax may, upon written application, permit additional labeling or relabeling of wine for purposes of compliance with the requirements of this part or of State law.

(2) No application for permission to relabel wine need be made in any case where there is added to the container, after removal from customs custody or from the premises where bottled or packed, a label identifying the wholesale or retail distributor thereof, and containing no reference whatever to the characteristics of the product.

CROSS REFERENCE: For customs warehouses and control of merchandise therein, see 19 CFR Part 19.

§ 4.31 Misbranding.

Wine in containers shall be deemed to be misbranded:

(a) If the container fails to bear on it a brand label (or a brand label and other permitted labels) containing the mandatory label information as required by this part and conforming to the general requirements specified in this part.

(b) If the container or any label on the container or any individual covering, carton, or other wrapper of the container used for sale at retail (other than a shipping carton, covering or wrapper of the container) or any written, printed, graphic, or other matter accompanying the container to the consumer buyer contains any statement, design, device, or graphic, pictorial or emblematic representation that is prohibited by this article.

(c) If the container is in an individual carton, covering, or other wrapper used for sale at retail (other than a shipping carton, covering, or wrapper of the container) displaying thereon any written, printed, graphic, or other matter, other than the name and addess of the producer, importer, or person by whom bottled or packed (and in addition the name and address of the person for whom bottled or packed), and such individual covering, carton, or other wrapper obscures the mandatory label information required to be stated, and such individual covering, carton or other wrapper fails to reproduce on it, in the same manner, all information so obscured; or if any statement required by this section to appear upon the label, or upon such individual covering, carton, or other wrapper, is obscured in any other manner or is modified in any manner.

§ 4.32 Mandatory label information.

(a) Except as otherwise provided in paragraph (c) of this section, there shall be stated on the brand label:

(1) Brand name, in accordance with § 4.33.

(2) Class, type, or other designation, in accordance with § 4.34.

(3) Name and address, in accordance with § 4.35.

(4) On blends consisting of foreign and domestic wines, if any reference to the presence of foreign wine is made, the exact percentage by volume of foreign wine.

(b) There shall be stated on the brand label, or on a separate label affixed in immediate proximity thereto on the same side of the container:

(1) Alcoholic content, or type designation in lieu thereof, in accordance with § 4.36.

(2) Net contents, in accordance with § 4.37.

(c) In the case of imported wine, the name and address of the importer need not be stated upon the brand label if it is stated upon any other label affixed to the container. In the case of domestic wine, bottled or packed for a retailer or other person under his private brand, the name and address of the bottler or packer need not be stated upon the brand label if the name and address of the person for whom bottled or packed appears upon the brand label, and the name and address of the bottler or packer is stated upon any other label affixed to the container.

§ 4.33 Brand names.

(a) *General.* The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name, either when qualified by the word "brand" or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin.* This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least five years immediately preceding August 29, 1935: *Provided,* That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualifications shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 4.34 Class and type.

(a) The class of the wine shall be stated and such statement shall be in conformity with §§ 4.20 to 4.25 if the wine is defined therein, except that "table" ("light") and "dessert" wines need not be designated as such. In the case of still grape wine there may appear, in lieu of the class designation, any grape-type designation, semi-generic geographic type designation, or geographic distinctive designation to which the wine may be entitled. In the case of champagne, or crackling wines, the type designation "champagne" or "crackling wine" ("petillant wine", "frizzante wine") may appear in lieu of the class designation "sparkling wine." In the case of wine which has a total solids content of more than 17 grams per 100 cubic centimeters the words "extra sweet," "specially sweetened," "specially sweet" or "sweetened with excess sugar" shall be stated as a part of the class and type designation. The last of these quoted phrases shall appear where required by 26 CFR Part 240, on wines sweetened with sugar in excess of the maximum quantities specified in such regulations. If the class of the wine is not defined in §§ 4.20–4.25, a truthful and adequate statement of composition shall appear upon the brand label of the product in lieu of a class designation. In addition to the mandatory designation for the wine, there may be stated a distinctive or fanciful name, or a designation in accordance with trade understanding. All parts of the designation of the wine, whether mandatory or optional, shall be in direct conjunction and in lettering substantially of the same size and kind.

(b) An application of origin such as "American", "California", "Chilean", "New York State" or "Spanish", disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation, (1) if a grape variety name having geographic significance is employed as the type designation of the wine pursuant to § 4.23, (2) if a semi-generic type designation of geographic significance is employed as the type designation of the wine pursuant to § 4.24(b), or (3) if the label bears any statement, design, device, or representation which indicates or in-

fers an origin other than the true place of origin of the wine.

§ 4.35 Name and address.

(a) *Domestic wine.* On labels of containers of domestic wine, there shall be stated the name of the bottler or packer and the place where bottled or packed (or in lieu of such place, the principal place of business of the bottler or packer if in the same State where the wine was bottled or packed, and, if bottled or packed on internal revenue bonded premises, the internal revenue registry number of such premises) immediately preceded by the words "Bottled by" or "Packed by" except that:

(1) If the bottler or packer is also the person who made not less than 75 percent of such wine by crushing the grapes or other materials, fermenting the must and clarifying the resulting wine, or if such person treated the wine in such manner as to charge the class thereof, there may be stated, in lieu of the words "Bottled by" or "Packed by", the words "Produced and bottled by" or "Produced and packed by".

(2) If the bottler or packer has also either made or treated the wine, otherwise than as described in subparagraph (1) of this paragraph, there may be stated, in lieu of the words "Bottled by" or "Packed by", the phrases "Blended and bottled (packed) by," "Rectified and bottled (packed) by," "Prepared and bottled (packed) by," "Made and bottled (packed) by," as the case may be, or, in the case of imitation wine only, "Manufactured and bottled (packed) by."

(3) In addition to the name of the bottler or packer and the place where bottled or packed (but not in lieu thereof) there may be stated the name and address of any other person for whom such wine is bottled or packed, immediately preceded by the words "Bottled for" or "Packed for" or "Distributed by" or other similar statement; or the name and principal place of business of the rectifier, blender, or maker, immediately preceded by the words "Rectified by," "Blended by," or "Made by," respectively, or, in the case of imitation wine only, "Manufactured by."

(b) *Imported wine.* On labels of containers of imported wine, there shall be stated the words "Imported by" or a similar appropriate phrase, and immediately thereafter the name of the permittee who is the importer, agent, sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person. In addition, but not in lieu thereof, there may be stated the name and principal place of business of the foreign producer, blender, rectifier, maker, bottler, packer, or shipper, preceded by the phrases "Produced by," "Blended by," "Rectified by," "Made by," "Bottled by," "Packed by," "Shipped by," respectively, or, in the case of imitation wine only, "Manufactured by."

(1) If the wine is bottled or packed in the United States, there shall be stated, in addition, the name of the bottler or packer and the place where bottled or packed immediately preceded by the words "bottled by" or "packed by" except that if the wine is bottled or packed in the United States for the person responsible for the importation there may be stated, in lieu of the above-required statements, the name and principal place of business in the United States of such person, immediately preceded by the phrase "imported by and bottled (packed) in the United States for" (or a similar appropriate phrase). If, however, the wine is bottled or packed in the United States by the person responsible for the importation there may be stated, in lieu of the above-required statements, the name and principal place of business in the United States of such person, immediately preceded by the phrase "Imported and bottled (packed) by" or a similar appropriate phrase.

(2) If the wine is blended, bottled, or packed in a foreign country other than the country of origin and the country of origin is stated or otherwise indicated on the label, there shall also be stated the name of the bottler, packer, or blender, and the place where bottled, packed, or blended, immediately preceded by the words "Bottled by", "Packed by", "Blended by", or other appropriate statement.

(c) *Form of address.* The "place" stated shall be the post-office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person unless (1) such person is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product.

(d) *Trade names.* The trade name of any permittee appearing upon any label shall be identical with the name in which his basic permit is issued by the Assistant Regional Commissioner.

§ 4.36 Alcoholic content.

(a) Alcoholic content shall be stated in the case of wines containing more than 14 percent of alcohol by volume, and, in the case of wine containing 14 percent or less of alcohol by volume, either the type designation "table" wine ("light" wine) or the alcoholic content shall be stated. Any statement of alcoholic content shall be made as prescribed in paragraph (b) of this section.

(b) Alcoholic content shall be stated in terms of percentage of alcohol by volume, and not otherwise, as provided in either subparagraph (1) or (2) of this paragraph:

(1) "Alcohol ____% by volume." Except as provided in paragraph (c) of this section, a tolerance of 1 percent, in the case of wines containing more than 14 percent of alcohol by volume, and of 1.5 percent, in the case of wines containing 14 percent or less of alcohol by volume, will be permitted either above or below the stated percentage.

(2) "Alcohol ____% to ____% by volume." Except as provided in paragraph (c) of this section, a range of not more than 2 percent, in the case of wines containing more than 14 percent of alcohol by volume, and of not more than 3 percent, in the case of wines containing 14 percent or less of alcohol by volume, will be permitted between the minimum and maximum percentages stated, and no tolerances will be permitted either below such minimum or above such maximum.

(c) Regardless of the type of statement used and regardless of tolerances normally permitted in direct statements and ranges normally permitted in maximum and minimum statements, alcoholic content statements, whether required or optional, shall definitely and correctly indicate the class, type and taxable grade of the wine so labeled and nothing in this section shall be construed as authorizing the appearance upon the labels of any wine of an alcoholic content statement in terms of maximum and minimum percentages which overlaps a prescribed limitation on the alcoholic content of any class, type, or taxable grade of wine, or a direct statement of alcoholic content which indicates that the alcoholic content of the wine is within such a limitation when in fact it is not.

§ 4.37 Net contents.

(a) The net contents of wine for which a standard of fill is prescribed in §§ 4.70–4.72 shall be stated in the same manner and form in which such standard of fill is set forth in said article.

(b) The net contents of wine for which no standard of fill is prescribed in §§ 4.70–4.72 shall be stated as follows, except that net contents may be expressed in the metric system of measure for containers of ½ liter, 1 liter and 1½ liter:

(1) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(5) If more than a gallon, the net contents shall be stated in gallons and fractions thereof.

(c) All fractions shall be expressed in their lowest denomination.

(d) The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(e) Statement of net contents shall indicate exactly the volume of wine within the container, except that the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of containers,

resulting solely from unavoidable difficulties in manufacturing such containers so as to be of uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation. The reasonableness to discrepancies under this paragraph shall be determined on the facts in each case.

(f) Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

§ 4.38 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all the statements thereon required by §§ 4.30–4.39 are readily legible under ordinary conditions, and all such statements shall be on a contrasting background.

(b) *Size of type.* All statements (other than alcoholic content statements upon labels of containers having a capacity of 1 gallon or less) required on labels by this article, shall be in readily legible script, type, or printing not smaller than 8-point Gothic caps except that if contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than such other descriptive or explanatory reading matter: *Provided,* That in the case of labels of containers having a capacity of less than one-half pint, such script, type, or printing thereon need not be in 8-point Gothic caps, but shall be readily legible under ordinary conditions. Alcoholic content statements, whether required or optional, on labels on containers having a capacity of 1 gallon or less shall be in readily legible script, type, or printing not smaller than 6-point Gothic caps, except in the case of containers having a capacity of less than one-half pint, in which case such script, type, or printing need not be as large as 6-point Gothic caps, but shall be readily legible under ordinary conditions. Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 8-point Gothic caps on labels on containers having a capacity of 1 gallon or less and shall not be set off with a border or otherwise accentuated.

(c) *English language.* All mandatory label information shall be stated on labels in the English language: *Provided,* That the brand name, the place of production, and the name of the manufacturer, producer, blender, rectifier, maker, bottler, packer, or shipper appearing on the label need not be in the English language if the words "Product of" immediately precede the name of the country of origin stated in accordance with customs' requirements. Additional statements in foreign languages may be made on labels, if no such statements in any way conflict with, or are contradictory to, the requirements of §§ 4.30–4.39.

(d) *Location of label.* No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall be affixed over the mouths of containers of wine, and no label shall obscure any such stamps or be obscured thereby.

(e) *Labels firmly affixed.* All labels shall be affixed to containers of wine in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by §§ 4.30–4.39, provided such information complies with the requirements of such sections and does not conflict with, nor in any manner qualify statements required by, any regulations promulgated under the act.

(g) *Representations as to materials.* If any representation (other than representations or information required by §§ 4.30–4.39) is made as to the presence, excellence, or other characteristic of any ingredient in any wine, or used in the production thereof, the label containing such representation shall state, in print, type, or script, substantially as conspicuous as such representation, the name and amount in percent by volume of each such ingredient.

(h) *Statement of contents of containers.* Upon request of the Director, there shall be submitted to him a full and accurate statement of the contents of the containers to which labels are to be or have been affixed.

§ 4.39 Prohibited practices.

(a) *Statements on labels.* Containers of wine, or any label on such containers, or any individual covering, carton, or other wrapper of such container, or any written, printed, graphic, or other matter accompanying such container to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant scientific, or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization; *Provided,* That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, blender, rectifier, importer, wholesaler, retailer, bottler, or warehouseman of wine, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.[1]

(7) Any statement, design, device, or representation (other than a statement of alcoholic content in conformity with § 4.36) which tends to create the impression that a wine is "unfortified" or has been "fortified", or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as the designation of a product not defined in these regulations, may include a reference to the type of distilled spirits employed therein.

(8) Any coined word or name in the brand name or class and type designation which simulates, imitates, or which tends to create the impression that the wine so labeled is entitled to bear, any class, type, or permitted designation recognized by the regulations in this part unless such wine conforms to the requirements prescribed with respect to such designation and is in fact so designated on its labels.

(b) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except that:

(1) In the case of domestic vintage wine bottled or packed in containers by the permittee who crushed the grapes, fermented the must, and clarified such wine, the year of vintage may be stated but only if there is likewise stated on the brand label, in direct conjunction with the class, type, or distinctive designation, and in lettering substantially as conspicuous as such designation, the name of the viticultural area in which the grapes were grown and the wine fermented.

(2) In the case of domestic vintage wine rebottled in containers of a capacity of 1 gallon or less by a person other than the producer thereof, the year of vintage may be stated but only if the container from which such wine is bottled is the original container of the permittee who produced such wine, and such container bears upon the brand label thereof a vintage date. If the year of vintage is stated up on the brand label of wine so rebottled, there shall also be stated the

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[1] Under subparagraph (5) the Director has permitted the use of statements in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package.

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(Name of permittee making statement)

name of the viticultural area, and the class, type, or distinctive designation of the wine, in the same manner and form as such statements appear on the brand label of the original container.

(3) In the case of imported wine, the year of vintage may be stated if such wine was bottled prior to importation in containers of 1 gallon or less (except that the year of vintage may be stated in the case of champagne whether or not bottled in containers of 1 gallon or less), or, if such wine is bottled in the United States in containers of 1 gallon or less from the original container of the product and such container bears the vintage date upon the brand label thereof and the bottler possesses a certificate, issued by a duly authorized official of the country of origin of such wine, identifying that container as containing vintage wine as defined in § 4.1(h) and certifying (i) that the laws of such country regulate the appearance of vintage dates upon the labels of wine produced for consumption therein, (ii) that the wine in question has been produced in conformity with such laws, and (iii) that such wine would be entitled, under such laws, to bear the vintage date if sold in such country: *Provided*, That, in the case of imported wine bottled prior to importation in containers of 1 gallon or less, the year of vintage may be stated only when the invoice is accompanied by a certificate identical with that required above in the case of wine bottled in the United States in containers of 1 gallon or less, if the issuance of such a certificate with respect to such wine has been authorized by the foreign Government concerned.

(4) Truthful references of a general and informative nature relating to methods of wine production involving storage or aging, such as "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars," may appear but only in an inconspicuous manner and then only on back labels or on other matter accompanying the container.

(c) *Statement of bottling dates.* The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears in lettering not greater than 8-point Gothic caps and in the following form: "Bottled in ____" (inserting the year in which the wine was bottled).

(d) *Use of the word "old."* The use of the word "old" or other word denoting age, as part of the brand name, shall not be deemed to be a representation relative to age, if the word "brand" appears in direct conjunction with such brand name, in letters of equally conspicuous color and at least one-half the size of the lettering in which such brand name is printed.

(e) *Statement of miscellaneous dates.* No date, except as provided in paragraphs (b) and (c) of this section with respect to statement of vintage year and bottling date, shall be stated on any label unless in addition thereto and in direct conjunction therewith in the same size and kind of printing, there shall be stated an explanation of the significance thereof such as "established" or "founded in". If any such date refers to the date of establishment of any business or brand name, it shall not be stated, in the case of containers of a capacity of 1 gallon or less, in any printing, type, or script larger than 8-point Gothic caps, and shall be stated in direct conjunction with the name of the person, company, or brand name to which it refers if the Director finds that this is necessary in order to prevent confusion as to the person, company, or brand name to which the establishment date is applicable.

(f) *Simulation of Government stamps.* (1) No labels shall be of such design as to resemble or simulate a stamp of the United States Government or any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state or indicate that the wine contained in the labeled container is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State or Federal Government authorization, law, or regulation, unless such statement is required or specifically authorized by Federal, State or municipal law or regulation, or is required or specifically authorizd by the laws or regulations of a foreign country. If the municipal, State, or Federal Government permit number is stated upon a label, it shall not be accompanied by any additional statement relating thereto.

(2) Bonded wine cellar and bonded winery numbers may be stated but only in direct conjunction with the name and address of the person operating such wine cellar or winery. Statement of bonded wine cellar or winery numbers may be made in the following form: "Bonded Wine Cellar No. ____", "Bonded Winery No. ____", "B. W. C. No. ____", "B. W. No. ____". No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(3) If imported wines are covered by a certificate of origin and/or a certificate of vintage date issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statements relating thereto. The reference to such certificate or certification shall be substantially in the following form:

This product accompanied at the time of the importation by a certificate issued by the ----------
(Name of government)
government indicating that the product is ----------,
(Class and type as stated on the label)
and (if label bears a statement of vintage date) that the wine is of the vintage of ----------.
(Year of vintage stated on the label)

(g) *Use of the word "Importer", or similar words.* The word "Importer", or similar words, shall not be stated on labels on containers of domestic wine except as part of the bona fide name of a permittee for or by whom, or of a retailer for whom, such wine is bottled, packed or distributed: *Provided*, That in all cases where such words are used as part of such name, there shall be stated on the same label the words "Product of the United States", or similar words to negative any impression that the product is imported, and such negative statements shall appear in the same size and kind of printing as such name.

(h) *Flags, seals, coats of arms, crests, and other insignia.* Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(i) *Curative and therapeutic effects.* Labels shall not contain any statement, design, or device representing that the use of any wine has curative or therapeutic effects if such statement is untrue in any particular or tends to create a misleading impression.

(j) *Individual coverings and cartons.* Individual coverings, cartons, or other wrappers of containers of wine, or any written, printed, graphic, or other matter accompanying the container, shall not contain any statement or any graphic pictorial, or emblematic representation or other matter which is prohibited from appearing on any label or container of wine.

Subpart E—Requirements for Withdrawal of Wine From Customs Custody

§ 4.40 Label approval and release.

(a) *Application.* On or after December 15, 1936, imported wine shall not be released from customs custody for consumption, except pursuant to procedure and forms prescribed by this section.

(b) *Certificate of Label Approval.* No imported wine shall be released from customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.* If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649) bears the signature of the Director, then the brand or lot of imported wine bearing labels identical with those shown thereon may be released from customs custody.

(d) *Relabeling.* Imported wine in customs custody which is not labeled in conformity with certificates of label approval issued by the Director must be relabeled prior to release, under the supervision and direction of the customs officers of the port at which such wine is located.[2]

§ 4.45 Certificates of origin and identity.

Imported wine shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such wine has been authorized by the foreign government concerned, certifying as to the identity of the wine and that the wine has been produced in compliance with the laws of the respective foreign government regulating the production of such wine for home consumption.

Subpart F—Requirements for Approval of Labels of Wine Domestically Bottled or Packed

§ 4.50 Certificates of label approval.

(a) No person shall bottle or pack wine, other than wine bottled or packed in customs custody, or remove such wine from the plant where bottled or packed, unless upon application to the Director he has obtained and has in his possession a "Certificate of label approval under the Federal Alcohol Administration Act" (Form 1649), covering such wine. Such certificate of label approval shall be issued by the Director upon application made upon the form designated "Application for certificate of label approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the applicant.

(b) Any bottler or packer of wine shall be exempt from the requirements of this section if upon application he shows to the satisfaction of the Director that the wine to be bottled or packed by him is not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. A "Certificate of exemption from label approval under the Federal Alcohol Administration Act" (Form 1650) shall be issued by the Director upon application upon the form designated "Application for certificate of exemption from label approval under the Federal Alcohol Administration Act" (Form 1648), properly filled out and certified to by the applicant.[3]

§ 4.51 Exhibiting certificates to Government officials.

Any bottler or packer holding an original or duplicate original of a certificate of label approval or a certificate of exemption shall, upon demand, exhibit such certificate to a duly authorized representative of the United States Government.

§ 4.52 Photoprints.

Photoprints or other reproductions of certificates of label approval or certificates of exemption are not acceptable, for the purposes of §§ 4.50–4.52, as substitutes for an original or duplicate original of a certificate of label approval, or a certificate of exemption. The Director will, upon the request of the bottler or packer, issue duplicate originals of certificates of label approval or of certificates of exemption if wine under the same brand is bottled or packed at more than one plant by the same person, and if the necessity for the duplicate original is shown and there is listed with the Director the name and address of the additional bottling or packing plant where the particular label is to be used.

Subpart G—Advertising of Wine

§ 4.60 Application.

No person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter any advertisement of wine, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 4.60–4.64: *Provided,* That such sections shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising: *And provided further,* That such sections shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly, or through an affiliate.

§ 4.61 Definitions.

As used in §§ 4.60–4.64 the term "advertisement" includes any advertisement of wine through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards—if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce; or is disseminated by mail; except that such term shall not include:

(a) Any label affixed to any container of wine; or any individual covering, carton, or other wrapper of such container or any written, printed, graphic, or other matter accompanying the container which constitutes a part of the labeling under §§ 4.30–4.39.

(b) Any editorial or other reading matter in any periodical or publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee.

§ 4.62 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class, type, and distinctive designation.* The advertisement shall contain a conspicuous statement of the class, type, or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required to appear on the label of the product.

§ 4.63 Legibility of requirements.

Statements required under §§ 4.60–4.64 to appear in any written, printed, or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

NOTE: Mandatory information should be stated at least in type or lettering which is the equivalent of eight-point type. The size of the type should be increased proportionately with the size of the advertisement, and should not be smaller or less conspicuous than promotional copy or other unrequired descriptive matter appearing in the advertisement. In the case of signs, billboards, and displays, the mandatory information should be conspicuous and readily legible from the distance at which the advertisement is intended to be and is customarily viewed.

Mandatory information should be so stated as to be clearly a part of the advertisement and should not be separated in any manner from the remainder of the advertisement.

Mandatory information for two products should not be stated in direct conjunction unless clearly distinguished.

Mandary information should not be buried or concealed by including it in unrequired descriptive matter.

In every case mandatory information should be stated so that it will come to the ttention of persons viewing the advertisement.

§ 4.64 Prohibited statements.

(a) *Restrictions.* The advertisement of wine shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

[2] Copies of Form 1649 may be secured from the Assistant Regional Commissioners, Alcohol and Tobacco Tax, on request.

[3] Copies of Forms 1648 and 1649 may be secured from the Assistant Regional Commissioners, Alcohol and Tobacco Tax, on request.

(6) Any statement that the wine is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State, or Federal Government authorization, law, or regulations; and if a municipal, State, or Federal permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. ____," "Bonded Winery No. ____," "B. W. C. No. ____," "B. W. No. ____." No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(8) Any statement, design, device, or representation which relates to alcoholic content or which tends to create the impression that a wine is "unfortified" or has been "fortified," or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as a designation of a product not defined in these regulations, may include a reference to the type of distilled spirits employed therein.

(b) *Statements inconsistent with labeling.* The advertisement shall not contain any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling thereof.

(c) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except that:

(1) In the case of domestic vintage wine bottled or packed and labeled in accordance with the provisions of § 4.39 (b) (1), (2), the year of vintage may be stated but only if there is likewise stated, in direct conjunction with the class, type, or distinctive designation of the wine, in lettering substantially as conspicuous as such designation and in the same manner and form as such statements appear on the brand label of the container, the name of the viticultural area in which the grapes were grown and the wine fermented.

(2) In the case of imported vintage wine bottled and labeled in accordance with the provisions of § 4.39(b)(3) the year of vintage may be stated.

(3) Truthful references of a general and informative nature relating to methods of wine production involving storage or aging, such as "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars" may be made.

(d) *Statement of bottling dates.* The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears without undue emphasis in the following form: "Bottled in ____" (inserting the year in which the wine was bottled).

(e) *Use of the word "old."* The use of the word "old" or other word denoting age, as part of the brand name, shall not be deemed to be a representation relative to age, if the word "brand" appears in direct conjunction with such brand name, in letters of equally conspicuous color and at least one-half the size of the lettering in which such brand name appears.

(f) *Statement of miscellaneous dates.* No date, except as provided in paragraphs (c) and (d) of this section, with respect to statement of vintage year and bottling date, shall be stated unless, in addition thereto, and in direct conjunction therewith, in the same size and kind of printing there shall be stated an explanation of the significance of such date: *Provided,* That if any date refers to the date of establishment of any business, such date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(g) *Flags, seals, coats of arms, crests, and other insignia.* No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crests, or insignia is associated.

(h) *Statements indicative of origin.* No statement, design, device, or representation which tends to create the impression that the wine originated in a particular place or region, shall appear in any advertisement unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement in direct conjunction with the class and type designation.

(i) *Use of the word "importer" or similar words.* The word "importer" or similar words shall not appear in advertisements of domestic wine except as part of the bona fide name of the permittee by or for whom, or of a retailer for whom, such wine is bottled, packed or distributed: *Provided,* That in all cases where such words are used as part of such name, there shall be stated the words "Product of the United States" or similar words to negate any impression that the product is imported, and such negating statements shall appear in the same size and kind of printing as such name.

(j) *Curative and therapeutic effects.* The advertisement shall not contain any statement, design, or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(k) *Confusion of brands.* Two or more different brands or lots of wine shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of §§ 4.60–4.64 or are in any respect untrue.

Subpart H—Standards of Fill For Wine

§ 4.70 Application.

(a) Except as provided in paragraph (b) of this section, no person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine unless such wine is bottled or packed in the standard wine containers herein prescribed.

(b) Sections 4.70–4.72 shall not apply (1) to sake, or (2) to wine packed in containers of 5 gallons or more, or (3) to imported wine in the original containers in which entered in customs custody, or (4) to wine domestically bottled or packed, either in or out of customs custody, prior to the effective date of this article, if the container, or the label on the container, bears a conspicuous statement of the net contents thereof, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

§ 4.71 Standard wine containers.

(a) A standard wine container shall be made, formed and filled to meet the following specifications:

(1) *Design.* It shall be so made and formed as not to mislead the purchaser. Wine containers shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser if the actual capacity is substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use; and

(2) *Fill.* It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in § 4.72; and

(3) *Headspace.* It shall be so made and filled as to have a headspace not in excess of 6 percent of its total capacity after closure if the net contents of the container is ⅖ pint or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

§ 4.72 Standards of fill.

(a) The standards of fill for wine shall be the following, subject to the tolerances hereinafter allowed:

(1) For all wines:

4.9 gallons.	1 pint.
3 gallons.	4/5 pint.
1 gallon.	1/2 pint.
4/5 gallon.	2/5 pint.
1/2 gallon.	4 ounces.
2/5 gallon.	3 ounces.
1 quart.	2 ounces.
4/5 quart.	

(2) In addition, for aperitif wines only: 15/16 quart:

Provided, however, That the standards of fill for the 4/5 and 2/5 gallon shall be applicable only to wine contained in bottles of the traditional bordeaux or burgundy shapes, and the 1/2 pint standard shall be applicable only to wine contained in bottles of traditional chianti or round shapes.

(b) The tolerances in fill shall be the same as are allowed by § 4.37 in respect to statement of net contents upon labels.

Subpart I—General Provisions

§ 4.80 Exports.

The regulations in this part shall not apply to wine exported in bond.

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

NOTE: Treasury Decision 6288 amended certain sections in part 5, as listed below, to become effective three years after April 3, 1958:

1. In § 5.21(b) the proviso as set forth therein at the end of the first sentence in the introductory text to be added and subparagraph (14) to be deleted; in paragraph (h)(4) the parenthetical phrase to be deleted.

2. In § 5.34(f) the words "and blended Scotch type whisky" appearing in parentheses to be deleted.

3. In § 5.39(a)(7), the proviso in the undesignated paragraph following subparagraph (7) to be deleted; paragraph (c) to be deleted and paragraphs (d) and (e) to be redesignated "(c)" and "(d)", respectively.

4. In § 5.73(a)(3) the words "and Scotch and Irish type whisky" to be deleted.

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Subpart I—General Provisions

5.80 Exports.
5.81 Applicability of other regulations.

AUTHORITY: §§ 5.1 to 5.81 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

CROSS REFERENCES: Other regulations relating to this part are as follows:

27 CFR, Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR, Part 2—Nonindustrial Use of Distilled Spirits and Wine.
27 CFR, Part 3—Bulk Sales and Bottling of Distilled Spirits.
27 CFR, Part 4—Labeling and Advertising of Wine.
27 CFR, Part 7—Labeling and Advertising of Malt Beverages.
26 CFR, Part 175—Traffic in Containers in Distilled Spirits.
26 CFR, Part 200—Rules of Practice in Permit Proceedings.
26 CFR, Part 201—Distilled Spirits Plants.
26 CFR, Part 250—Liquors and Articles From Puerto Rico and the Virgin Islands.
26 CFR, Part 251—Importation of Distilled Spirits, Wines and Beer.
26 CFR, Part 252—Exportation of Liquors.

Subpart A—Scope

§ 5.1 General.

The regulations in this part relate to the labeling and advertising of distilled spirits.

§ 5.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Subpart B—Definitions

§ 5.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part. (a) "Act" means the Federal Alcohol Administration Act.

(b) *Assistant Regional Commissioner.* "Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to and functions under the direction and supervision of the Regional Commissioner.

(c) *Director.* "Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

(d) *Permittee.* "Permittee" means any person holding a basic permit under the Federal Alcohol Administration Act.

(e) *Distilled spirits.* "Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

(f) *Bottle.* "Bottle" means any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

(g) *In bulk.* "In bulk" means in containers having a capacity in excess of one wine gallon.

(h) *Gallon.* "Gallon" means United States gallon of 231 cubic inches of alcoholic beverage at 60° F. All other liquid measures used are subdivisions of the gallon as so defined.

(i) *Brand label.* "Brand label" means the label carrying, in the usual distinctive design, the brand name of the distilled spirits.

(j) *Age.* "Age" means the period during which, after distillation and before bottling, distilled spirits have been kept in oak containers, charred if for a whisky of American type other than corn whisky, straight corn whisky, blended corn whisky, or a blend of straight corn whiskies. In the case of American type whiskies produced on or after July 1, 1936, other than corn whisky, straight corn whiskies, blended corn whisky, and blends of straight corn whisky "age" means the period during which the whisky has been kept in charred new oak containers.

(k) *United States.* "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

(l) *Interstate commerce.* "Interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(m) *Person.* "Person" means any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

(n) Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Subpart C—Standards of Identity for Distilled Spirits

§ 5.20 Application of standards.

The standards of identity for the several classes and types of distilled spirits

set forth in this part shall be applicable only to distilled spirits for beverage or other non-industrial purposes. Nothing contained in these standards of identity shall be construed as authorizing the non-industrial use of any distilled spirits produced in an industrial alcohol plant, except that "alcohol" or "neutral spirits," as defined in this part, may be so used if produced pursuant to the basic permit requirements of the Federal Alcohol Administration Act.

§ 5.21 **The standards of identity.**

Standards of identity for the several classes and types of distilled spirits set forth in this part shall be as follows:

(a) *Class 1; Neutral spirits or alcohol.* "Neutral spirits" or "alcohol" are distilled spirits distilled from any material at or above 190° proof, whether or not such proof is subsequently reduced.

(1) "Vodka" is neutral spirits distilled from any material at or above 190° proof, reduced to not more than 110° proof and not less than 80° proof and, after such reduction in proof, so treated by one of the following methods as to be without distinctive character, aroma, or taste:

(i) By causing the distillate to flow continuously through a tank or a series of tanks containing at least 1½ pounds of charcoal for each gallon of distillate contained therein at any one time so that the distillate is in intimate contact with the charcoal for a period of not less than 8 hours, not less than 10 percent of the charcoal being replaced by new charcoal at the expiration of each 40 hours of operation, at a rate which will replace at least 6 pounds of charcoal for every 100 gallons of spirits treated;

(ii) By keeping the distillate in constant movement by mechanical means in contact for not less than 8 hours with at least 6 pounds of new charcoal for every 100 gallons of distillate;

(iii) By purifying or refining the distillate by any other method which the Director finds will result in a product equally without distinctive character, aroma or taste, and which has been approved by him.

After such treatment the distillate is stored in metal, porcelain or glass containers or paraffin-lined tanks, and bottled at not less than 80° proof. If any flavoring material is added to the distillate it shall be designated "flavored vodka" and may be further qualified with the name of the flavoring material used.

(b) *Class 2; Whisky.* "Whisky" is an alcoholic distillate from a fermented mash of grain distilled at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky, and withdrawn from the distillery at not more than 110° and not less than 80° proof, whether or not such proof is further reduced prior to bottling to not less than 80° proof; and also includes mixtures of the foregoing distillates for which no specific standards of identity are prescribed in this part: *Provided,* That a maximum of 1,000 barrels of whisky per distillery, withdrawn prior to July 1, 1960, at above 110° proof for experimental storage but at not more than 160° proof may be designated as whisky or any type thereof to which it would have been entitled under these standards of identity but for the fact that it was withdrawn at over 110° proof. Those types of whisky specified in subparagraphs (1) to (10) of this paragraph shall be deemed "American type" whiskies.

(1) "Rye whisky", "bourbon whisky", "wheat whisky", "malt whisky", or "rye malt whisky" is whisky which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51 percent rye grain, corn grain, wheat grain, malted barley grain or malted rye grain, respectively, and, if produced on or after March 1, 1938, stored in charred new oak containers, and also includes mixtures of such whiskies where the mixture consists exclusively of whiskies of the same type. "Corn whisky" is whisky which has been distilled at not exceeding 160° proof from a fermented mash of not less than 80 percent corn grain, stored in uncharred oak containers, or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, and also includes mixtures of such whisky.

(2) "Straight whisky" is an alcoholic distillate from a fermented mash of grain at not exceeding 160° proof and withdrawn from the distillery at not more than 110° and not less than 80° proof, whether or not such proof is further reduced prior to bottling to not less than 80° proof, and is:

(i) Aged for not less than 12 calendar months if bottled on or after July 1, 1936, and before July 1, 1937; or

(ii) Aged for not less than 18 calendar months if bottled on or after July 1, 1937, and before July 1, 1938; or

(iii) Aged for not less than 24 calendar months if bottled on or after July 1, 1938.

The term "straight whisky" also includes mixtures of straight whisky which, by reason of being homogeneous, are not subject to the rectification tax under the internal-revenue laws.

(3) "Straight rye whisky" is straight whisky distilled from a fermented mash of grain of which not less than 51 percent is rye grain.

(4) (i) "Straight bourbon whisky" is straight whisky distilled from a fermented mash of grain of which not less than 51 percent is corn grain.

(ii) "Straight corn whisky" is straight whisky distilled from a fermented mash of grain of which not less than 80 percent is corn grain, aged for the required period in uncharred oak containers or reused charred oak containers, and not subjected, in the process of distillation, or otherwise, to treatment with charred wood.

(5) "Straight wheat whisky" is straight whisky distilled from a fermented mash of grain of which not less than 51 percent is wheat grain.

(6) "Straight malt whisky" and "straight rye malt whisky" are straight whisky distilled from a fermented mash of grain of which not less than 51 percent of the grain is malted barley or malted rye, respectively.

(7) "Blended whisky" (whisky—a blend) is a mixture which contains at least 20 percent by volume of 100° proof straight whisky and, separately or in combination, whisky or neutral spirits, if such mixture at the time of bottling is not less than 80° proof.

(8) "Blended rye whisky" (rye whisky—a blend), "blended bourbon whisky" (bourbon whisky—a blend), "blended corn whisky" (corn whisky—a blend), "blended wheat whisky" (wheat whisky—a blend), "blended malt whisky" (malt whisky—a blend) or "blended rye malt whisky" (rye malt whisky—a blend) is blended whisky which contains not less than 51 percent by volume of straight rye whisky, straight bourbon whisky, straight corn whisky, straight wheat whisky, straight malt whisky, or straight rye malt whisky, respectively.

(9) "A blend of straight whiskies" (blended straight whiskies), "A blend of straight rye whiskies" (blended straight rye whiskies), "A blend of straight bourbon whiskies" (blended straight bourbon whiskies), "A blend of straight corn whiskies" (blended straight corn whiskies), "A blend of straight wheat whiskies" (blended straight wheat whiskies), "A blend of straight malt whiskies" (blended straight malt whiskies), and "A blend of straight rye malt whiskies" (blended straight rye malt whiskies) are mixtures of only straight whiskies, straight rye whiskies, straight bourbon whiskies, straight corn whiskies, straight wheat whiskies, straight malt whiskies, or straight rye malt whiskies, respectively.

(10) "Spirit whisky" is a mixture (i) of neutral spirits and not less than 5 percent by volume of whisky, or (ii) of neutral spirits and less than 20 percent by volume of straight whisky, but not less than 5 percent by volume of straight whisky, or of straight whisky and whisky, if the resulting product at the time of bottling be not less than 80° proof.

(11) "Scotch whisky" is a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of Great Britain regulating the manufacture of Scotch whisky for consumption in Great Britain, and containing no distilled spirits less than 3 years old: *Provided,* That if in fact such product as so manufactured is a mixture of distilled spirits, such mixture is "blended Scotch whisky" (Scotch whisky—a blend). "Scotch whisky" shall not be designated as "straight."

(12) "Irish whisky" is a distinctive product of Ireland, manufactured either in the Irish Free State or in Northern Ireland, in compliance with their laws regulating the manufacture of Irish whisky for home consumption, and containing no distilled spirits less than 3 years old: *Provided,* That if in fact such product as so manufactured is a mixture of distilled spirits, such whisky is "blended Irish whisky" (Irish whisky—a blend). "Irish whisky" shall not be designated as "straight."

(13) "Canadian whisky" is a distinctive product of Canada, manufactured in Canada in compliance with the laws of Canada regulating the manufacture of

whisky for consumption in Canada, and containing no distilled spirits less than 2 years old: *Provided,* That if in fact such product as so manufactured is a mixture of distilled spirits, such whisky is "blended Canadian whisky" (Canadian whisky—a blend). "Canadian whisky" shall not be designated as "straight."

(14) "Blended Scotch type whisky" (Scotch type whisky—a blend) is a mixture made outside Great Britain and composed of:

(i) Not less than 20 percent by volume of 100° proof malt whisky or whiskies distilled in pot stills at not more than 160° proof (whether or not such proof is subsequently reduced prior to bottling to not less than 80° proof) solely from a fermented mash of malted barley dried over peat fire and aged for not less than 3 years in new plain, or reused, oak containers, and

(ii) Not more than 80 percent by volume of whisky distilled at more than 180° proof (whether or not such proof is subsequently reduced prior to bottling to not less than 80° proof) aged for not less than 3 years in new plain, or reused, oak containers.

(c) *Class 3; gins.* (1) "Distilled gin" is a distillate obtained by original distillation from mash, or by the redistillation of distilled spirits, over or with juniper berries and other aromatics customarily used in the production of gin, and deriving its main characteristic flavor from juniper berries and reduced at time of bottling to not less than 80° proof; and includes mixtures solely of such distillates.

(2) "Compound gin" is the product obtained by mixing neutral spirits with distilled gin or gin essence or other flavoring materials customarily used in the production of gin, and deriving its main characteristic flavor from juniper berries and reduced at time of bottling to not less than 80° proof; and includes mixtures of such products.

(3) "Dry gin", "London dry gin", "Hollands gin", "Geneva gin", "Old Tom gin", "Tom gin", and "Buchu gin" are the types of gin known under such designations, and shall be further designated as "distilled" or "compound", as the case may be.

(d) *Class 4; brandies.* "Brandy" is a distillate, or a mixture of distillates, obtained solely from the fermented juice, mash or wine of fruit, or from the residue thereof, distilled at less than 190° proof in such manner as to possess the taste, aroma and characteristics generally attributed to the product, and bottled at not less than 80° proof; and shall also include such distillates, aged for a period of not less than 50 years, and bottled at not less than 72° proof, in cases where the reduction in proof below 80° is due solely to losses resulting from natural causes during the period of aging. Brandy, or mixtures thereof, not conforming to any of the following standards shall be designated as "brandy," and such designation shall be qualified by a truthful and adequate statement of composition in direct conjunction therewith.

(1) "Fruit brandy" is brandy distilled solely from the juice or mash of whole, sound, ripe fruit, or from standard grape, citrus, or other fruit wine, having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, not in excess of 0.20 gram per 100 cubic centimeters (20° C.), with or without the addition of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation or distillation), and shall include mixtures of such brandy with not more than 30 percent (calculated on a proof basis) of lees brandy. Fruit brandy, derived exclusively from grapes, shall be designated as "grape brandy" or "brandy": *Provided,* That in the case of any fruit brandy, other than neutral brandy, pomace brandy, marc brandy or grappa brandy distilled from the fermented juice, mash, or wine of grapes, or the residue thereof, which has been aged for less than two years, the statement of the class (and type, if any) shall be preceded by the word "immature" appearing in the same size and kind of type and as a part thereof, e.g., "immature brandy" or "immature grape brandy". Fruit brandy, other than grape brandy, derived exclusively from one variety of fruit, shall be designated by the word "brandy" qualified by the name of such fruit (e.g., "peach brandy," "apple brandy," "orange brandy"), except that "apple brandy" may be designated "applejack." Fruit brandy derived from more than one variety of fruit shall be designated as "fruit brandy," qualified by a truthful and adequate statement of composition (e.g., "fruit brandy—a blend of 90 percent grape brandy and 10 percent blackberry brandy").

(2) "Cognac" or "Cognac (grape) brandy," is grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French government.

(3) "Dried fruit brandy," is brandy that conforms to the standard for fruit brandy except that it has been derived from sound, dried fruit, or from the standard wine of such fruit. Brandy derived from raisins, or from raisin wine, shall be designated as "raisin brandy." Other brandies defined in this paragraph shall be designated in the same manner as fruit brandy from the corresponding variety or varieties of fruit except that the name of the fruit shall be qualified by the word "dried."

(4) "Lees brandy" is brandy distilled from the lees of standard grape, citrus, or other fruit wine, and shall be designated as "lees brandy," qualified by the name of the fruit from which such lees are derived.

(5) "Pomace brandy," or "marc brandy," is brandy distilled from the skin and pulp of sound, ripe grapes, citrus or other fruit, after the withdrawal of the juice or wine therefrom, and shall be designated as "pomace brandy," or "marc brandy," qualified by the name of the fruit from which derived. Grape pomace brandy may be designated as "grappa" or "grappa brandy."

(6) "Residue brandy" is brandy distilled wholly or in part from the residue of fruit or wine, and shall be designated as "residue brandy" qualified by the name of the fruit from which derived. Brandy distilled wholly or in part from residue materials which conforms to any of the standards set forth in subparagraphs (1), (3), (4) and (5) of this paragraph, may, regardless of such fact, be designated "residue brandy" by the distiller thereof; but the use of this designation shall be conclusive, precluding any later change of designation.

(7) "Neutral brandy" is any brandy distilled on or after July 1, 1941 at more than 170° proof. Brandy so distilled shall be designated in the same manner as if distilled at a lower proof, except that the designation shall be qualified by the word "neutral" in the same size and kind of type, e.g., "neutral brandy," "neutral grape lees brandy," or "neutral grape pomace brandy."

(8) "Substandard" brandy shall bear as a part of its designation the word "substandard," and shall include:

(i) Any brandy distilled from juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.20 gram per 100 cubic centimeters (20° C.); measurements of volatile acidity under this paragraph shall be calculated exclusive of water added to facilitate distillation.

(ii) Any brandy which has been distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace or residue, or which shows in the finished product any taste, aroma, or characteristic associated with products distilled from such material.

(e) *Class 5; rum.* (1) "Rum" is any alcoholic distillate from the fermented juice of sugarcane, sugarcane sirup, sugarcane molasses, or other sugarcane byproducts distilled at less than 190° proof (whether or not such proof is further reduced prior to bottling to not less than 80° proof) in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to rum; and includes mixtures solely of such distillates.

(2) "New England Rum" is rum as above defined, except that it is produced in the United States and is distilled at less than 160° proof.

(3) Puerto Rico, Cuba, Demerara, Barbados, St. Croix, St. Thomas, Virgin Islands, Jamaica, Martinique, Trinidad, Haiti, and San Domingo rum are not distinctive types of rum. Such names are not generic but retain their geographic significance. They may not be applied to rum produced in any other place than the particular region indicated in the name, and may not be used as a designation of a product as rum, unless such product is rum as defined in subparagraph (1) of this paragraph.

(f) *Class 6; cordials and liqueurs.* (1) Cordials and liqueurs are products obtained by mixing or redistilling neutral spirits, brandy, gin, or other distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolations, or maceration of such materials, and containing sugar or dextrose or both in an amount not less than 2½ percent by weight of the finished product.

Synthetic or imitation flavoring materials shall not be included.

(2) "Sloe gin" is a cordial or liqueur with the main characteristic flavoring derived from sloe berries.

(3) Cordials and liqueurs shall not be designated as "distilled" or "compound."

(4) The designation of a cordial or liqueur may include the word "dry" if the added sugar and dextrose are less than 10 percent by weight of the finished product.

(5) *Rye liqueur, bourbon liqueur.* "Rye liqueur", "bourbon liqueur" (rye, bourbon cordial) are liqueurs, bottled at not less than 60° proof, in which not less than 51 percent, on a proof basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and which possess a predominant characteristic bourbon or rye flavor derived from such whisky.

(6) *Rock and rye, rock and bourbon, rock and brandy, rock and rum.* "Rock and rye", "rock and bourbon", "rock and brandy", "rock and rum" are liqueurs, bottled at not less than 48° proof, in which, in the case of rock and rye and rock and bourbon, not less than 51 percent, on a proof basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and, in the case of rock and brandy and rock and rum, the distilled spirits used are all grape brandy distilled at not in excess of 170° proof or rum, respectively; containing rock candy or sugar syrup, with or without the addition of fruit, fruit juices or other natural flavoring materials, and possessing, respectively, a predominant characteristic rye, bourbon, brandy or rum flavor derived from the distilled spirits used.

(g) *Class 7; imitations.* Imitations shall bear, as a part of the designation thereof, the word "imitation" and shall include the following:

(1) Any class or type of distilled spirits to which has been added coloring or flavoring material of such nature as to cause the resultant product to simulate any other class or type of distilled spirits;

(2) Any class or type of distilled spirits (other than distilled spirits required under § 5.34 to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has been added synthetic flavoring material;

(3) Any class or type of distilled spirits (other than distilled spirits required under § 5.34 to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has been added a natural flavoring material which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any other flavoring material, if the labeling of such distilled spirits creates the impression that such other flavoring material has been employed in the manufacture of the product: *Provided,* That the word "imitation" shall not be required to appear as a part of the designation of a cherry product by reason of the addition of a natural flavoring material derived from crushed cherry pits;

(4) Any class or type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate, or infer, that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whisky essence, brandy essence, rum essence or similar essence or extract which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

(5) Any type of rum to which neutral spirits or other distilled spirits than rum have been added;

(6) Any type of brandy to which neutral spirits or other distilled spirits than brandy have been added; and

(7) Any brandy to the distilling material for which has been added any amount of sugar other than the kind and amount of sugar expressly authorized for the amelioration of standard wine.

(h) *Class 8; geographical designations.* (1) Geographical names for distinctive types of distilled spirits (other than names found by the Director under subparagraph (2) of this paragraph to have become generic) shall not be applied to distilled spirits produced in any other place than the particular region indicated by the name, unless (i) in direct conjunction with the name there appears the word "type" or the word "American" or some other adjective indicating the true place of production, in lettering substantially as conspicuous as such name, and (ii) the distilled spirits to which the name is applied conform to the distilled spirits of that particular region. The following are examples of distinctive types of distilled spirits with geographical names that have not become generic: Eau de Vie de Dantzig (Danziger Goldwasser), Ojen, Swedish punch, blended Scotch whisky, blended Irish whisky, blended Canadian whisky. Geographical names for distinctive types of distilled spirits shall be used to designate only distilled spirits conforming to the standard of identity, if any, for such type specified in §§ 5.20–5.21, or if no such standard is so specified, then in accordance with the trade understanding of that distinctive type. Such geographical names for distinctive types of distilled spirits shall not be used as the name or a part of the name for distilled spirits not of that distinctive type.

(2) Only such geographical names for distilled spirits as the Director finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic, shall be deemed to have become generic. The following are examples of distinctive types of distilled spirits with geographical names that have become generic: London dry gin, Geneva gin, Hollands gin, Tequila.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. The following are examples of geographical names for distilled spirits that are not generic and are not names for distinctive types of distilled spirits: Cognac, Armagnac, Greek brandy, Pisco brandy, Jamaica rum, Kentucky straight bourbon whisky, Maryland straight rye whisky.

(4) The words "Scotch", "Scots", "Highland" or "Highlands" and similar words connoting, indicating, or commonly associated with Scotland, shall not (except for the use of the word "Scotch" in the type designation "blended Scotch type whisky") be used to designate any product not wholly produced in Scotland.

(i) *Class 9; products without geographical designations but distinctive of a particular place.* (1) The whiskies of the types specified in paragraph (b) (1)–(10) of this section are distinctive products of the United States, and if produced in a foreign country, shall be designated by the applicable designation prescribed in such paragraph, together with the words "American type" or the words "produced (distilled, blended) in _____", the blank to be filled in with the name of the foreign country. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the government label, the percentage of such whisky and the country of origin thereof. Such statement shall appear as a part of, or in direct conjunction with, any age or percentage statement which may be required under § 5.39.

(2) The name for other distilled spirits which are distinctive products of a particular place or country shall not be given to the product of any other place or country unless the designation for such product includes the word "type" or an adjective such as "American" or the like, clearly indicating the true place of production. This paragraph shall not apply to designations which by usage and common knowledge have lost their geographical significance to such an extent that they have become generic, provided the approval of the Director is obtained prior to using such designation. An example of a product which is a distinctive product of a particular place or country and which has not become generic is the following: Habanero. Examples of products which have lost their geographical significance to such an extent that they are no longer distinctive products of a particular place or country, but have become generic, are the following: Vodka, Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

§ 5.22 Alteration of class and type; harmless coloring, flavoring and blending materials.

(a) Except as otherwise provided in this section, the addition of any coloring, flavoring or blending materials whatsoever, to any class or type of distilled spirits shall be deemed to alter the class and type thereof. If the class or type of any distilled spirits shall be so altered, and if there is no class or type designation for the product as so altered, either specified in §§ 5.20 and 5.21 or in

accordance with trade understanding, such distilled spirits shall be designated with a distinctive or fanciful name together with a truthful and adequate statement of composition in accordance with § 5.34. There may be added to any class or type of distilled spirits, without changing the class or type thereof, (1) such harmless coloring, flavoring or blending materials as are an essential component part of the particular class or type of distilled spirits to which added, and (2) harmless coloring, flavoring or blending materials such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring or blending materials do not total more than 2½ percent by volume of the finished product.

(b) "Harmless coloring, flavoring and blending materials" shall not include (1) any material which would render the product to which it is added an imitation, or (2) any material whatsoever in the case of straight whisky or in the case of neutral spirits, or (3) any material, other than caramel and sugar, in the case of cognac brandy.

(c) Nothing in this section shall be construed as in any manner modifying the standards of identity for cordials and liqueurs, or as authorizing any product which is defined in Class 7 as an imitation to be otherwise designated.

Subpart D—Labeling Requirements for Distilled Spirits

§ 5.30 General.

(a) *Application.* No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any distilled spirits in bottles, unless such distilled spirits are packaged, and such packages are marked, branded, or labeled in conformity with §§ 5.30–5.41. Distilled spirits domestically bottled prior to August 15, 1936, and imported distilled spirits entered in customs bond in bottles prior to that date shall be regarded as being packaged, marked, branded, and labeled in accordance with §§ 5.30–5.41, if the labels on such distilled spirits (1) bear all the mandatory label information required by § 5.32, even though such information is not set forth in the manner and form as required by such section and the other sections referred to therein, and (2) bear no statements, designs, or devices which are false or misleading.

(b) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate or remove any mark, brand, or label upon distilled spirits held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law, or except as provided in subparagraph (2) of this paragraph: *Provided,* That the assistant regional commissioner, Alcohol and Tobacco Tax, or the Internal Revenue officer, if any, assigned to the premises may, upon written application, permit additional labeling or relabeling of bottled distilled spirits with labels, covered by certificates of approval issued by the Director, which comply with the requirements of this part and with State law.

(2) No application for permission to relabel bottled distilled spirits need be made in any case where there is added to the bottle, after removal from customs custody or from the bottling premises, a label identifying the wholesale or retail distributor thereof, and containing no references whatever to the characteristics of the product.

§ 5.31 Misbranding.

Distilled spirits in bottles shall be deemed to be misbranded:

(a) If the bottle fails to bear on it a brand label (or a brand label and other permitted labels) containing the mandatory label information as required by §§ 5.30–5.41 and conforming to the general requirements specified herein.

(b) If the bottle or any label on the bottle, or any individual covering, carton, or other container of the bottle used for sale at retail, other than a shipping container, or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer contains any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 5.30–5.41.

(c) If the bottle is in an individual covering, carton, or other container used for sale at retail, other than a shipping container, displaying thereon any written, printed, graphic, or other matter, other than the name and address of the manufacturer, importer, or person by whom bottled (and in addition the name and address of the person for whom bottled), and such individual covering, carton, or other container obscures the mandatory label information required to be stated and such individual covering, carton, or other container fails to reproduce on it, in the same manner, all information so obscured; or if any statement required by §§ 5.30–5.41 to appear upon the label, or upon such individual covering, carton, or other container of the bottle, is obscured in any other manner or is modified in any manner.

§ 5.32 Mandatory label information.

There shall be stated:

(a) On the brand label:

(1) Brand name, in accordance with § 5.33.

(2) Class and type, in accordance with § 5.34.

(3) Name and address, in accordance with § 5.35, except as provided in paragraph (b) of this section.

(b) On the brand label or on a separate label (back or front):

(1) In case of imported distilled spirits, name and address of importer, in accordance with § 5.35.

(2) In the case of distilled spirits bottled for the holder of a permit or a retailer, the name and address of the distiller, blender, or bottler, in accordance with § 5.35.

(3) In the case of imported distilled spirits, the country of origin in accordance with § 5.35.

(c) On a separate label (for the purpose of this part to be known as the Government label), in such manner and form as shall be prescribed by the Director:

(1) Alcoholic content, in accordance with § 5.36.

(2) Net Contents, in accordance with § 5.37.

(3) Artificial or excessive coloring or flavoring, in accordance with § 5.38.

(4) Percentage of neutral spirits and name of commodity from which distilled, or in case of continuously distilled neutral spirits or gin the name of the commodity only, in accordance with § 5.38.

(5) Age of whisky and straight whisky, respective percentages of whisky, straight whisky and neutral spirits, and type of cooperage, in accordance with § 5.39: *Provided,* That no label shall bear any statement relative to age or period of storage for any American whisky (other than corn whisky, straight corn whisky, blended corn whisky, and blends of straight corn whisky) produced on and after July 1, 1936, and prior to March 1, 1938, unless such whisky has been stored in a charred new oak container.

(6) State of distillation of domestic types of whisky and straight whisky, except blends, in accordance with § 5.35.

The mandatory information required by any of the subparagraphs of paragraph (c) of this section to be stated on a separate label may, if desired, reappear or be restated on the brand label, in which event there shall also reappear or be restated all information required to be stated in conjunction therewith by such separate subparagraph and the section to which such subparagraph refers. If it is desired, all of the mandatory information required by paragraph (c) of this section may appear on the brand label in lieu of a separate label.

§ 5.33 Brand names.

(a) *General.* The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name, either when qualified by the word "brand" or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin.* This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least five years immediately preceding August 29, 1935; *Provided,* That if such trade name or brand is used, the designation of the product shall be qualified

by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 5.34 Class and type.

(a) The class and the type of the distilled spirits shall be stated in conformity with §§ 5.20–5.22 if defined in those sections. If the class is not so defined, then the class shall be stated in conformity with the trade understanding thereof, and if the type is not so defined, any reference to type shall be similarly stated, but no product shall be regarded as having a designation in conformity with trade understanding unless through established usage such product has become known to the trade and to the public under such designation. If the class is not defined in §§ 5.20–5.22, and there is no trade understanding as to the designation of the product, a distinctive or fanciful name, which shall be deemed the class designation for the purpose of these regulations, shall be stated on the brand label of the product. Notwithstanding the foregoing provisions of this section, the word "cordial" or "liqueur" need not be stated to indicate the class of distilled spirits which in fact are cordials or liqueurs, unless the Director finds that, without a designation of the class, the type designation is one which does not clearly indicate to the consumer that the product is a cordial or liqueur.

(b) Except as otherwise provided in this part a truthful and adequate statement of composition shall appear upon the brand label of any product which, in conformity with paragraph (a) of this section, bears a distinctive or fanciful name or a designation in accordance with trade understanding. In the case of products such as highballs, cocktails, and similar prepared specialties, bearing, in conformity with paragraph (a) of this section, trade designations which adequately indicate to the consumer the general character of the product, a statement of the classes and types of distilled spirits used in the manufacture thereof shall be deemed a sufficient statement of composition. No statement of composition is required to appear upon products bearing designations in accordance with trade understanding if such designation, through general and established usage, in itself adequately indicates to the consumer the composition of the product. No highball, cocktail or other prepared specialty shall bear a designation, whether through trade understanding or otherwise, which indicates that it is composed of a certain class or type of distilled spirits, unless, in fact, the distilled spirits used in its preparation conform to such class or type.

(c) On labels of cordials and liqueurs, the type of distilled spirits used for mixing or redistillation, and the percentage of each type thereof, may, but need not, be stated. Any such statement shall be substantially in accordance with the following examples: apricot liqueur, the distilled spirits used are all apricot brandy; cherry cordial, the distilled spirits used are all grape brandy; pineapple liqueur, the distilled spirits used are 30 percent distilled London dry gin, 70 percent neutral spirits.

(d) In the case of whisky (as defined in § 5.21(b)) and American type whisky produced on or after March 1, 1938, and in the case of brandy produced on or after July 1, 1941, which, in whole or in part, is treated with wood chips through percolation or otherwise, during distillation, rectification, or storage, there shall be stated as a part of the class and type designation the phrase "colored and flavored with wood chips": *Provided,* That this paragraph shall not be construed as authorizing the treatment of any of the types of corn whisky with charred wood chips.

(e) In the case of whisky (as defined in § 5.21, Class 2) produced in the United States on or after March 1, 1938, and stored in reused cooperage, which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51 percent rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, respectively, there shall be stated as a part of the class and type designation, in uniform lettering not greater than one-half the size of such designation, "Distilled from rye (or bourbon, wheat, malt or rye malt) mash", as the case may be: *Provided, however,* That any product conforming to the standard of identity prescribed for one of the types of corn whisky (§ 5.21(b)(1), (4)(ii), (8), (9)) shall, notwithstanding the provisions of this paragraph, be designated in accordance with such standard.

(f) All distillates (other than neutral spirits) produced in a foreign country from a fermented mash of grain, and possessing the taste, aroma and characteristics generally attributed to whisky, and all mixtures thereof, bottled at not less than 80° proof, which are not of a type defined in Class 2, § 5.21 shall be deemed to be "whisky" and shall be so designated. In the case of mixtures of whisky, the component parts of which were distilled in more than one country, there shall be stated in direct conjunction with the class designation "whisky" a truthful and adequate statement of the composition of the product. In the case of any of the types of whisky defined in any of the subsections of § 5.21 Class 2 which contains any whisky or whiskies produced in a country other than that indicated by the type designation, there shall be stated on the government label the percentage of such whisky and the country of origin thereof. If any age or percentage statement is required under § 5.39 the statement herein required shall appear as a part of, or in direct conjunction with, such age and percentage statement. All whisky (other than American type whisky and blended Scotch type whisky) manufactured in Scotland, Ireland or Canada, shall be deemed to be Scotch, Irish or Canadian whisky, and shall be so designated, in conformity with § 5.21(b)(11), (12) and (13), unless the application of such designation to the particular product will result in consumer deception, or unless such a product is not entitled to such designation under the laws of the country in which manufactured.

§ 5.35 Name and address.

(a) *"Bottled by".* On labels of domestic distilled spirits, there shall be stated the phrase "bottled by", immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling the same brand of distilled spirits, there may be stated immediately following the name (or trade name) of such bottler the addresses of the plants at which such product is bottled: *Provided,* That the State of distillation is stated as provided by paragraph (e) of this section: *Provided further:*

(1) That, where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "bottled by", followed by the bottler's name (or trade name) and address, the phrase "distilled by", followed by the corporate name, or the trade name under which the particular spirits were distilled, or (except in the case of distilled spirits bottled in bond under section 5233, Internal Revenue Code) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), at the time the spirits were distilled, irrespective of the name under which they were actually distilled; and the address (or addresses) of the distiller;

(2) That, where distilled spirits are bottled by or for the rectifier thereof, there may be stated, in lieu of the phrase "bottled by", followed by the bottler's name (or trade name) and address, the phrases "blended by", "made by", "prepared by", "manufactured by", or "produced by" (whichever may be appropriate to the act of rectification involved), followed by the name (or trade name) under which the distilled spirits were rectified, and the address (or addresses) of the rectifier.

(b) *"Imported by."* (1) On labels of imported distilled spirits, bottled prior to importation, there shall be stated the words "imported by", "imported exclusively by", or a similar appropriate phrase, and immediately thereafter the name of the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person.

(2) On labels of imported distilled spirits bottled after importation by a person other than the person responsible for the importation, there shall be stated, in the manner and form prescribed above, the name and address of the person responsible for the importation, and in addition thereto the words "bottled by", and immediately thereafter, the name of the bottler and the place where bottled, except that if the distilled spirits are bottled in the United States for the person responsible for the importation there may be stated, in lieu of the above-required statements, the name and principal place of business in the United States of such person, immediately preceded by the phrase "imported by and bottled in the United States for" (or a similar appropriate phrase).

(3) On labels of imported distilled spirits bottled after importation by the person responsible for the importation, there shall be stated the words "imported and bottled by," "imported and bottled exclusively by," or a similar appropriate phrase, and immediately thereafter the name of such person and the address of the place where bottled or the address of such person's principal place of business.

(4) The statements provided for domestic distilled spirits by paragraph (a) of this section, if applicable, may, but need not, appear on labels of imported bottled distilled spirits, unless required by State or foreign law or regulation. If required by State or foreign law or regulation, they shall appear in accordance with the requirements thereof.

(c) *"Bottled for".* In addition to the requirements of paragraphs (a) and (b) of this section, there may also be stated the name and address of the person for whom the distilled spirits are bottled, immediately preceded by the words "bottled for" or "distributed by", or other similar statement.

(d) *Post-office address.* The "place" stated shall be the post-office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, firm, or corporation, unless (1) such person or retailer is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains, in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product.

(e) *State of distillation.* On labels of whisky and straight whisky there shall be stated the State of distillation of such whisky, if such whisky is not distilled in the State given in the address on the brand label. Notwithstanding the provisions of § 5.32(c), the statement of the State of distillation shall appear on the brand label in all cases where the Director finds that without such statement the label is misleading as to the State of actual distillation.

(f) *Country of origin.* On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form "Product of ------", the blank to be filled in with the name of the country of origin.

(g) *Trade names.* The trade name of any permittee appearing upon any label shall be identical with the name in which his basic permit is issued by the Assistant Regional Commissioner.

§ 5.36 Alcoholic content.

(a) The alcoholic content by proof shall be stated for distilled spirits except as provided in paragraph (b) of this section.

(b) The alcoholic content is percentage by volume or by proof shall be stated for cordials and liqueurs, and gin fizzes, cocktails, highballs, bitters, and such other specialties as may be specified by the Director from time to time.

§ 5.37 Net contents.

(a) The net contents of distilled spirits for which a standard of fill is prescribed in § 5.73(a) shall be stated in the same manner and form in which such standard of fill is set forth in said section.

(b) The net contents of distilled spirits for which no standard of fill is prescribed in § 5.73(a) shall be stated as follows:

(1) If one pint, one quart, or one gallon, the net contents shall be so stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(c) All fractions shall be expressed in their lowest denomination.

(d) The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part. The letters and figures shall be not less than one-quarter inch in height, except in case of bottles having a capacity of less than one-half pint, in which case the letters and figures shall be of such size as to be readily legible under ordinary conditions.

§ 5.38 Presence of neutral spirits and coloring, flavoring, and blending materials.

(a) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: "____% neutral spirits distilled from grain"; or "____% neutral spirits distilled from cane products"; or "____% neutral spirits distilled from fruit"; or "____% grain (cane products), (fruit) neutral spirits."

(b) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled. The statement of the name of the commodity shall be made in substantially the following form: "Distilled from grain", or "Distilled from cane products", or "Distilled from fruit."

(c) If the aggregate amount of coloring, blending, smoothing, or flavoring materials in any distilled spirits other than cordials, liqueurs, gin, gin fizzes, highballs, bitters, and such other specialties as may be specified by the Director from time to time, is in excess of 2½ percent by volume of the distilled spirits contained in the bottle, then the name and amount in percent by volume of each of such materials shall be stated.

(d) There shall be stated the words "artificially colored" on the label of any distilled spirits containing synthetic coloring materials, or natural materials, other than caramel, the primary contribution of which is color, as well as upon the label of any distilled spirits, the labeling of which is such as to convey the impression that the color of the product is derived from a given source, if such color is, in whole or in part, not so derived. In the case of distilled spirits to which no coloring material other than caramel has been added the words "colored with caramel" or a substantially similar statement may appear in lieu of the words "artificially colored": *Provided,* That no such statement shall be required by reason of the use of caramel in any brandy or rum or in any type of whisky other than straight whisky: *And provided further,* That where such statement would be required by reason of the use of natural flavoring materials solely, there may be stated in lieu of "artificially colored" a truthful and adequate statement of the source of the color, such as "color derived from (name of fruit, plant, etc., the name of which the product bears) and other fruits (plants, herbs, etc., or the name of such other fruits, plants, or herbs)": *And provided further,* That where such statement would be required solely by reason of the use of coloring materials which have been certified as suitable for use in foods by the Food and Drug Administration, there may be stated, in lieu of artificially colored, the phrase "certified color added".

(e) The presence of beading oil in any type of whisky shall be stated.

§ 5.39 Statements of age and percentage.

(a) *Statements of age and percentage for whisky.* Except in the case of straight whisky bottled under the Bottling in Bond Act of the United States and foreign or domestic whisky (whether or not mixed or blended but containing no neutral spirits) all of which is four years or more old, there shall be stated the following:

(1) In the case of whisky defined in § 5.21(b) (1), (11), (12), (13), if not mixed, the age of the whisky; if mixed, the age of the youngest whisky. The statement of age in both cases under this paragraph shall be substantially as follows: "This whisky is _____ (years and/or months) old."

(2) In the case of any of the types of straight whisky the age of the straight whisky. The statement of age in cases under this paragraph shall be substantially as follows: "This whisky is _____ (years and/or months) old."

(3) (i) In case of any of the types of blended whisky as defined in § 5.21(b) (7), (8), the age of the straight whisky

(or if there be two or more straight whiskies, then of the youngest thereof) and the age of the other whisky (or if there be two or more other whiskies, then of the youngest of such other whiskies) together with the percentage by volume of straight whisky, other whisky, and neutral spirits therein.

(ii) The statement of age in cases under this paragraph shall be as follows, in accordance with the ingredients used. If only one straight whisky and one other whisky is in the blend, the statement of age shall read: "The straight whisky in the product is _____ (years and/or months) old; _____ percent straight whisky, _____ percent whisky _____ (years and/or months) old" or "_____ percent straight whisky _____ (years and/or months) old, _____ percent whisky _____ (years and/or months) old." The age blanks shall be filled in with the respective ages of the straight whisky and the other whisky. If more than one straight whisky and more than one other whisky is in the blend, the statement of age shall read: "The straight whiskies in this product are _____ (years and/or months) or more old; _____ percent straight whisky, _____ percent whisky _____ (years and/or months) or more old; _____ per-percent straight whiskies _____ (years and/or months) or more old; _____ percent whisky _____ (years and/or months) or more old." The age blanks shall be filled in with the ages of the youngest straight whisky and the youngest of the other whiskies. If neutral spirits have been used in the blend, the statement thereof shall appear in immediate conjunction with the statement of age and percentage amounts of straight whisky and other whisky (if any) and shall be in the form required by § 5.38(a).

(iii) In addition (but not as a substitute for the foregoing required statements) a statement may be made of the ages and percentages of all of the straight whiskies in the blend. Such statements, if made, shall read "_____% straight whisky, _____ years old, _____% straight whisky, _____ years old, and ____% straight whisky, _____ years old." The age and percentage blanks shall be filled in with the respective ages and percentages of all of the straight whiskies in the blend.

(4) If the product is a blend of straight whiskies, the age of the youngest straight whisky. The statement of age under this paragraph shall be as follows: "The straight whiskies in this product are____ (years and/or months) or more old." *Provided,* That, if the product is composed of 51 percent or more, but less than 100 percent, of one type of straight whisky and the class and type designation contains a reference to this predominant type, the required statement shall contain a statement of the percentage of this predominant type in the product as follows:

The straight whiskies in this product are _____ (years and/or months) or more old, _____ percent straight _____ whisky, the blanks to be filled in with the appropriate age, percentage and type statements. The blank shall be filled in with the age of the youngest straight whisky in the blend. In addition (but not as a substitute for the foregoing required statement) a statement may be made of the ages and percentages of all of the straight whiskies in the blend. Such statements, if made, shall read: "____% straight whisky, _____ years old, ____% straight whisky, _____ years old, and ____% straight whisky, _____ years old." The age and percentage blanks shall be filled in with the respective ages and percentages of all of the straight whiskies in the blend.

(5) In the case of spirit whisky, the age of the whisky or straight whisky (or, if there be two or more whiskies or straight whiskies, then the age of the youngest whisky or straight whisky, or, if there be both whisky and straight whisky, then the age of the youngest whisky) together with the percentage by volume of the whisky or straight whisky and the percentage by volume of neutral spirits. Such statements shall be as follows: "The whisky (straight whisky) in this product is __ (years and/or months) old; ____ percent whisky (or ____ percent straight whisky and, if there be other whisky or whiskies, ____ percent whisky) and ____ percent neutral spirits" (continuing in accordance with the requirements of § 5.38(a) to state the commodity from which the neutral spirits is derived). If there be more than one whisky or (if there be no whisky) more than one straight whisky in the product, the statement of age shall read: "The whiskies (straight whiskies) in this product are ____ (years and/or months) or more old" followed by the statement of percentages and of the commodity from which the neutral spirits is derived. In addition (but not as a substitute for the foregoing required statements) a statement may be made of the ages and percentages of all of the whiskies and straight whiskies in the product. Such statement, if made, shall be in the following form: "____ percent straight whisky, _____ years old, _____ percent straight whisky, _____ years old, _____ percent whisky, ____ years old and ____ percent whisky, _____ years old." The age and percentage blanks shall be filled with the respective ages and percentages of each of the straight whiskies and whiskies in the product.

(6) In the case of imported American type whiskies (as defined in § 5.21, Class 9) the labels shall state the ages and percentages in the same manner and form as is required for the same type of whisky produced in the United States.

(7) In the case of straight whisky bottled under the Bottling in Bond Act of the United States and foreign or domestic whisky (whether or not mixed or blended but containing no neutral spirits) all of which is four years or more old, statements of age shall be optional but, if made, shall appear in the form specified for the appropriate class and type.

Notwithstanding the foregoing provisions of this paragraph, in the case of whisky (as defined in § 5.21(b), Class 2), produced in the United States on and after March 1, 1938, and stored in reused cooperage, there shall be stated in lieu of the words "* * * is _____ (years and/or months) old", the words "* * * stored _____ (years and/or months) in reused cooperage", and in lieu of the words "* * * _____ (years and/or months) or more old", the words "* * * stored _____ (years and/or months) or more in reused cooperage": *Provided,* That this paragraph shall not apply to "blended Scotch type whisky" or to any whisky properly contained therein.

(b) *Statements of age for rum and brandy.* (1) Age may, but need not, be stated on labels of rums and brandies: *Provided,* That an appropriate statement with respect to age shall appear on the brand label in case of brandy (other than immature brandies) not aged for a period of at least two years.

(2) If age is stated, it shall be substantially as follows: "This rum is ____ years old;" "This brandy is ____ years old;" the blanks to be filled in with the age of the youngest distilled spirits in the product.

(c) *Statements of age and percentage for blended Scotch type whisky.* (1) (i) In the case of blended Scotch type whisky, there shall be stated the age of the malt whisky (or if there be two or more malt whiskies, the youngest thereof) and the age of the other whisky (or if there be two or more other whiskies, the youngest of such other whiskies) together with the percentages by volume of the malt whisky and of the other whisky therein. The statement of ages and percentages shall be in the following form: "The malt whisky in this product is ____ (years and/or months) old; ____ percent malt whisky, ____ percent whisky, ____ (years and/or months) old" or, if more than one malt whisky or more than one other whisky is in the blend, the relevant portion of such statement shall read "The malt whiskies in this product are ____ (years and/or months) or more old" and "____ percent whisky ____ years and/or months) or more old", as the case may be.

(ii) In addition (but not as a substitute for the statement in (i) of this subparagraph) a statement may be made of the ages and percentages of all of the malt whiskies and whiskies in the product. Such statement, if made, shall be in the following form: "____ percent malt whisky, ____ years old; ____ percent malt whisky, ____ years old; ____ percent whisky, ____ years old; and ____ percent whisky, ____ years old." The age and percentage blanks shall be filled with the respective ages and percentages of each of the malt whiskies and whiskies in the product.

(d) *Other distilled spirits.* Age, maturity, or similar statements or representations as to neutral spirits, gin, liqueurs, cordials, vodka, cocktails, gin fizzes, highballs, bitters, and specialties are misleading and are prohibited from being stated on any label.

(e) *Miscellaneous age representations.* (1) If the age of any product for which age is required to be stated is in excess of 1 year, months in excess of a year may be omitted, and if the age is less than 1 month, the age shall be stated as "Less than one month" in lieu of "____ (years and/or months)."

(2) Age may be understated but may not be overstated.

(3) Any permissive additional statements as to age shall appear on the same labels as the required statements and only in direct conjunction therewith and in substantially the same size and kind of print. Any such additional permissive statements as to age not in direct conjunction with the required statements are prohibited, and all statements as to age other than the required statements, the additional permissive statements, and the optional statements for distilled spirits are prohibited. Additional permissive age and percentage statements shall not be given prominence, either by position or color over required age and percentage statements.

(4) Variations in the form of the required statements or the additional permissive statements as to age and percentages are prohibited.

(5) If any age, maturity, or similar representation (including words or devices in any brand name or mark) is made relative to any distilled spirits (except neutral spirits, gin, liqueurs, cordials, vodka, cocktails, gin fizzes, highballs, and bitters), the age shall also be stated on all labels where such representation appears, and in script, type, or printing substantially as conspicuous as such representation: *Provided,* That the labels of such whiskies and brandies (except immature brandies) as are not required to bear a statement of age on the label and the labels of rum which has been aged for not less than 4 years may contain general inconspicuous age, maturity or other similar representations even though the label does not bear the optional age statement. Age, maturity or similar representations as to neutral spirits, gin, liqueurs, cordials, vodka, cocktails, gin fizzes, highballs, and bitters, are misleading, and shall not appear upon any label, except that the use of the word "old" or other word denoting age, appearing as part of the brand name, shall not be deemed to be an age representation in the case of such distilled spirits, or in the case of distilled spirits bottled in bond under the Bottling in Bond Act of the United States, or in the case of whiskies and brandies (except immature brandies) as are not required to bear a statement of age on the label or in the case of rum which has been aged for not less than 4 years. As to all other distilled spirits the word "old" or other word denoting age, appearing as part of the brand name, shall be deemed to be an age representation unless the word "brand" appears in direct conjunction with such brand name in letters of equally conspicuous color and at least one-half the size of the type in which such brand name is printed.

§ 5.40 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all the statements thereon required by §§ 5.30–5.41 are readily legible under ordinary conditions, and all such statements shall be on a contrasting background.

(b) *Size of type.* All statements required on labels by §§ 5.30–5.41 shall be in readily legible script, type, or printing not smaller than 8-point Gothic caps, except that if contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than such other descriptive or explanatory reading matter: *Provided,* That in the case of labels on bottles having a capacity of less than one-half pint, such script, type, or printing thereon need not be in 8-point Gothic caps, but shall be readily legible under ordinary conditions. All statements of the type of distilled spirits shall be in script, type, or printing substantially as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(c) *English language.* All the requirements of §§ 5.30–5.41 shall be stated on all labels in the English language: *Provided,* That the brand name, the place of production, and the name of the producer appearing on labels need not be in the English language if the words "product of" immediately precede the name of the country in which the distilled spirits were produced in accordance with customs requirements. Additional statements in foreign languages may be made on labels, if no such statements conflict with, or are contradictory to, the requirements of §§ 5.30–5.41. Labels on bottles of distilled spirits bottled for consumption within Puerto Rico may, if desired, state the information required by §§ 5.30–5.41 solely in the Spanish language in lieu of the English language, except that the net contents, and if an imitation, the word "imitation" shall also be stated in the English language.

(d) *Location of label.* No label other than stamps authorized or required by the United States Government or any other government, shall be affixed over the mouths of bottles of distilled spirits, and no label shall obscure any government stamp or be obscured thereby, or obscure any markings or information required to be blown in the bottle by regulations of the Secretary of the Treasury.

(e) *Labels firmly affixed.* All labels shall be affixed to bottles of distilled spirits in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels (other than the label to be known for the purposes of this part as the government label) may contain information other than the mandatory label information required by §§ 5.30–5.41, provided such information complies with the requirements of §§ 5.30–5.41, and does not conflict with, nor in any manner qualify, statements required by any regulations promulgated under the act.

(g) *Representations as to materials.* If any representation (other than representations or information required by §§ 5.30–5.41) is made as to the presence, excellence, or other characteristic of any ingredient in any distilled spirits, or used in the production thereof, the label containing such representation shall state in print, type, or script, substantially as conspicuous as such representation, the name and amount in percent by volume of each such ingredient, except that percentages of whisky, where stated, shall be stated as provided in § 5.39. If only a portion of the materials used is of such higher grade, then the percentage thereof that is of such higher grade shall be stated in direct conjunction with such statement, in print, type, or script, substantially as conspicuous as that used in connection with such statement.

(h) *Contents of bottles.* Upon request of the Director or Assistant Regional Commissioner there shall be submitted to him a full and accurate statement of the contents of the bottles to which labels are to be or have been affixed.

§ 5.41 Prohibited practices.

(a) *Statements on labels.* Bottles containing distilled spirits, or any labels on such bottles, or any individual covering, carton, or other container of such bottles used for sale at retail, or any written, printed, graphic, or other matter accompanying such bottles to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular or that, irrespective of falsity, directly or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression. Examples of such prohibited statements are:

(i) Reproductions of medals or facsimiles of awards, when no medals or awards have been given for the particular product.

(ii) The statement that the product is "100% straight whiskies," when in fact the product is less than 100 proof.

(iii) The statement that "Fine flavored, genuine bourbon whisky is made only in Kentucky."

(iv) Domestic products containing the statement "Furnished to His Majesty, the King of _____."

(v) "Due to our method of storage, this product ages in half the time."

(vi) "This whisky is two months old. Due to our special aging process, however, it has the taste and characteristics of a much older whisky."

(vii) "This whisky is four months old. Due to our special manufacturing processes, this whisky has all the characteristics of a one year old whisky."

(viii) "Distilled from a scientifically controlled fermentation under laboratory control."

(2) Any statement that is disparaging of a competitor's products. Examples of such prohibited statements are:

(i) "Contains no neutral spirits or alcohol."

(ii) "Matured naturally—not heat treated."

(iii) "Not a compound, but a delicious distilled dry gin."

(iv) "Should not be confused with imitations that are made from neutral spirits."

(v) "Contains no headaches."

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Examples of such statements are:

(i) "From 20 to 30 scientific determinations are required for each bottle tested."

(ii) "Analyzed by State laboratories and found to be pure and free from deleterious ingredients."

(iii) "Chemical analysis shows this whisky to contain the flavoring, aroma, and other characteristics of four year old whisky," when in fact such whisky is less than 4 years old.

(iv) "Before bottling it is subjected to the most rigid tests for its taste, bouquet, and aroma, by our technical staff, signed _____, B. Ch. E."

(v) The statement that "The _____ Laboratories, recognized expert authority, tests and judges _____ products."

(vi) The statement "Tested and approved," signed by The _____ Research Institute.

(vii) The statement "Tasted and tested to assure the highest quality flavoring and freedom from deleterious ingredients."

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Nothing in this part shall prohibit the use of an enforceable guaranty in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package.

_____."

(Blank to be filled in with the name of the permittee making guaranty)

Examples of such statements are:

(i) "Guaranteed to consumer by _____."

(ii) "Warranted to be the best product in its price range."

(iii) "Certified to be pure and free from deleterious matter."

(iv) "Guaranteed to be ten years old."

(v) "Guaranteed to be distilled in the State of _____."

(vi) "Attested to be made by modern, scientific manufacturing processes."

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbrevation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided*, That this subparagraph shall not apply to the use of the name of any person engaged in business as a distiller, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled spirits, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(b) *Simulation of Government stamps, etc.* (1) No label shall be of such design as to resemble or simulate a stamp of the United States Government or any State or foreign Government. No label, other than stamps authorized or required by this or any other Government, shall state or indicate that the distilled spirits contained in the labeled bottle are distilled, blended, made, bottled, or sold under, or in accordance with, any municipal, State, or Federal authorization, law, or regulations, unless such statement is required or specifically authorized by Federal, State, or municipal law or regulations, or is required or specifically authorized by the laws or regulations of a foreign country. If the municipal, State, or Federal government permit number is stated upon a label, it shall not be accompanied by any additional statement relating thereto.

(2) If imported distilled spirits are covered by a certificate of origin or of age issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statement relating thereto. The reference to such certificate or certification shall, in the case of Cognac, be substantially in the following form: "This product accompanied at the time of importation by an 'Acquit Regional Jaune d'Or' issued by the French Government, indicating that this grape brandy was distilled in the Cognac Region of France"; and in the case of the other distilled spirits, substantially in the following form: "This product accompanied at time of importation by a certificate issued by the _____ government (name of government) indicating that the product is _____ (class and type as required to be stated on the label), and (if label claims age) that none of the distilled spirits are of an age less than stated on this label."

(3) The words "bond", "bonded", "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of domestic distilled spirits unless such distilled spirits were in fact bottled in bond under the Bottling in Bond Act of the United States.

(4) The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of imported distilled spirits unless such distilled spirits, as to proof and age, and in all other respects, meet the requirements applicable to distilled spirits bottled for domestic consumption, under the Bottling in Bond Act of the United States (26 U.S.C. 5205, 5233) and unless the laws and regulations of the country in which such distilled spirits are produced authorize the bottling of distilled spirits in bond and require or specifically authorize such distilled spirits to be so labeled. All spirits labeled as "bonded," "bottled in bond," or "aged in bond" pursuant to the provisions of this subparagraph shall bear in direct conjunction with such statement and in script, type or printing substantially as conspicuous as that used on such statement, the name of the country under whose laws and regulations such distilled spirits were so bottled.

(c) *Use of word "pure."* The word "pure" shall not be stated in any manner on any labels, except as part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled.

(d) *Use of "double distilled" or similar terms.* No gin or other distilled spirits shall be labeled as "double distilled" or "triple distilled," or any similar term.

(e) *Flags, seals, coats of arms, crests, and other insignia.* Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(f) *Curative and therapeutic effects.* Labels shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects if such statement is untrue in any particular or tends to create a misleading impression.

(g) *Individual coverings and cartons.* Individual coverings, cartons, or other containers of bottled distilled spirits, or any written, printed, graphic, or other matter accompanying the bottle shall not contain any statement or any graphic, pictorial, or emblematic representation or other matter which is prohibited from appearing on any label or bottle of distilled spirits.

Subpart E—Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits

§ 5.45 Label approval and release.

(a) *Application.* On or after August 15, 1936, bottled distilled spirits shall not be released from customs custody for consumption, except pursuant to procedure and form prescribed by §§ 5.45, 5.46.

(b) *Certificate of label approval.* No bottled distilled spirits shall be released from customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.* If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Ad-

ministration Act" (Form 1649) bears the signature of the Director, then the brand or lot of bottled distilled spirits bearing labels identical with those shown thereon may be released from customs custody.

(d) *Relabeling.* Distilled spirits in customs custody which are not labeled in conformity with certificates of label approval issued by the Director must be relabeled prior to release, under the supervision and direction of the customs officers of the port at which such distilled spirits are located.[1]

§ 5.46 Certificates of age and origin.

(a) Scotch, Irish, and Canadian whiskies, in bottles, whether blended or unblended, imported on or after August 15, 1936, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian Governments, certifying (1) that the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be, (2) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of the whisky for home consumption, and (3) that the product conforms to the requirements of the Immature Spirits Act of such foreign government for spirits intended for home consumption.

(b) If the label of any Scotch, Irish, or Canadian whisky, whether blended or unblended, imported in bottles on or after August 15, 1936, contains any statement of age for Scotch or Irish whisky in excess of 3 years, or Canadian whisky in excess of 2 years, the whisky shall not be released from customs custody unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying that none of the distilled spirits in the bottle are of an age less than that stated on the label. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers.

(c) If the label of any rum, brandy, or cognac, imported in bottles on or after August 15, 1936, contains any statement of age, the rum, brandy, or cognac shall not be released from customs custody unless accompanied by a certificate issued by a duly authorized official of the government of the foreign country in which the rum, brandy, or cognac was produced, certifying that none of the distilled spirits in the product are of an age less than that stated on the label. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers. Cognac in bottles, imported on or after August 15, 1936, shall not be released from customs custody unless the invoice is accompanied by a certificate issued by a duly authorized official of the appropriate foreign government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(d) Whisky (as defined in § 5.21(b)) and American type whiskies, imported on or after August 15, 1936, shall not be released from customs custody in bottles unless there is presented at the time of entry or at the time of request for release, a certificate issued by a duly authorized official of the appropriate foreign government certifying:

(1) In case of straight whisky, (i) the class and type (such as straight whisky, straight rye whisky, straight bourbon whisky, etc.) thereof, (ii) the American proof at which distilled, (iii) that no neutral spirits or other whisky has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (iv) the age of the whisky, and (v) the type of container in which such age was acquired (whether new or re-used, also whether charred or uncharred);

(2) In case of whisky and the distinctive types of whisky, (i) the class and type (such as whisky, rye whisky, bourbon whisky, etc.), (ii) the American proof at which distilled, (iii) that no neutral spirits has been added as a part thereof or included therein, whether or not, for the purpose of replacing outage, (iv) the age of the whisky, and (v) the type of container in which such age was acquired (whether new or re-used, also whether charred or uncharred);

(3) In case of blended whisky, (i) the class and type (such as blended whisky, blended rye whisky, blended bourbon whisky, etc.), (ii) the percentage of straight whisky, or any distinctive type thereof, used in the blend, (iii) the American proof at which the straight whisky was distilled, (iv) the percentage of other whisky, if any, in the blend, (v) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled, (vi) the age of the straight whisky and the age of the other whisky, if any, in the blend, and (vii) the type of containers in which such age or ages were acquired (whether new or re-used, also whether charred or uncharred).

(e) Distilled spirits (other than Scotch, Irish and Canadian whiskies, and Cognac) in bottles shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits has been authorized by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

Subpart F—Requirements for Approval of Labels of Domestically Bottled Distilled Spirits

§ 5.50 Certificates of label approval.

(a) No person shall bottle distilled spirits, other than distilled spirits in customs custody, or remove such spirits from his distilled spirits plant unless upon application to the Director he has obtained, and has in his possession, a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), covering such distilled spirits. Such certificate of label approval shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the permittee.

(b) Any bottler of distilled spirits shall be exempt from the requirements of §§ 5.50–5.51 if upon application he shows to the satisfaction of the Director that the distilled spirits to be bottled by him are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce. A "Certificate of Exemption from Label Approval under the Federal Alcohol Administration Act" (Form 1650) shall be issued by the Director upon application made on the form designated "Application for Certificate of Exemption from Label Approval under the Federal Alcohol Administration Act" (Form 1648), properly filled out and certified to by the permittee.

§ 5.51 Certificates of age and origin.

(a) Scotch, Irish, and Canadian whiskies, whether blended or unblended, imported in bulk on or after August 15, 1936, and bottled in the United States, shall not be labeled as Scotch, Irish, or Canadian whiskies respectively, unless the bottler possesses a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian governments, certifying (1) that the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be, (2) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of the whisky for home consumption, and (3) that the product conforms to the requirements of the Immature Spirits Act of such foreign government for spirits intended for home consumption.

(b) If any Scotch, Irish, or Canadian whisky, whether blended or unblended, is imported in bulk on or after August 15, 1936, and bottled in the United States, no statement shall appear on the label thereof representing the age of such Scotch or Irish whisky to be in excess of 3 years, or Canadian whisky in excess of 2 years, unless the permittee authorized to bottle such distilled spirits possesses a certificate for such distilled spirits issued by a duly authorized official of the appropriate foreign government certifying as to age of such whisky. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers.

(c) If any rum or brandy is imported in bulk on or after August 15, 1936, and bottled in the United States, no statement of age shall appear on the labels of such rum or brandy, unless the permittee authorized to bottle such distilled spirits possesses a certificate issued by a duly

[1] Copies of Form 1649 may be secured from the Assistant Regional Commissioners, Alcohol and Tobacco Tax.

authorized official of the government of the foreign country in which the rum or brandy was produced, certifying as to the age of such rum or brandy. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been kept in oak containers. Brandy imported in bulk on or after August 15, 1936, and bottled in the United States, shall not be labeled as "Cognac" unless the permittee authorized to bottle such distilled spirits possesses a certificate issued by a duly authorized official of the appropriate foreign government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(d) Distilled spirits imported in bulk on or after August 15, 1936, and bottled in the United States with or without taxable rectification, shall not be labeled as whisky (as defined in § 5.21(b)), or as any type of American whisky, unless the permittee authorized to bottle such distilled spirits possesses a certificate for such whisky issued by a duly authorized official of the appropriate foreign government certifying:

(1) In case of straight whisky: (i) the class and type (such as straight whisky, straight rye whisky, straight bourbon whisky, etc.) thereof; (ii) the American proof at which distilled; (iii) that no neutral spirits or other whisky has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (iv) the age of the whisky; and (v) the type of container in which such age was acquired (whether new or re-used, also whether charred or uncharred);

(2) In case of whisky and the distinctive types of whisky: (i) the class and type (such as whisky, rye whisky, bourbon whisky, etc.); (ii) the American proof at which distilled; (iii) that no neutral spirts has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (iv) the age of the whisky; and (v) the type of container in which such age was acquired (whether new or re-used, also whether charred or uncharred);

(3) In case of blended whisky: (i) the class and type (such as blended whisky, blended rye whisky, blended bourbon whisky, etc.); (ii) the percentage of straight whisky, or any distinctive type thereof, used in the blend; (iii) the American proof at which the straight whisky was distilled; (iv) the percentage of other whisky, if any, in the blend; (v) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled; (vi) the age of the straight whisky and the age of the other whisky, if any, in the blend; and (vii) the type of containers in which such age or ages were acquired (whether new or re-used, also whether charred or uncharred); and unless the labels are in all particulars consistent with the facts stated in the certificate.

(e) Distilled spirits (other than Scotch, Irish and Canadian whiskies, and Cognac) imported in bulk may not be bottled in the United States unless the bottler possesses a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits has been authorized by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

§ 5.52 Exhibiting certificates to Government officials.

Any bottler holding an original or duplicate original of a certificate of label approval or a certificate of exemption, shall, upon demand, exhibit such certificate to a duly authorized representative of the United States Government.

§ 5.53 Photoprints.

Photoprints or other reproductions of certificates of label approval or certificates of exemption are not acceptable, for the purposes of this article, as substitutes for an original or duplicate original of a certificate of label approval, or a certificate of exemption. The Director will, upon request of the bottler, issue duplicate originals of certificates of label approval or certificates of exemption if distilled spirits under the same brand are bottled at more than one plant by the same permittee, and if the necessity for the duplicate original is shown and there is listed with the Director the name and address of the additional bottling plant where the particular label is to be used.

Subpart G—Advertising of Distilled Spirits

§ 5.60 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter, any advertisement of distilled spirits if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 5.60–5.64: *Provided*, That such sections shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising: *And provided further*, That §§ 5.60–5.64 shall not apply to the publisher of any newspaper, periodical or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate.

§ 5.61 Definitions.

As used in §§ 5.60–5.64, the term "advertisement" includes any advertisement of distilled spirits through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail; except that such term shall not include:

(a) Any label affixed to any bottle of distilled spirits; or any individual covering, carton, or other container of the bottle, or any written, printed, graphic, or other matter accompanying the bottle, which constitutes a part of the labeling under §§ 5.30–5.41.

(b) Any editorial or other reading matter in any periodical or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee.

§ 5.62 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class and type.* The advertisement shall contain a conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required to appear on the label of the product.

(c) *Alcoholic content.* (1) The alcoholic content by proof shall be stated for distilled spirits except as otherwise provided in subparagraph (2) of this paragraph.

(2) The alcoholic content in percentage by volume or by proof shall be stated for cordials and liqueurs, and gin fizzes, cocktails, highballs, bitters, and such other specialties as may be specified by the Director from time to time.

(d) *Percentage of neutral spirits and name of commodity.* (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: "____% neutral spirits distilled from grain"; or "___% neutral spirits distilled from cane products"; or "___% neutral spirits distilled from fruit"; or "___% grain, (cane products), (fruit), neutral spirits."

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled. The statement of the name of the commodity shall be made in substantially the following form: "Distilled from grain", or "Distilled from cane products", or "Distilled from fruit."

§ 5.63 Lettering.

Statements required under §§ 5.60–5.64 to appear in any written, printed,

or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

§ 5.64 **Prohibited statements.**

(a) *Restrictions.* An advertisement of distilled spirits shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Nothing in this section shall prohibit the use of an enforceable guaranty in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package.

_____."

(Blank to be filled in with name of the permittee making guaranty.)

(6) Any statement that the distilled spirits are distilled, blended, made, bottled, or sold under or in accordance with any municipal, State or Federal authorization, law, or regulation; and if a municipal, State or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, unless such words or phrases appear, pursuant to §§ 5.30–5.41 upon the labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are required to appear upon the label.

(8) The word "pure" except as part of the bona fide name of a permittee or a retailer for whom the distilled spirits are bottled.

(9) The terms "double distilled", "triple distilled", or any similar term.

(b) *Statements inconsistent with labeling.* The advertisement shall not contain any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.

(c) *Statements of age.* The advertisement shall not contain any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement, if any, concerning age and percentages required to be made on the label under the provisions of §§ 5.30–5.41. An advertisement for any whisky or brandy (except immature brandies) which is not required to bear a statement of age on the label or an advertisement for any rum which has been aged for not less than 4 years may, however, contain general inconspicuous age, maturity or other similar representations even though the optional age statement does not appear on the label of the advertised product and in the advertisement itself.

(d) *Curative and therapeutic effects.* The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(e) *Place of origin.* The advertisement shall not represent that the distilled spirits were manufactured in or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(f) *Confusion of brands.* Two or more different brands or lots of distilled spirits shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of this article or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia.* No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

Subpart H—Standards of Fill for Bottled Distilled Spirits

§ 5.70 **Application.**

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled in conformity with §§ 5.70–5.74. Distilled spirits domestically bottled prior to January 1, 1935, and imported distilled spirits entered in customs bond in bottles prior to March 1, 1935, shall be regarded as being in conformity with §§ 5.70–5.74, (a) if the bottle, or the label on the bottle, contains a conspicuous statement of the net contents thereof, and (b) if the actual capacity of the bottle is not substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

§ 5.71 **Misbranding.**

Distilled spirits shall be deemed to be misbranded:

(a) If the bottle is not a standard liquor bottle as prescribed by § 5.72 for such distilled spirits.

(b) If the amount of the distilled spirits contained in the bottle does not conform to one of the standards of fill in effect therefor under § 5.73.

(c) If the bottle is in an individual carton or other container, and the carton or other container is so made or formed as to mislead purchasers as to the size of the bottle.

§ 5.72 **Standard liquor bottles.**

(a) *General.* A standard liquor bottle shall be one so made, formed and filled as not to mislead the purchaser.

(b) *Size.* A liquor bottle shall be held to be so filled as to mislead the purchaser if the bottle holds distilled spirits in an amount other than one of the standards of fill in effect therefor under § 5.73.

(c) *Headspace.* A liquor bottle of a capacity of one-half pint or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

(d) *Design.* A liquor bottle shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser, if its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

§ 5.73 **Standards of fill.**

(a) The standards of fill for distilled spirits in liquor bottles shall be the following, subject to the tolerances allowed in this section:

(1) For all distilled spirits, whether domestically manufactured, domestically bottled, or imported:

1 gallon	1 pint
½ gallon	½ pint
1 quart	⅛ pint
⅘ quart	1/10 pint

(2) In addition, for brandy, whether domestically manufactured, domestically bottled, or imported: 1/16 pint.

(3) In addition, for Scotch and Irish whisky and Scotch and Irish type whisky, and for brandy and rum: ⅘ pint.

(b) The following tolerances shall be allowed:

(1) Discrepancies due exclusively to erors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles so as to be of uniform capacity: *Provided,* That no greater tolerance shall be al-

lowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due exclusively to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

§ 5.74 Vintage spirits, cordials and liqueurs, and specialties.

Sections 5.70–5.74 shall not apply to:

(a) Distilled spirits imported as vintage spirits under permit issued by an Assistant Regional Commissioner pursuant to 26 CFR Part 175.

(b) Cordials and liqueurs, and cocktails, highballs, gin fizzes, bitters, and such other specialties as are specified from time to time by the Director.

GENERAL PROVISIONS

§ 5.80 Exports.

The regulations in this part shall not apply to distilled spirits for export.

§ 5.81 Applicability of other regulations.

Nothing contained in this part shall be construed as, in any manner relieving any person from conforming with the requirements of 26 CFR Part 175.

PART 6—INDUCEMENTS FURNISHED TO RETAILERS

Subpart A—Scope of Regulations

Sec.
6.1 Inducements furnished to retailers.
6.2 Territorial extent.

Subpart B—Definition

6.10 Meaning of terms.

Subpart C—Unlawful Inducements and Exceptions

UNLAWFUL INDUCEMENTS

6.20 Application.

EXCEPTIONS

6.21 General.
6.22 Equipment.
6.23 Inside signs: wine and malt beverages.
6.23a Inside signs: distilled spirits.
6.24 Supplies.
6.25 Coil cleaning service.
6.26 Advertising service.
6.27 Consumer advertising specialties.
6.28 Retailer advertising specialties.
6.29 Samples.
6.30 Newspaper cuts.
6.31 Merchandise.

AUTHORITY: §§ 6.1 to 6.31 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

Subpart A—Scope of Regulations

§ 6.1 Inducements furnished to retailers.

The regulations in this part, issued pursuant to section 5 of the Federal Alcohol Administration Act (27 U.S.C. 205), contain the substantive requirements relative to the furnishing of inducements to retailers of distilled spirits, wine and malt beverages. No procedural requirements are prescribed.

§ 6.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and Puerto Rico.

Subpart B—Definitions

§ 6.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

(a) *Retailer.* "Retailer" shall mean any person engaged in the sale of distilled spirits, wine or malt beverages to consumers.

(b) *Retail establishment.* "Retail establishment" shall mean any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

(c) *Industry member.* "Industry member" shall mean any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.

(d) *Product.* "Product" shall mean distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

(e) *Other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.

Subpart C—Unlawful Inducements and Exceptions

UNLAWFUL INDUCEMENTS

§ 6.20 Application.

Except as provided in this part, it is unlawful for any industry member to induce, by furnishing, giving, renting, lending, or selling any equipment, fixtures, signs, supplies, money, services, or other thing of value, directly or indirectly or through an affiliate, any retailer to purchase any products from such industry member to the exclusion in whole or in part of such products sold or offered for sale by other industry members in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such industry member engages in the practice of using such means to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other industry members from selling or offering for sale any such products to such retailer in interstate or foreign commerce: *Provided,* That in the case of malt beverages, this part shall apply to transactions between a retailer in any State and a brewer, importer, or wholesaler of malt beverages outside such State only to the extent that the law of such State imposes requirements similar to the requirements of section 5 (b) of the Federal Alcohol Administration Act (27 U.S.C. 205(b)), with respect to similar transactions between a retailer in such State and a brewer, importer, or wholesaler of malt beverages in such State, as the case may be: *Provided further,* That this part shall not operate to exempt any person from the requirements of any State law or regulation.

EXCEPTIONS

§ 6.21 General.

An industry member may furnish to a retailer, under the conditions and within the limitations prescribed, the equipment, signs, supplies, services, or other things of value specified in §§ 6.22–6.31: *Provided,* That such furnishing is not conditioned directly or indirectly on the purchase of distilled spirits, wine, or malt beverages.

§ 6.22 Equipment.

Tapping accessories, such as rods, vents, taps, hoses, washers, couplings, vent tongues, and check valves may be sold to a retailer and installed in his establishment if such tapping accessories are sold at a price not less than the cost thereof to the industry member selling the same, and if the price thereof is collected within 30 days of the date of sale.

§ 6.23 Inside signs: wine and malt beverages.

Signs, posters, placards, designs, devices, decorations or graphic displays, bearing advertising matter and for use in the windows or elsewhere in the interior of a retail establishment, may be given, rented, loaned, or sold to a retailer by an industry member engaged in business as a rectifier, blender, producer, bottler, importer or wholesaler, of wine, or as a brewer, importer or wholesaler, of malt beverages, if they have no value to the retailer except as advertisements and if the total value of all such materials furnished by any industry member and in use at any one time in any retail establishment does not exceed $10, including all expenses incurred directly or indirectly by any industry member in connection with the purchase, manufacture, transportation, assembly, and installation of such materials and of accessories thereto: *Provided,* That the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation.

§ 6.23a Inside signs: distilled spirits.

Signs, posters, placards, designs, devices, decorations or graphic displays, bearing advertising matter and for use in the windows or elsewhere in the interior of a retail establishment, may be given, rented, loaned, or sold to a retailer by an industry member engaged in business as a distiller, rectifier, blender, producer, importer, wholesaler, bottler, or warehouseman and bottler, of distilled spirits, (a) if they have no value to the retailer except as advertisements, (b) if the total value of all such materials furnished by any industry member and in use in any one retail establishment at any one time does not exceed $15 in the case of materials used in window dis-

plays, or does not exceed $30 in the case of materials used elsewhere than in the windows, and (c) if the cost of installation of such materials does not exceed that which is usual and customary in that locality: *Provided,* That the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation.

§ 6.24 Supplies.

Carbonic acid gas or ice may be sold to a retailer, if sold in accordance with the reasonable open market price thereof in the locality where sold, and if the price thereof is collected within 30 days of the date of sale.

§ 6.25 Coil cleaning service.

Coil cleaning service may be furnished, given, or sold to a retailer of malt beverages.

§ 6.26 Advertising service.

The names and addresses of retailers selling the products of any industry member may be listed in an advertisement of such industry member, if such listing is the only reference to any retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole.

§ 6.27 Consumer advertising specialties.

Consumer advertising specialties, such as ash trays, bottle or can openers, corkscrews, paper shopping bags, matches, printed recipes, wine lists, leaflets, blotters, post cards, and pencils, which bear advertising matter, may be furnished, given, or sold to a retailer for unconditional distribution by him to the general public, if the retailer is not paid or credited in any manner directly or indirectly for such distribution service.

§ 6.28 Retailer advertising specialties.

Retailer advertising specialties, such as trays, coasters, beer mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, tap markers, thermometers, clocks, and calendars, which bear advertising matter, and which are primarily valuable to the retailer as point of sale advertising media, may be furnished, given, or sold to a retailer if the aggregate cost to any industry member of such retailer advertising specialties furnished, given, or sold in connection with any one retail establishment in any one calendar year does not exceed $10.

§ 6.29 Samples.

Not more than 2 gallons of any brand of malt beverages, not more than 1 pint of any brand of distilled spirits, and not more than 1 gallon of any brand of wine, may be furnished or given as a sample to a retailer who has not previously purchased that particular product: *Provided,* That 2 quarts of any brand of distilled spirits may be furnished or given as a sample to any agency of a State or political subdivision thereof which has not purchased that particular product.

§ 6.30 Newspaper cuts.

Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements, may be furnished, given, rented, loaned, or sold by an industry member to a retailer selling his products.

§ 6.31 Merchandise.

Merchandise, such as groceries and drugs, may be sold to a retailer, without limit as to quantity or value, by an industry member who is also engaged in business as a bona fide vendor of such merchandise, if such merchandise is sold in accordance with the reasonable open market price thereof in the locality where sold, and if such merchandise is not sold in combination with distilled spirits, wine, or malt beverages and is itemized separately on the industry member's invoices and other records: *Provided,* That equipment, fixtures, signs, supplies, and consumer and retailer advertising specialties may be furnished only as provided elsewhere in this part.

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Subpart A—Scope

Sec.
7.1 General.
7.2 Territorial extent.

Subpart B—Definitions

7.10 Meaning of terms.

Subpart C—Labeling Requirements for Malt Beverages

7.20 General.
7.21 Misbranding.
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7.23 Brand names.
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7.25 Name and address.
7.26 Alcoholic content.
7.27 Net contents.
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Subpart D—Requirements for Withdrawal of Imported Malt Beverages From Customs Custody

7.30 Application.
7.31 Label approval and release.

Subpart E—Requirements for Approval of Labels of Malt Beverages Domestically Bottled or Packed

7.40 Application.
7.41 Certificates of label approval.
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Subpart F—Advertising of Malt Beverages

7.50 Application.
7.51 Definitions.
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7.53 Legibility of requirements.
7.54 Prohibited statements.

Subpart G—General Provisions

7.60 Exports.

AUTHORITY: §§ 7.1 to 7.60 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

CROSS REFERENCES: Other regulations relating to this part are as follows:

27 CFR, Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR, Part 4—Labeling and Advertising of Wine.
27 CFR, Part 5—Labeling and Advertising of Distilled Spirits.
26 CFR, Part 200—Rules of Practice in Permit Proceedings.
26 CFR, Part 245—Beer.
26 CFR, Part 250—Liquors and Articles From Puerto Rico and the Virgin Islands.
26 CFR, Part 251—Importation of Distilled Spirits, Wines and Beers.

Subpart A—Scope

§ 7.1 General.

The regulations in this part relate to the labeling and advertising of malt beverages.

§ 7.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

Subpart B—Definitions

§ 7.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

(a) *Act.* "Act" means the Federal Alcohol Administration Act.

(b) *Assistant Regional Commissioner.* "Assistant Regional Commissioner" shall mean the assistant regional commissioner, alcohol and tobacco tax, who is responsible to and functions under the direction and supervision of the Regional Commissioner.

(c) *Director.* "Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

(d) *Malt beverage.* "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

(e) *Container.* "Container" means any can, bottle, barrel, keg, or other closed receptacle, irrespective of size or of the material from which made, for use for the sale of malt beverages at retail. The term "bottler" means any person who places malt beverages in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places malt beverages in containers of a capacity in excess of 1 gallon.

(f) *Gallon.* "Gallon" means United States gallon of 231 cubic inches of malt beverages at 39.2° F. (4° C.). All other liquid measures used are subdivisions of the gallon as so defined.

(g) *Brand label.* "Brand label" means the label carrying, in the usual distinctive design, the brand name of the malt beverage.

(h) *United States.* "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

(i) *Interstate commerce.* "Interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Ter-

ritory or the District of Columbia, or between points within the same State but through any place outside thereof.

(j) *Person.* "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof.

(k) *Any other term used.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Subpart C—Labeling Requirements for Malt Beverages

§ 7.20 General.

(a) *Application.* Sections 7.20–7.29 shall apply to malt beverages sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the law of such State imposes similar requirements with respect to the labeling of malt beverages not sold or shipped or delivered for shipment or otherwise introduced into or received in such State from any place outside thereof.

(b) *Marking, branding, and labeling.* No person engaged in business as a brewer, wholesaler, or importer of malt beverages, directly or indirectly, or through an affiliate, shall sell or ship, or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody any malt beverages in containers unless such malt beverages are packaged, and such packages are marked, branded, and labeled in conformity with §§ 7.20–7.29. Malt beverages domestically bottled or packed prior to December 15, 1936, and imported malt beverages entered in customs bond in containers prior to that date shall be regarded as being packaged, marked, branded, and labeled in accordance with §§ 7.20–7.29, if the labels on such malt beverages (1) bear all the mandatory label information required by § 7.22, even though such information is not set forth in the manner and form as required by § 7.22 and other sections of this part referred to therein, and (2) bear no statements, designs, or devices which are false or misleading.

(c) *Alteration of labels.* (1) It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law: *Provided,* That the Assistant Regional Commissioner may, upon written application, permit additional labeling or relabeling of malt beverages in containers if, in his judgment, the facts show that such additional labeling or relabeling is for the purpose of compliance with the requirements of §§ 7.20–7.29 or of State law.

(2) Application for permission to relabel shall be accompanied by two complete sets of the old labels and two complete sets of any proposed labels, together with a statement of the reasons for relabeling, the quantity and the location of the malt beverages, and the name and address of the person by whom they will be relabeled.

§ 7.21 Misbranding.

Malt beverages in containers shall be deemed to be misbranded:

(a) If the container fails to bear on it a brand label (or a brand label and other permitted labels) containing the mandatory label information as required by §§ 7.20–7.29 and conforming to the general requirements specified in this part.

(b) If the container, cap, or any label on the container, or any carton, case, or other covering of the container used for sale at retail, or any written, printed, graphic, or other matter accompanying the container to the consumer buyer contains any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 7.20–7.29.

(c) If the container has blown, branded, or burned therein the name or other distinguishing mark of any person engaged in business as a brewer, wholesaler, bottler, or importer, of malt beverages, or of any other person, except the person whose name is required to appear on the brand label.

§ 7.22 Mandatory label information.

There shall be stated:

(a) On the brand label:

(1) Brand name, in accordance with § 7.23.

(2) Class, in accordance with § 7.24.

(3) Name and address (except when branded or burned in the container) in accordance with § 7.25, except as provided in paragraph (b) of this section.

(4) Net contents (except when blown, branded, or burned, in the container) in accordance with § 7.27.

(b) On the brand label or on a separate label (back or front):

(1) In the case of imported malt beverages, name and address of importer, in accordance with § 7.25.

(2) In the case of malt beverages bottled or packed for the holder of a permit or a retailer, the name and address of the bottler or packer, in accordance with § 7.25.

(3) Alcoholic content, when required by State law, in accordance with § 7.26.

§ 7.23 Brand names.

(a) *General.* The product shall bear a brand name, except that if not sold under a brand name, then the name of the person required to appear on the brand label shall be deemed a brand name for the purpose of this part.

(b) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name, either when qualified by the word "brand" or when not so qualified, conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(c) *Trade name of foreign origin.* This section shall not operate to prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided,* That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 7.24 Class and type.

(a) The class of the malt beverage shall be stated and, if desired, the type thereof may be stated. Statements of class and type shall conform to the designation of the product as known to the trade. If the product is not known to the trade under a particular designation, a distinctive or fanciful name, together with an adequate and truthful statement of the composition of the product, shall be stated, and such statement shall be deemed to be a statement of class and type for the purposes of this part.

(b) No product shall be designated as "half and half" unless it is in fact composed of equal parts of two classes of malt beverages the names of which are conspicuously stated in conjunction with the designation "half and half".

(c) No product containing less than one-half of 1 percent of alcohol by volume shall bear the class designations "beer", "lager beer", "lager", "ale", "porter", or "stout", or any other class or type designation commonly applied to malt beverages containing one-half of 1 percent or more of alcohol by volume.

(d) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to "ale," "porter," or "stout" and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall bear any of these class designations.

(e) Geographical names for distinctive types of malt beverages (other than names found by the Director under paragraph (f) of this section to have become generic) shall not be applied to malt beverages produced in any place other than the particular region indicated by the name unless (1) in direct conjunction with the name there appears the word "type" or the word "American," or some other statement indicating the true place of production in lettering substantially as conspicuous as such name, and (2) the malt beverages to which the name is applied conform to the type so designated. The following are examples of distinctive types of beer with geographical names that have not become generic: Dortmund, Dortmunder, Vienna, Wein, Weiner, Bavarian, Munich, Munchner, Salvator, Kulmbacher, Wurtzburger, Pilsen (Pilsener and Pilsner): *Provided,* That notwithstanding the foregoing provisions of this section, beer which is produced in the United States may be designated as "Pilsen," "Pilsener," or "Pilsner" without further modification, if it conforms to such type.

(f) Only such geographical names for distinctive types of malt beverages as the Director finds have by usage and common knowledge lost their geographical significance to such an extent that they have become generic shall be deemed to have become generic, e.g. India Pale Ale.

(g) Except as provided in § 7.23(b), geographical names that are not names for distinctive types of malt beverages shall not be applied to malt beverages produced in any place other than the particular place or region indicated in the name.

§ 7.25 Name and address.

(a) *Domestic malt beverages.* On labels of containers of domestic malt beverages there shall be stated the name of the bottler or packer and the place where bottled or packed. If such malt beverages are bottled or packed for a person other than the actual bottler or packer there may be stated in addition to the name and address of the bottler or packer (but not in lieu thereof), the name and address of such other person immediately preceded by the words "bottled for," "distributed by," or some other similar appropriate phrase.

(b) *Imported malt beverages.* On labels of containers of imported malt beverages, there shall be stated the words "imported by," or a singular appropriate phrase, and immediately thereafter the name of the permittee who is the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person. In addition there may, but need not, be stated unless required by State or foreign law or regulation the name and principal place of business of the foreign manufacturer, bottler, packer, or shipper.

(c) *Post-office address.* The "place" stated shall be the post-office address, except that the street address may be omitted. No additional places or addresses shall be stated for the same person, unless (1) such person is actively engaged in the conduct of an additional bona fide and actual malt beverage business at such additional place or address, and (2) the label also contains, in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular malt beverage.

§ 7.26 Alcoholic content.

The alcoholic content and the percentage and quantity of the original extract shall not be stated unless required by State law. When alcoholic content is required to be stated, but the manner of statement is not specified in the State law, it shall be stated in percentage of alcohol by weight or by volume, and not by proof or by maximums or minimums. Otherwise the manner of statement shall be as specified in the State law.

§ 7.27 Net contents.

(a) Net contents shall be stated as follows:

(1) If less than 1 pint, in fluid ounces, or fractions of a pint.

(2) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(3) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(5) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof.

(b) All fractions shall be expressed in their lowest denominations.

(c) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

§ 7.28 General requirements.

(a) *Contrasting background.* All labels shall be so designed that all statements thereon required by §§ 7.20–7.29 are readily legible under ordinary conditions, and all such statements shall be on a contrasting background.

(b) *Size of type.* Except as to statements of alcoholic content, all statements required on labels by §§ 7.20–7.29 shall be in readily legible script, type, or printing not smaller than 8-point Gothic caps. If contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than such other descriptive or explanatory reading matter. All portions of any statement of alcoholic content shall be of the same size and kind of lettering and of equally conspicuous color, and such lettering shall not be larger than 8-point Gothic caps, except when otherwise required by State law.

(c) *English language.* All information, other than the brand name, required by §§ 7.20–7.29 to be stated on labels shall be in the English language. Additional statements in foreign languages may be made, if no such statements in any way conflict with, or are contradictory to, the requirements of §§ 7.20–7.29. Labels on containers of malt beverages packaged for consumption within Puerto Rico may, if desired, state the information required by §§ 7.20–7.29 solely in the Spanish language, in lieu of the English language, except that the net contents shall also be stated in the English language.

(d) *Labels firmly affixed.* All labels shall be affixed to containers of malt beverages in such manner that they cannot be removed without thorough application of water or other solvents.

(e) *Additional information.* Labels may contain information other than the mandatory label information required by §§ 7.20–7.29, provided such information complies with the requirements of §§ 7.20–7.29, and does not conflict with, nor in any manner qualify, statements required by any regulation promulgated under the act.

§ 7.29 Prohibited practices.

(a) *Statements on labels.* Containers of malt beverages, or any labels on such containers, or any carton, case, or individual covering of such containers, used for sale at retail, or any written, printed, graphic, or other matter accompanying such containers to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.[1]

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided,* That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, importer, bottler, packer, wholesaler, retailer, or warehouseman, of malt beverages, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(b) *Simulation of Government stamps.* No label shall be of such design as to resemble or simulate a stamp of the United States Government or of any State or foreign government. No label, other than stamps authorized or required by the United States Government or any State or foreign government, shall state or indicate that the malt beverage contained in the labeled container is brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, Federal, or foreign government authorization, law, or regula-

[1] Under (5) the Director has permitted the use of statements in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package. ——————————————— (Name of the permittee making statement)"

tion, unless such statement is required or specifically authorized by Federal, State, or municipal, law or regulation, or is required or specifically authorized by the laws or regulations of the foreign country in which such malt beverages were produced. If the municipal or State government permit number is stated upon a label, it shall not be accompanied by an additional statement relating thereto, unless required by State law.

(c) *Use of word "bonded", etc.* The words "bonded", "bottled in bond", "aged in bond", "bonded age", "bottled under customs supervision", or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing, shall not be used on any label for malt beverages.

(d) *Flags, seals, coats of arms, crests, and other insignia.* Labels shall not contain, in the brand name or otherwise, any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(e) *Curative and therapeutic effects.* Labels shall not contain any statement, design, or device representing that the use of any malt beverage has curative or therapeutic effects, if such statement is untrue in any particular or tends to create a misleading impression.

(f) *Use of words "strong", "full strength", and similar words.* Labels shall not contain the words "strong", "full strength", "extra strength", "high test", "high proof", "pre-war strength", "full oldtime alcoholic strength", or similar words or statements, likely to be considered as statements of alcoholic content, except where required by State law.

(g) *Use of numerals.* Labels shall not contain any statements, designs, or devices whether in the form of numerals, letters, characters, figures, or otherwise, which are likely to be considered as statements of alcoholic content, unless required by State law.

(h) *Coverings, cartons, or cases.* Individual coverings, cartons, cases, or other wrappers of containers of malt beverages, used for sale at retail, or any written, printed, graphic, or other matter accompanying the container shall not contain any statement or any graphic, pictorial, or emblematic representation, or other matter, which is prohibited from appearing on any label or container of malt beverages.

Subpart D—Requirements for Withdrawal of Imported Malt Beverages From Customs Custody

§ 7.30 Application.

Sections 7.30 and 7.31 shall apply to withdrawals of malt beverages from customs custody only in the event that the laws or regulations of the State in which such malt beverages are withdrawn for consumption require that all malt beverages sold or otherwise disposed of in such State be labeled in conformity with the requirements of §§ 7.20–7.29.

§ 7.31 Label approval and release.

(a) *Application.* On or after December 15, 1936, imported malt beverages shall not be released from customs custody for consumption, except pursuant to the procedure and forms prescribed by §§ 7.30 and 7.31.

(b) *Certificate of label approval.* No imported malt beverages shall be released from customs custody unless there shall have been deposited with the appropriate customs officer at the port of entry the original or a photostatic copy of a "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649). Such certificate shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the importer or transferee in bond.

(c) *Release.* If the original or photostatic copy of the "Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649) bears the signature of the Director, then the brand or lot of imported malt beverages bearing labels identical with those shown thereon may be released from customs custody.

(d) *Relabeling.* Imported malt beverages in customs custody, which are not labeled in conformity with certificates of label approval issued by the Director, must be relabeled, prior to release, under the supervision and direction of the customs officers of the port at which such malt beverages are located.[2]

Subpart E—Requirements for Approval of Labels of Malt Beverages Domestically Bottled or Packed

§ 7.40 Application.

Sections 7.40–7.42 shall apply only to persons bottling or packing malt beverages (other than malt beverages in customs custody) for shipment, or delivery for sale or shipment, into a State, the laws or regulations of which require that all malt beverages sold or otherwise disposed of in such State be labeled in conformity with the requirements of §§ 7.20–7.29.

§ 7.41 Certificates of label approval.

No person shall bottle or pack malt beverages, or remove such malt beverages from the plant where bottled or packed, unless upon application to the Director, he has obtained, and has in his possession, a "Certificate of Label Approval under the Federal Alcohol Act" (Form 1649) covering such malt beverages. Such certificate of label approval shall be issued by the Director upon application made on the form designated "Application for Certificate of Label Approval under the Federal Alcohol Administration Act" (Form 1649), properly filled out and certified to by the applicant.[2]

§ 7.42 Exhibiting certificates to Government officials.

Any bottler or packer holding an original or duplicate original of a certificate of label approval shall, upon demand, exhibit such certificate to a duly authorized representative of the United States Government or any duly authorized representative of a State or political subdivision thereof.

Subpart F—Advertising of Malt Beverages

§ 7.50 Application.

No person engaged in business as a brewer, wholesaler, or importer, of malt beverages, directly or indirectly, or through an affiliate, shall publish or disseminate, or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter any advertisement of malt beverages if such advertisement is in, or is calculated to induce sales in interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 7.50–7.54: *Provided*, That §§ 7.50–7.54 shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising: *And provided further*, That §§ 7.50–7.54 shall apply to advertisements of malt beverages intended to be sold or shipped or delivered for shipment, or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the laws of such State impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in such State: *And provided further*, That §§ 7.50–7.54 shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a brewer, wholesaler, bottler, or importer, of malt beverages, directly or indirectly, or through an affiliate.

§ 7.51 Definitions.

As used in §§ 7.50–7.54 the term "advertisement" includes any advertisement of malt beverages through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards, if such advertisement is in, or is calculated to induce sales in, interstate

[2] Copies of Form 1649 may be secured from the Assistant Regional Commissioners, Alcohol and Tobacco Tax.

or foreign commerce; or is disseminated by mail; except that such term shall not include:

(a) Any label affixed to any container of malt beverages; or any coverings, cartons or cases of containers of malt beverages used for sale at retail, or any written, printed, graphic, or other matter accompanying the container which constitutes a part of the labeling under §§ 7.20–7.29.

(b) Any editorial or other reading matter in any periodical or publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person engaged in business, as a brewer, wholesaler, or importer of malt beverages.

§ 7.52 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the brewer, bottler, packer, wholesaler, or importer responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class.* The advertisement shall contain a conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required to appear on the label of the product.

§ 7.53 Legibility of requirements.

Statements required under §§ 7.50–7.54 to appear in any written, printed, or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

§ 7.54 Prohibited statements.

(a) *General prohibition.* An advertisement of malt beverages shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(6) Any statement that the malt beverages are brewed, made, bottled, packed, labeled, or sold under, or in accordance with, any municipal, State, or Federal authorization, law, or regulation; and if a municipal or State permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) The words "bonded", "bottled in bond", "aged in bond", "bonded age", "bottled under customs supervision", or phrases containing these or synonymous terms which imply governmental supervision over production, bottling, or packing.

(b) *Statements inconsistent with labeling.* The advertisement shall not contain any statement concerning a brand or lot of malt beverages that is inconsistent with any statement on the labeling thereof.

(c) *Alcoholic content.* The advertisement shall not contain any statement of alcoholic content, or any statement of the percentage and quantity of the original extract, or any numerals, letters, characters, or figures, likely to be considered as designations of alcoholic content.

(d) *Class.* (1) No product containing less than one-half of 1 per centum of alcohol by volume shall be designated in any advertisement as "beer", "lager beer", "lager", "ale", "porter", or "stout", or by any other class or type designation commonly applied to fermented malt beverages containing one-half of 1 per centum or more of alcohol by volume.

(2) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to "ale," "porter," or "stout" and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall be designated in any advertisement by any of these class designations.

(e) *Curative and therapeutic effects.* The advertisement shall not contain any statement, design, or device representing that the use of any malt beverage has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(f) *Confusion of brands.* Two or more different brands or lots of malt beverages shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or a newspaper or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of §§ 7.50–7.54 or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia.* No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

Subpart G—General Provisions

§ 7.60 Exports.

This part shall not apply to malt beverages exported in bond.

PART 8—CREDIT PERIOD TO BE EXTENDED TO RETAILERS OF ALCOHOLIC BEVERAGES

Subpart A—Scope

Sec.
8.1 General.

Subpart B—Definitions

8.10 Meaning of terms.

Subpart C—Prohibited Extensions of Credit

8.20 Statutory provision.
8.21 Circumstances in which extension prohibited.
8.22 Calculation of period.

AUTHORITY: §§ 8.1 to 8.22 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

Subpart A—Scope

§ 8.1 General.

The regulations in this part specify circumstances in which the extension of credit is prohibited. No procedural requirements are prescribed.

Subpart B—Definitions

§ 8.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

(a) *Act.* "Act" means the Federal Alcohol Administration Act.

(b) *Distilled spirits.* "Distilled spirits" mean ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

(c) *Wine.* "Wine" means (1) wine as defined in section 610 and section 617 of the Revenue Act of 1918, (U.S.C., title 26, secs. 441 and 444) as now in force or hereafter amended, and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for non-industrial use.

(d) *Malt beverage.* "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Subpart C—Prohibited Extensions of Credit

§ 8.20 Statutory provision.

Pursuant to clause 6, subsection (b), section 5, Federal Alcohol Administration Act (27 U.S.C. 205(b)(6)), the credit period usual and customary to the industry is hereby ascertained to be thirty days from date of delivery in the case of

all sales of distilled spirits, wine, and malt beverages.

§ 8.21 Circumstances in which extension prohibited.

The extension of credit to a retailer, by any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, for a period of time in excess of thirty days from date of delivery, is prohibited when the extension of such credit induces any retailer engaged in the sale of distilled spirits, wine, or malt beverages to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means to such an extent as to substantially restrict or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

§ 8.22 Calculation of period.

For the purpose of the regulations in this part, the period of credit shall be calculated as the time elapsing between the date of deilvery of the merchandise and the date of full legal discharge of the retailer, through the payment of cash or its equivalent, from all indebtedness arising from the transaction.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: December 22, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

[F.R. Doc. 60-12023; Filed, Dec. 28, 1960; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 819—REQUIREMENTS RELATING TO NON-QUOTA PURCHASE SUGAR FOR THE THREE-MONTH PERIOD ENDING MARCH 31, 1961

Sec.
819.1 Basis and purpose, and persons affected.
819.2 Definitions.
819.3 Non-quota purchases of sugar authorized.
819.4 Source of non-quota purchase sugar.
819.5 Requirements relating to importing non-quota purchase sugar.
819.6 Application by importer.
819.7 Release by a Collector of Customs.
819.8 Specific authorization for release.
819.9 Determination of quantities and time of effect.
819.10 Records and reports.
819.11 Delegation of authority.

AUTHORITY: §§ 819.1 to 819.11 issued under sec. 403, 61 Stat. 922, as amended, 933, as amended; 7 U.S.C. 1101, P.L. 86-592, approved July 6, 1960. Presidential Proclamation 3383 (25 F.R. 13131)

§ 819.1 Basis and purpose, and persons affected.

(a) The regulations in this Part are issued under the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922, as amended), and as further amended by Public Law 86-592, approved July 6, 1960, and the authority delegated under Presidential Proclamation 3383, (25 F.R. 13131). These regulations establish and set forth for the three-month period ending March 31, 1961, (1) the amount of non-quota purchase sugar which may be imported into the continental United States (including Alaska) for consumption therein from all foreign countries and (2) the procedures applicable to importing such sugar.

(b) Persons affected by the provisions of this part include importers, mainland refiners, shipping companies engaged in the transportation of sugar to ports in the continental United States, and persons otherwise engaged in the movement of sugar in interstate or foreign commerce.

(c) It is found that under the prevailing circumstances it is in the National interest to provide that the quantity of nonquota sugar hereby authorized for purchase from the Dominican Republic should be purchased at prices which are lower than those currently prevailing for sugar for the United States market. Accordingly, provision is made for a fee per pound, raw value, to be paid to the United States Government on all non-quota purchase sugar imported from the Dominican Republic. Provision is made for the payment of the fee by requiring that any person who applies for authorization to import non-quota sugar from the Dominican Republic must accompany his application with an initial payment which is equal to the estimated raw value pounds equivalent of the sugar to be imported multiplied by the effective fee. For the purpose of computing this initial payment, provision is made for estimating the raw value pounds equivalent of the sugar by multiplying the weight of the sugar to be imported as shown on the application by the factor 1.04, which is the factor applicable for determining the raw value equivalent of sugar polarizing approximately 98.2 degrees. Final settlement of the amount due the United States Government on each cargo or shipment of sugar is to be based on the raw value equivalent of the sugar imported pursuant to each authorization issued under § 819.8 determined as provided in Title I of the act on the basis of weights and tests of the sugar determined pursuant to Part 810 of this subchapter and reported in accordance with § 819.6(h).

(d) All of the countries named in § 819.4 are members of the International Sugar Agreement except Colombia and Ecuador. Recently these countries initiated action to become members of the International Sugar Agreement. Under the provisions of these regulations the quantity of non-quota sugar authorized for purchase from Colombia and Ecuador may be authorized for importation upon receipt of notice that they have become a participant in the International Sugar Agreement. Provision is made in Part 811 of this chapter for the importation of 21 short tons, raw value, of sugar from non-participating countries as a group which is the maximum quantity permitted to be imported from such countries pursuant to the International Sugar Agreement. Article 7 of the Agreement limits imports in any year from non-participating countries as a group to the total quantity imported from such countries as a group in any one of the years 1951, 1952, or 1953.

(e) To assure an orderly and adequate flow of sugar throughout the three-month period ending March 31, 1961, including the early days of January 1961, the persons who purchase and import sugar for continental United States consumption must make arrangements sufficiently in advance of the beginning of the year, not only to permit the physical movement of the sugar from the various countries and areas of origin to the United States, which requires from 1 to 7 weeks, but also to permit contracting for purchase of the sugar, contracting for ocean freight, loading time and other related arrangements. It is necessary that the persons who import non-quota sugar know the exact amounts which will be authorized for purchase and importation from the individual countries during the three-month period ending March 31, 1961, in order to make such arrangements in conformity therewith. It is, therefore, essential that the exact quantities of non-quota sugar which will be authorized for purchase and importation during the three-month period ending March 31, 1961, be established immediately so that persons who sell, purchase and import such sugar will have adequate foreknowledge to permit these necessary arrangements for purchase and shipment of non-quota sugar and provide for an orderly flow of such sugar in the early days of the year and throughout the three-month period. Accordingly, it is hereby found and determined that compliance with the notice, procedure and effective date requirements of the Administrative Procedure Act is impracticable and contrary to the public interest and this regulation shall become effective on January 1, 1961.

§ 819.2 Definitions.

As used in this part:

(a) The term "act" means the Sugar Act of 1948, as amended (61 Stat. 922, as amended).

(b) The term "person" means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity, and, wherever applicable, any unit, instrumentality, or agency of a government, domestic or foreign.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has lawfully delegated the authority or to whom authority may hereafter be delegated to act in his stead.

(e) The term "Sugar Division" means the Sugar Division of the Commodity Stabilization Service, of the Department, Washington 25, D.C., or any other organizational unit within the Department to which administration of the Sugar Act may hereafter be delegated.

(f) The term "Collector" means the Collector of Customs, U.S. Bureau of Customs, for the District in which the port of entry is located or any officer of the Bureau of Customs designated to act in his stead.

(g) The terms "import," "importation" and "importing" mean the act of bringing sugar into the continental United States (including Alaska) from a foreign country.

(h) The term "importer" means any person who brings or imports sugar into the continental United States (including Alaska), including but not limited to the owner, consignor, consignee, transferee or purchaser of such sugar or the broker acting on behalf of such person.

(i) The term "refiner" means any person who subjects offshore sugar to processes as provided in Part 810 of this subchapter.

(j) The terms "sugars," "sugar," and "raw sugar" have the meanings ascribed to each in section 101 (b), (c), and (d), respectively, of the act subject to the provisions of Part 810 of this subchapter which are hereby made applicable to non-quota purchase sugar.

(k) The term "non-quota purchase sugar" means sugar purchased pursuant to the provisions of section 408(b) of the act.

§ 819.3 Non-quota purchases of sugar authorized.

Non-quota purchases of sugar, in accordance with section 408(b) of the act, are authorized to be made in accordance with the provisions of this part. Such non-quota purchases must be made after July 6, 1960, from the producer of such sugar or from a citizen, partnership, corporation, or other legal entity, or Government agency, of the country in which the sugar was produced, for shipment to the United States, or after shipment to the United States. Pursuant to section 408(b) of the act, the President by Proclamation No. 3383 established the amount of the quotas for sugar and for liquid sugar for Cuba for the three-month period ending March 31, 1961 at zero. At a level of consumption requirements for consumers in the United States of 10,000,000 short tons, raw value of sugar for 1961, the amount of the quotas that otherwise would have been provided for Cuba under the terms of Title II of the act for the three-month period ending March 31, 1961, are 824,299 tons, raw value of sugar and 1,992,640 wine gallons of liquid sugar, 72 per centum total sugar content, which amounts represent the quantities that may be caused or permitted to be brought or imported into or marketed in the United States pursuant to section 408(b) of the act. The quantities of non-quota sugar authorized in § 819.4 for purchase from countries having quotas under section 202(c) of the act are allocated in accordance with section 408(b) of the act to the extent of the ability of each such country to supply such sugar based on advice received from such countries. Quantities are also authorized for purchase from China and from countries not having quotas under section 202(c) of the act, pursuant to the proviso in section 408(b)(2)(iii) of the act.

§ 819.4 Source of non-quota purchase sugar.

Subject to the provisions of paragraph (c) of this section the amounts of non-quota purchase sugar that may be permitted to be imported into the continental United States for consumption therein from individual foreign countries for the three-month period ending March 31, 1961, are as follows:

Country:	*Short tons, raw value*
Netherlands	1,463
China (Formosa)	11,505
Panama	1,505
Costa Rica	1,508
Republic of the Philippines	122,683
Peru	215,000
Dominican Republic	222,723
Mexico	191,168
Haiti	433
Nicaragua	16,000
Canada	1,266
United Kingdom	1,034
Belgium	361
British West Indies and British Guiana	10,168
Hong Kong	8
El Salvador	2,000
Guatemala	2,000
Brazil	11,474
Ecuador	6,000
Colombia	6,000
Total	824,299

The 1,992,640 wine gallons of liquid sugar, 72 per centum total sugar content is not authorized for purchase at this time.

(b) It is hereby found that raw sugar is not reasonably available in sufficient quantity to supply our requirements during the three-month period ending March 31, 1961. Accordingly, nonquota purchase sugar testing in excess of 99 degrees polarization is authorized for importation from Mexico to be further refined or improved in quality in the United States, and sugar imported from any country for which the total permitted quantity of nonquota purchase sugar, as established in paragraph (a) of this section, is 2,500 short tons, raw value, or less may be released for direct-consumption. All other nonquota purchase sugar is limited to raw sugar as defined in Part 810 of this Chapter.

(c) To give effect to Article 7 of the International Sugar Agreement which limits total importations in any year from nonparticipating countries, no sugar may be authorized to be imported from any country named in paragraph (a) of this section while such country is not a participant in the International Sugar Agreement.

§ 819.5 Requirements relating to importing nonquota purchase sugar.

(a) Notwithstanding the provisions of Part 817 of this chapter, nonquota purchase sugar may be imported from the country where produced in accordance with the provisions of this part. The provisions of this part apply only to nonquota purchase sugar.

(b) Nonquota purchase sugar shall be imported only at Customs ports of entry.

(c) A copy of the ship's manifest, bills of lading, or other shipping documents covering all sugar in a shipment must be submitted to the Collector within 72 hours after the beginning of unlading of the sugar.

(d) The Collector shall take custody of such sugar and shall retain custody, at the risk and expense of the consignee or owner, until authorized to permit release thereof in accordance with § 819.7. In taking and retaining custody pursuant to these regulations, the Collector shall be governed by the provisions of §§ 4.37, 4.38, 19.1 to 19.9 and 19.12 of Chapter I, Title 19, Code of Federal Regulations, which are made applicable to such custody by reference as fully as if set forth in full herein.

§ 819.6 Application by importer.

(a) A separate application must be submitted as specified in paragraph (c) of this section on appropriate copies of a form prescribed by the Secretary entitled "Sugar Quota Clearance Record," with the changes hereinafter specified, not more than 10 days prior to the departure date stated thereon, showing the following information regarding the sugar to be delivered to a single refinery or importer from each cargo:

(1) *Port and date of arrival.* If the port is not known when the application is submitted, this information must be supplied before a Collector will be authorized to release the sugar.

(2) Name of the vessel or other specific identification of the carrier.

(3) Name of the producing area, the port of lading and the date the carrier is expected to depart from such port.

(4) Name and address of the person to whom delivery is to be made from the importing carrier. If not known when an application is submitted to the Sugar Division, this information must be supplied before a Collector will be authorized to release the sugar.

(5) Quantities, in pounds, to be imported as shown on the application; if in bags, identified by marks, quantities should be shown separately for each mark. The designation of separate quantities within the total to be imported which are identified by separate marks shall be shown on the report required pursuant to paragraph (h) of this section, if such information cannot be shown at the time the application is submitted.

(6) Name, address and authorized signature of the applicant.

(b) Any application made pursuant to this section constitutes a representation by the applicant that at the time the application is made:

(1) He has control of the quantity of sugar which is subject to shipment as specified;

(2) Firm commitment has been made by the shipping company for shipment as described on the application; and

(3) The date of departure of the vessel or carrier stated on the application is (i) the date specified to the applicant or shipper by the Master, Owner or Agent of such vessel or carrier as the expected departure date, or (ii) the date the shipper expects the vessel to depart based on the date the vessel or carrier will be available for loading as specified by the Master, Owner or Agent of such vessel or carrier plus the normally required loading time.

(c) The application specified in paragraph (a) of this section shall be submitted to the Sugar Division for the issuance of an authorization by the Secretary to the appropriate Collector for the release of sugar as provided in § 819.7.

(d) The specific authorization by the Secretary required pursuant to § 819.7 may be issued prior to the receipt of an application on appropriate copies of the "Sugar Quota Clearance Record" provided all of the information required pursuant to paragraphs (a) and (e) of this section is transmitted to the Sugar Division by telegram and such advance authorization is necessary to avoid delay in the delivery of the sugar.

(e) Any application made pursuant to this section shall contain over the signature of the applicant, the following certification:

This application is made under Sugar Regulation 819 for importing non-quota purchase sugar and is subject to all of the provisions of such regulation. The applicant certifies that he is either (1) the producer of the sugar, or (2) a citizen, partnership, corporation, or other legal entity, or government agency, of the country in which the sugar is produced, or (3) has purchased such sugar after July 6, 1960, from_____, the producer of such sugar, or from _____, a citizen, partnership, corporation, or other legal entity, or government agency, of the country in which the sugar was produced, for exportation to the United States.

(f) As a condition for the importation of any quantity of non-quota purchase sugar from the Dominican Republic a fee of $0.0225 per pound, raw value, shall be paid as provided in this paragraph and paragraph (g) of this section by the person applying to the Secretary for release of such quantity of sugar. With each application submitted as provided in paragraph (a) of this section covering sugar to be imported pursuant to § 819.4 from the Dominican Republic, the applicant shall make an initial payment in an amount determined by multiplying the quantity of sugar stated in pounds as shown on the application by 1.04 and multiplying the result by $0.0225 per pound. Upon receipt of such an application and initial payment, the Secretary may issue an authorization for release by a Collector as provided in § 819.8 of the quantity of sugar covered by the application. The fee per pound shall be subject to change by amendment of these regulations effective when filed for public inspection in the Office of the Federal Register, and any payment with respect to an application shall be based upon the fee per pound effective at the time such application first becomes eligible for authorization as provided in § 819.8(b). The payment required under this paragraph shall be made to the Sugar Division in the form of a certified check payable to the Commodity Stabilization Service. Any application submitted for the purpose of changing the person to whom delivery is to be made or the port of arrival as shown on the original application, shall be considered as an amendment to the original application, and no initial payment is required to accompany the amendatory application. The applicant may request the cancellation of an application submitted with an initial payment as provided for in this paragraph to take advantage of a decreased fee or for other reasons, by notifying the Sugar Division in writing of such request prior to the release by the Collector of any of the sugar covered by the application, and thereafter such applicant may submit a new application covering all or a part of the quantity of sugar covered by the cancelled application, provided an initial payment as provided for in this paragraph accompanies the new application.

(g) If, prior to the release by the Collector of sugar covered by an application with which payment was submitted as required under paragraph (f) of this section, the Sugar Division receives a written request from the applicant to cancel from such application all or a specified part of the quantity of sugar covered thereby, refund will be made to the applicant of all or a part of the payment made with such application in the same proportion that the quantity of sugar requested to be canceled bears to the quantity of sugar stated on the application. In making final settlement a determination will be made of the quantity of sugar in terms of raw value as provided in § 819.9(b)(2) with respect to the quantity imported pursuant to each application governed by paragraph (f) of this section, for the purpose of ascertaining whether any further payment by the applicant or any refund to the applicant is required. Upon such determination, further payment shall be made by the applicant in the amount by which the product of the quantity of sugar, raw value, imported multiplied by the effective fee per pound provided for in paragraph (f) of this section exceeds the amount of the initial payment made pursuant to paragraph (f) of this section after deducting the amount of any refunds made of such initial payment; or refund to the applicant shall be made in the amount by which the product of the quantity of sugar, raw value, imported multiplied by such effective fee per pound is less than the amount of the initial payment made pursuant to paragraph (f) of this section after deducting the amount of any refunds made of such initial payment.

(h) Within 30 days after release of the sugar by the Collector pursuant to § 819.7 the results of weights, samples and tests and the name of the person retaining the reserve portion of each sample as provided for in Part 810 of this subchapter shall be reported to the Sugar Division on the applicable copy of the "Sugar Quota Clearance Record" or a duplicate of such copy, together with information specified in paragraph (a) of this section. The period within which the report required pursuant to this paragraph must be made may be extended for good cause shown with respect to a specified shipment upon request to and approval by the Secretary.

§ 819.7 Release by a Collector.

A Collector of Customs may release sugar imported from any country for any purpose only pursuant to Part 817 of this chapter or upon specific authorization by the Secretary pursuant to § 819.8 with respect to each application required under § 819.6.

§ 819.8 Specific authorization for release.

(a) *Time of issue and duration of validity.* Specific authorizations by the Secretary for release by a Collector will be issued no more than 5 days prior to the stated date of departure of the vessel or other carrier on which the sugar is to be shipped. The authorization shall be valid for the period specified thereon, subject to extension by the Secretary for good cause, and shall be cancelled only if mistakenly issued, a misrepresentation was made, the shipment does not depart within 3 days of the date stated on the application, or importation does not occur during the period specified. In case the port of arrival or the name of the receiver is not known when the application becomes eligible pursuant to paragraph (b) of this section, the authorization will not be transmitted to the Collector until all the information required by paragraph (a) of § 819.6 is received in the Sugar Divison.

(b) *Order of eligibility for authorization.* An application on file with the Sugar Division for the release of sugar shall become eligible for authorization at 12:01 a.m., on the fifth calendar day prior to the date stated on the application as the date of departure of the shipment of sugar from the country of origin or at the time of receipt of the application, whichever time occurs later. The Secretary shall authorize the release of sugar by the Collector within the unfilled portion of the amount of non-quota purchase sugar authorized to be imported from a country in the same order in which the applications pertaining to such country become eligible for authorization: *Provided,* That, if two or more applications pertaining to the same country become eligible for authorization at the same time, such applications shall be authorized in the order of their stated date of departure (earliest first), and in such case if two or more such applications have the same date of departure and the quantity which may be authorized within the unfilled amount of non-quota purchase sugar assigned to such country is less than the sum of the applied-for quantities, the quantity authorized for each application shall be in the same proportion to the quantity which may be authorized within the unfilled portion as the quantity requested on each such application is to the sum of the quantities requested on all such applications.

(c) *Extent of authorizations.* No authorization shall be issued when the quantity of non-quota purchase sugar released for consumption in the continental United States, together with the quantity covered by valid authorizations issued hereunder but not yet released, equals the amount of non-quota purchase sugar assigned to the country.

(d) *Denial of authorizations.* Authorizations on applications otherwise eligible may be denied if the applicant has failed to report in the manner and within the time prescribed in this part with respect to shipments previously imported.

§ 819.9 Determination of quantities and time of effect.

(a) Non-quota purchase sugar imported shall be subject to the amount authorized to be imported from the country in which the sugar was produced.

(b) (1) Each quantity authorized for release pursuant to § 819.8 shall be effective for filling the amount of non-quota purchase sugar at the time the applicable authorization is issued. For this purpose the raw value of the authorized quantity shall be estimated by considering the relationship between other authorized quantities for recent shipment from the same country and the raw values thereof determined as provided in Title I of the act on the basis of weights and tests determined pursuant to Part 810 of this subchapter and such other factors as the Secretary deems applicable.

(2) Upon receipt of and on the basis of the report required pursuant to § 819.6 (h) covering an application initially given effect pursuant to subparagraph (1) of this paragraph, the quantity effective for filling the amount of non-quota purchase sugar shall be the quantity of sugar imported pursuant to the authorization to the extent of its raw value, as defined in Title I of the act and as finally computed from the weights and tests determined pursuant to Part 810 of this subchapter.

§ 819.10 Records and reports.

(a) For the purposes of this part, any quantities of sugar imported as crystalline sugar which are subsequently converted into and marketed as liquid sugar shall be reported subsequent to such conversion as the quantities of crystalline sugar so converted and the raw value thereof shall be determined as prescribed in paragraph (1), (2), or (3) of section 101(h) of the act, applicable to the crystalline sugar so converted. Liquid sugar for which the quantities of converted crystalline sugar are unknown shall be reported in terms of the total sugar content and the raw value thereof shall be determined by multiplying the total sugar content by the factor 1.07.

(b) Each person subject to the provisions of this part shall keep and preserve, for a period of two years following the end of the calendar year in which the sugar was imported into the continental United States, an accurate record of the receipt, processing and movement of such sugar and of all tests and weights pertaining thereto. Upon request by any authorized employee of the Department, such records shall be made freely available for examination by such employee during the regular working hours of any business day.

(c) Each person subject to the provisions of this part shall make application for authorizations provided for in this part and shall report information as and when required by the Secretary on forms specified by him and approved by the Bureau of the Budget under the Federal Reports Act of 1942. In addition to the applications, authorizations and reports otherwise specifically referred to in this part, this requirement shall include, but is not necessarily limited to, the information prescribed on Form SU–73, Form SU–74 or Form SU–75.

§ 819.11 Delegation of authority.

The Director, or Deputy Director, of the Sugar Division, or the Chief or Acting Chief of the Quota and Allotment Branch thereof, Commodity Stabilization Service of the Department, is hereby authorized to act for and on behalf of the Secretary in administering §§ 819.1 to 819.10.

Done at Washington, D.C., this 22d day of December 1960.

CLARENCE L. MILLER,
Acting Secretary.

Concurred in for the Secretary of State by:

THOMAS C. MANN.

[F.R. Doc. 60–12075; Filed, Dec. 28, 1960; 8:48 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Regulation 197, Amdt. 1]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i) and (iii) of § 914.497 (Navel Orange Regulation 197, 25 F.R. 12941) are hereby amended to read as follows:

(i) District 1: 500,000 cartons;
(iii) District 3: 50,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 23, 1960.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60–12059; Filed, Dec. 28, 1960; 8:47 a.m.]

[938.302 Amdt. 1]

PART 938—IRISH POTATOES GROWN IN THE RED RIVER VALLEY OF NORTH DAKOTA AND MINNESOTA

Limitation of Shipments

Section 8e (7 U.S.C. 608e) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) provides that whenever two or more marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation of any such commodity shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the marketing order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition.

In compliance with this requirement and determinations made pursuant thereto, comprehensive regulations governing the importation of Irish potatoes have been issued (7 CFR 1066.1; 24 F.R. 7809, 25 F.R. 2659). Such regulations determined, among other things, that each marketing season from October 1 through the following June 30, imports of red skinned round varieties of potatoes are in most direct competition with the same varieties produced in the Red River Valley of North Dakota and Minnesota and regulated by Order No. 38, and required that potato imports meet the grade, size, quality, and maturity requirements applicable to red

skinned round varieties under Order No. 38. Therefore, the grade, size, quality, and maturity requirements applicable to red skinned round varieties of potatoes set forth in the limitation of shipment regulations, § 938.302 (7 CFR 938.302), issued under Order No. 38, effective August 8, 1960 through June 30, 1961 (25 F.R. 7238) became applicable to imports of such potatoes for the period October 1, 1960 through June 30, 1961.

In order that information pertaining to requirements applicable to potato imports occasioned by requirements applicable to domestically produced potatoes may be more readily disseminated to interested persons, this amendment, through cross reference, incorporates such import requirements in the currently effective domestic regulation by the addition of a new paragraph (i) to § 938.302. Accordingly, § 938.302 is hereby amended by adding thereto a new paragraph (i) as set forth below.

§ 938.302 Limitation of shipments.

* * * * *

(i) *Applicability of import regulations.* Pursuant to section 608e of the act and 7 CFR 1066.1 (24 F.R. 7809 and 25 F.R. 2659), it has been determined that, each season from October 1 through the following June 30, potato imports of red skinned round varieties are in most direct competition with the same varieties produced in the Red River Valley of North Dakota and Minnesota and regulated by this subpart and it is required that such potato imports meet the grade, size, quality and maturity requirements applicable to the same varieties regulated under this subpart. Therefore, importation of red skinned round variety potatoes during the period October 1, 1960, through June 30, 1961, are required to meet the grade, size, quality and maturity provisions of paragraph (a) of this section, namely, U.S. No. 2, or better, grade, 2 inches minimum diameter, or U.S. No. 1, or better, grade, size B.

* * * * *

Coincident with the issuance of import regulations applicable to Irish potato imports, § 1066.1 (7 CFR 1066.1) and issuance of the currently effective limitation of shipments regulations, § 938.302 (7 CFR 938.302) under Order No. 38, the requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) with respect to notice of rule making, public procedure thereon, and effective date were complied with or appropriate findings in lieu thereof were made. Therefore, it is unnecessary to again comply with the same requirements.

(Secs. 1019, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date, dated December 22, 1960, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 60-12060; Filed, Dec. 28, 1960; 8:47 a.m.]

[957.319 Amdt. 1]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Limitation of Shipments

Section 8e (7 U.S.C. 608e) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) provides that whenever two or more marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation of any such commodity shall be prohibited unless it complies with the grade, size, quality and maturity provisions of the marketing order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition.

In compliance with this requirement and determinations made pursuant thereto, comprehensive regulations governing the importation of Irish potatoes have been issued (7 CFR 1066.1; 24 F.R. 7809, 25 F.R. 2659). Such regulations determined, among other things, that each marketing season from October 1 through the following June 30, imports of long varieties of potatoes are in most direct competition with the same varieties produced in certain designated counties in Idaho and Malheur County, Oregon, and regulated by Order No. 57, as amended, and required that potato imports meet the grade, size, quality and maturity requirements applicable to long varieties under Order No. 57, as amended. Therefore, the grade, size, quality and maturity requirements applicable to long varieties of potatoes set forth in the limitation of shipments regulation, § 957.319(7 CFR 957.319), issued under Order No. 57, as amended, effective July 18, 1960 through June 30, 1961 (25 F.R. 6745) became applicable to imports of such potatoes for the period October 1, 1960 through June 30, 1961.

In order that information pertaining to requirements applicable to potato imports occasioned by requirements applicable to domestically produced potatoes may be more readily disseminated to interested persons, this amendment, through cross reference, incorporates such import requirements in the currently effective domestic regulation by the addition of a new paragraph (i) to § 957.319. Accordingly, § 957.319 is hereby amended by adding thereto a new paragraph (g) as set forth below.

§ 957.319 Limitation of shipments.

* * * * *

(g) *Applicability of import regulations.* Pursuant to section 608e of the act and 7 CFR 1066.1 (24 F.R. 7809 and 25 F.R. 2659), it has been determined that, each season from October 1 through the following June 30, potato imports of long varieties are in most direct competition with the same varieties produced in certain designated counties in Idaho and Malheur County, Oregon, and regulated by this subpart and it is required that such potato imports meet the grade, size, quality and maturity requirements applicable to the same varieties regulated under this subpart. Therefore, importations of long potatoes during the period of October 1, 1960 through June 30, 1961, are required to meet the grade, size, quality and maturity provisions of paragraphs (a) and (b) of this section, namely, U.S. No. 2, or better, grade, 2 inches minimum diameter, or 4 ounces minimum weight, "generally fairly clean" and not more than "slightly skinned."

* * * * *

Coincident with the issuance of import regulations applicable to Irish potato imports, § 1066.1 (7 CFR 1066.1) and issuance of the currently effective limitation of shipments regulations, § 957.319 (7 CFR 957.319) under Order No. 57, as amended, the requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) with respect to notice of rule making, public procedure thereon, and effective date were complied with or appropriate findings in lieu thereof were made. Therefore, it is unnecessary to again comply with the same requirements.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date, dated December 22, 1960, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 60-12062; Filed, Dec. 28, 1960; 8:48 a.m.]

[970.307 Amdt. 1]

PART 970—IRISH POTATOES GROWN IN MAINE

Limitation of Shipments

Section 8e (7 U.S.C. 608e) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) provides that whenever two or more marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation of any such commodity shall be prohibited unless it complies with the grade, size, quality and maturity provisions of the marketing order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition.

In compliance with this requirement and determinations made pursuant thereto, comprehensive regulations governing the importation of Irish potatoes have been issued (7 CFR 1066.1; 24 F.R. 7809, 25 F.R. 2659). Such regulations determined, among other things, that each marketing season from October 1 through the following June 30, imports of round white varieties of potatoes are in most direct competition with the same varieties produced in the State of Maine

and regulated by Order No. 70, and required that potato imports meet the grade, size, quality and maturity requirements applicable to round white varieties under Order No. 70. Therefore, the grade, size, quality and maturity requirements applicable to round white varieties of potatoes set forth in the limitation of shipments regulation, § 970.307 (7 CFR 970.307), issued under Order No. 70, effective September 19, 1960 through June 30, 1961 (25 F.R. 8942) became applicable to imports of such potatoes for the period October 1, 1960 through June 30, 1961.

In order that information pertaining to requirements applicable to potato imports occasioned by requirements applicable to domestically produced potatoes may be more readily disseminated to interested persons, this amendment, through cross reference, incorporates such import requirements in the currently effective domestic regulation by the addition of a new paragraph (i) to § 970.307. Accordingly, § 970.307 is hereby amended by adding thereto a new paragraph (i) as set forth below.

§ 970.307 Limitation of shipments.

* * * * *

(i) *Applicability of import regulations.* Pursuant to section 608e of the act and 7 CFR 1066.1 (24 F.R. 7809 and 25 F.R. 2659), it has been determined that, each season from October 1 through the following June 30, potato imports of round white varieties are in most direct competition with the same varieties produced in the State of Maine and regulated by this subpart and it is required that such potato imports meet the grade, size, quality and maturity requirements applicable to the same varieties regulated under this subpart. Therefore, importations of round white variety potatoes during the period of October 1, 1960 through June 30, 1961, are required to meet the grade, size, quality and maturity provisions of paragraph (a) of this section, namely, U.S. No. 1, or better, grade, 2¼ inches minimum diameter, 4 inches maximum diameter, and at least 90 percent fairly clean.

* * * * *

Coincident with the issuance of import regulations applicable to Irish potato imports, § 1066.1 (7 CFR 1066.1) and issuance of the currently effective limitation of shipments regulations, § 970.307 (7 CFR 970.307) under Order No. 70, the requirements of § 4 of the Administrative Procedure Act (5 U.S.C. 1003) with respect to notice of rule making, public procedure thereon, and effective date were complied with or appropriate findings in lieu thereof were made. Therefore, it is unnecessary to again comply with the same requirements.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date. Dated December 22, 1960, to become effective upon publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 60–12061; Filed, Dec. 28, 1960; 8:47 a.m.]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Subpart—Administrative Rules and Regulations

MONTHLY REPORT OF DISPOSITION OF FREE TONNAGE RAISINS

Correction

In F.R. Doc. 60–11896, appearing at page 13630 of the issue for Friday, December 23, 1960, the phrase "handling of grapes produced from grapes", in the last two lines of the first column should be changed to read "handling of raisins produced from grapes".

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 2—RULES OF PRACTICE

Commission Review of Intermediate Decisions

In order that the Commission may more adequately review intermediate decisions of hearing examiners when no exceptions thereto have been filed by the parties, the rules of procedure are being amended to provide that the Commission shall have 10 days after the period permitted for the filing of exceptions in which to make its own review.

Because of the procedural nature of these rules, the Commission has found that general notice of proposed rule making and public procedure thereon are unnecessary, and that good cause exists why these rules should be made effective without the customary prior notice.

Pursuant to the Administrative Procedure Act, the following rules are published as a document subject to codification, to be effective upon publication thereof in the FEDERAL REGISTER:

1. Section 2.751 (a), (b), and (c) is amended to read as follows:

§ 2.751 Intermediate decisions and their effect.

(a) After hearing, the Presiding Officer will ordinarily render an intermediate decision, which decision shall become final unless exceptions are taken in accordance with § 2.752, or the Commission has directed that the record be certified to it for final decision. An order that the record be certified to the Commission for final decision may be made not later than 10 days after the expiration of the period fixed pursuant to § 2.752 for the filing of exceptions by a party.

(b) However, in any case involving an application for an initial license the Commission may direct that the presiding officer certify the record to it without an intermediate decision. In such case the Commission may:

(1) Direct a responsible officer to prepare an intermediate decision which will not become final until the Commission acts upon it; or

(2) Prepare its own intermediate decision, which shall become final unless exceptions are taken in accordance with § 2.752; or

(3) Omit an intermediate decision upon a finding on the record that due and timely execution of the Commission's functions imperatively and unavoidably so require.

(c) Each intermediate decision shall be in writing and shall contain:

(1) Findings and conclusions, with the reasons or basis therefor upon all material issues of fact, law, or discretion presented on the record;

(2) The ruling upon each proposed finding or conclusion filed by a party;

(3) All facts officially noticed pursuant to § 2.750, relied upon in the decision;

(4) The appropriate rule, order, sanction, relief, or denial thereof, with the effective date;

(5) In the case of an intermediate decision which may become final unless exceptions are filed, or the Commission directs that the record be certified to it for final decision, the date when such decision will become final in the absence of exceptions thereto or an order of the Commission that the record be certified to it.

Dated at Washington, D.C., this 27th day of December 1960.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 60–12140; Filed, Dec. 28, 1960; 8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER A—CIVIL AIR REGULATIONS

[Reg. Docket No. 614; Amdt. 60–20]

PART 60—AIR TRAFFIC RULES

Definitions of Prohibited Area and Restricted Area

Part 60 of the Civil Air Regulations comprises the air traffic rules and certain definitions pertaining thereto. Section 60.13a provides that the Administrator will establish Restricted Areas when he finds such action necessary. Section 60.60 defines certain terms, among which are Prohibited Area and Restricted Area.

The Federal Aviation Act of 1958, Title III, section 307(a), authorizes and directs the Administrator to "assign by rule, regulation or order the use of navigable airspace." Prior to the enactment of this statutory authorization, the authority to designate prohibited areas and restricted areas, with provision for subordinate delegation of this authority, was contained in the Air Commerce Act of 1926 and the Civil Aeronautics Act of 1938. This authority is variously cited in §§ 60.13a and 60.60 in the definitions of Prohibited Area and Restricted Area.

The Air Commerce Act of 1926 and the Civil Aeronautics Act of 1938 were repealed by the Federal Aviation Act of

1958. This repeal rendered § 60.13a and the citations of the authority of these acts obsolete.

It is deemed advisable to rescind §60.-13a of Part 60 and to amend the definitions of Prohibited Area and Restricted Area in § 60.60 to remove reference to obsolete authorities.

Inasmuch as this action is editorial in nature and imposes no additional burden upon any person, compliance with the notice, public procedure and effective date requirements of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, Civil Air Regulations Part 60 (14 CFR Part 60) is hereby amended as follows:

1. By rescinding § 60.13a.
2. By amending §60.60 as follows:

§ 60.60 Definitions.

* * * * *

Prohibited Area. Airspace identified by an area on the surface of the earth within which the flight of aircraft is prohibited.

* * * * *

Restricted Area. Airspace identified by an area on the surface of the earth within which the flight of aircraft, while not wholly prohibited, is subject to restrictions.

This amendment shall become effective December 23, 1960.

(Sec. 307; 72 Stat. 752; 49 U.S.C. 1354)

Issued in Washington, D.C., on December 23, 1960.

E. R. QUESADA,
Administrator.

[F.R. Doc. 60-12094; Filed, Dec. 28, 1960; 8:50 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER A—PROCEDURAL REGULATIONS

[Reg. Docket No. 609]

PART 406—CERTIFICATION PROCEDURES

Part 406, Regulations of the Administrator, has been extensively altered by amendment and much of its terminology has become obsolete. Without integration of the fifteen amendments to date and usage of current terminology in the basic regulation, confusion and misuse can result. For these reasons a complete restatement of the part is necessary. This revision incorporates the outstanding amendments, up-dates terminology and deletes obsolete material.

Inasmuch as this revision is procedural only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, Part 406 of Chapter III of Title 14 of the Code of Federal Regulations is hereby revised, effective on the date of its publication in the FEDERAL REGISTER, to read as follows:

Subpart A—Introduction

Sec.
406.1 Definitions of terms.
406.2 Use of forms, etc.

Subpart B—Issuance of Certificates

Sec.
406.11 General.
406.12 Medical certificates.
406.13 Airman certificates.
406.14 Aircraft certificates.
406.15 Air carrier certificates.
406.16 Air agency certificates.
406.17 Air navigation certificate and notices.
406.19 Crew member certificate.

Subpart C—Medical Records

406.31 Availability of medical history.

AUTHORITY: §§ 406.1 to 406.31 issued under secs. 313(a), 501–505, 601–608, 72 Stat. 752, 771, 772, 774, 775, 776, 778, 779; 49 U.S.C. 1354, 1401, 1402, 1403, 1404, 1405, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428.

Subpart A—Introduction

§ 406.1 Definitions of terms.

As used in this part:

(a) "Act" shall mean Federal Aviation Act of 1958, as amended.

(b) "Agency" shall mean Federal Aviation Agency.

(c) "Administrator" shall mean the Administrator of the Federal Aviation Agency.

(d) "Board" shall mean Civil Aeronautics Board.

(e) "Aviation medical examiner" shall mean a licensed physician designated by the Administrator to perform appropriate medical examinations and to issue or deny medical certificates prescribed by the Civil Air Regulations.

(f) "Medical certificate" shall mean an acceptable evidence of an airman's physical fitness issued by the Administrator or his authorized representative within the Agency, or by an aviation medical examiner.

§ 406.2 Use of forms, etc.

Forms and other documents prescribed in this part which contain references to specific units of organization will not be affected by any change in the titles of the units. Such forms and documents will continue in use until they have been superseded or revoked.

Subpart B—Issuance of Certificates

§ 406.11 General.

(a) *Application.* Except as otherwise indicated in this subpart, an application for a certificate may be obtained from, and shall be submitted to, a representative of the Agency or to one of its regional, district, or field offices.

(b) *Examination.* A medical examination where required will be given by an aviation medical examiner as indicated in this subpart. A theoretical or written examination where required will be given by a representative of the Agency except that a student pilot may be examined on the Civil Air Regulations by a certificated flight instructor. Written examinations will be conducted at selected recognized airports. Itineraries of agents will be posted at such airports.

(c) *Issuance.* Requirements concerning the issuance of a certificate are set forth in Chapter I of this title, or in this part.

§ 406.12 Medical certificates.

The following medical certificates will be issued by the Agency to qualified applicants: (a) *First-class medical certificate*—(1) *Purpose.* This certificate must be obtained by an applicant for, or the holder of, an airline transport pilot rating.

(2) *Examination.* An examination for this certificate will be given by an aviation medical examiner specifically designated for this purpose. A list of these aviation medical examiners in any area may be obtained by addressing a request to the Regional Manager of the region in which the area is located.

(3) *Issuance.* This certificate will be issued on a "Medical Certificate," Form FAA–1004.1 with the appropriate class entered in the space provided.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 29 of Chapter I of this title.

(b) *Second-class medical certificate*—(1) *Purpose.* This certificate must be obtained by an applicant for, or holder of, a commercial pilot certificate, air-traffic control-tower operator certificate, flight navigator certificate, flight engineer certificate, or commercial lighter-than-air pilot certificate.

(2) *Examination.* An examination for this certificate will be given by an aviation medical examiner. A list of the aviation medical examiners in any area may be obtained by addressing a request to the Regional Manager of the region in which the area is located.

(3) *Issuance.* This certificate will be issued on a "Medical Certificate", Form FAA–1004.1 with the appropriate class entered in the space provided.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 29 of Chapter I of this title.

(c) *Third-class medical certificate*—(1) *Purpose.* This certificate must be obtained by an applicant for, or holder of, a student pilot certificate, private pilot certificate, student lighter-than-air pilot certificate, private lighter-than-air pilot certificate, free balloon pilot certificate, and flight radio operator certificate.

(2) *Examination.* An examination for this certificate will be given by an aviation medical examiner. A list of the aviation medical examiners in any area may be obtained by addressing a request to the Regional Manager of the region in which the area is located.

(3) *Issuance.* This certificate will be issued on a "Medical Certificate," Form FAA–1004.1, with the appropriate class entered in the space provided.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 29 of Chapter I of this title.

(d) *Delegation of authority.* The authority vested in the Administrator to issue or deny the issuance of medical certificates by section 602(a) and 602(b) of the Act is delegated to the Civil Air Surgeon and his authorized representatives within the Agency to the extent

necessary (1) to examine applicants for and holders of airman medical certificates for compliance with the medical standards applicable to the issuance or renewal of airman medical certificates; and (2) to issue, renew, or deny issuance or renewal of airman medical certificates to applicants or holders of such certificates based upon compliance or noncompliance with the applicable medical standards. Subject to such limitations as may be provided by rules or regulations of the Agency, the authority delegated above is also delegated to aviation medical examiners.

The authority vested in the Administrator by section 609 of the Act to reexamine any civil airman to the extent necessary to amend, suspend, or revoke a medical certificate, is delegated to the Civil Air Surgeon or his authorized representative within the Agency.

(e) *Reconsideration of denial of medical certificate by aviation medical examiner.* Any action of an aviation medical examiner denying issuances of a medical certificate shall be subject to reconsideration by the Civil Air Surgeon or his authorized representative. Denial of issuance of a medical certificate by an aviation medical examiner shall not constitute a denial by the Administrator under section 602, Federal Aviation Act of 1958. Any person whose application for issuance of a medical certificate has been denied by an aviation medical examiner may apply for reconsideration of such denial pursuant to section 314(b) of the Federal Aviation Act by application made in writing and addressed to the Civil Air Surgeon, Federal Aviation Agency, Washington 25, D.C., together with a copy addressed to the respective medical examiner. In the event no application for reconsideration is made within thirty days of the action of the aviation medical examiner, the applicant will be deemed to have acquiesced in the action and to have withdrawn his application for medical certificate. Denial by the Civil Air Surgeon, or his representative, upon application for reconsideration, shall constitute a denial by the Administrator under section 602, Federal Aviation Act.

(f) *Reconsideration of denial by the Civil Air Surgeon of medical certificate.* Any denial by the Civil Air Surgeon or his authorized representative within the Agency shall constitute a denial by the Administrator under section 602 of the Act. Any person whose application for issuance of a medical certificate has been denied initially or upon reconsideration by the Civil Air Surgeon or his authorized representative within the Agency may petition the Administrator pursuant to 14 CFR 405.32 for exemption from Part 29 of the Civil Air Regulations, or he may appeal from such a decision to the Civil Aeronautics Board.

(g) *Medical certification by senior flight surgeons of the military services.* In accordance with agreements entered into by the Civil Air Surgeon on one hand and his counterpart in each of the military services on the other hand, the FAA has designated as aviation medical examiners for the Agency, senior flight surgeons on specified military posts, stations and facilities. These specially designated aviation medical examiners are authorized to perform the physical examination of applicants for FAA medical certificates who are on active duty or others who are eligible under Department of Defense medical programs for FAA medical certification as civil airmen. Furthermore, they have the authority to issue or deny the issuance of appropriate FAA medical certificates in accordance with the rules, regulations and established policies of the Agency. A list of military posts, stations and facilities in which the senior flight surgeon has been designated as aviation medical examiner for the FAA may be obtained from the various Surgeons General of the different services or from the Chief of Medical Certification Division, AM–30, Federal Aviation Agency, Washington 25, D.C.

§ 406.13 Airman certificates.

The following airman certificates will be issued by the Agency to qualified applicants:

(a) *Student pilot certificate*—(1) *Purpose.* This certificate will authorize the holder to pilot in solo flight, aircraft of a type, class, and model specified on the certificate.

(2) *Application.* A single application for this certificate will be made on an "Application for Student or Private Pilot Certificate," Form FAA–355.

(3) *Issuance.* This certificate will be issued on a Form FAA–340.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Parts 20 and 43 of Chapter I of this title.

(b) *Pilot certificate*—(1) *Purpose.* This certificate will authorize the holder to pilot aircraft in accordance with limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate with ratings shall be made on an "Application for Commercial Pilot or Flight Instructor Certificate or Rating," Form FAA–342, or an "Application for Student Pilot or Private Pilot Certificate," Form FAA–355, if for initial certification as a civilian pilot.

(3) *Issuance.* This certificate with ratings will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Parts 20 and 43 of Chapter I of this title.

(c) *Airline transport pilot certificate*—(1) *Purpose.* This certificate will authorize the holder to exercise the privileges of an airline transport pilot in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Airline Transport Pilot Certificate or Rating Thereon," Form FAA–342A.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 21 of Chapter I of this title.

(d) *Lighter-than-air pilot certificate*—(1) *Purpose.* This certificate will authorize the holder to exercise the privileges of a lighter-than-air pilot in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Student Pilot or Private Pilot Certificate," Form FAA–355.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 22 of Chapter I of this title.

(e) *Mechanic or repairman certificate*—(1) *Purpose.* This certificate will authorize the holder to inspect, maintain, or repair aircraft and aircraft engines and appliances in accordance with the limitations set forth on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Airman Mechanic, Repairman, or Parachute Rigger Certificate or Rating," Form FAA–363.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 24 of Chapter I of this title.

(f) *Parachute rigger certificate*—(1) *Purpose.* This certificate will authorize the holder to inspect, pack, repair, or construct parachutes in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Airman Mechanic, Repairman, or Parachute Rigger Certificate or Rating," Form FAA–363.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 25 of Chapter I of this title.

(g) *Air-traffic control-tower operator certificate*—(1) *Purpose.* This certificate will authorize the holder to control air traffic in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Control-Tower Operator or Aircraft Dispatcher Certificate and Rating," Form FAA–374.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 26 of Chapter I of this title.

(h) *Aircraft dispatcher certificate*—(1) *Purpose.* This certificate will authorize the holder to act as an aircraft dispatcher for a certificated air carrier in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Control-Tower Operator or Aircraft Dispatcher Certificate and Rating," Form FAA–374.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 27 of Chapter I of this title.

(i) *Flight radio operator certificate*—(1) *Purpose.* This certificate will authorize the holder to exercise the privileges of a flight radio operator in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Flight Radio Operator Certificate," Form FAA–1863B.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 33 of Chapter I of this title.

(j) *Flight navigator certificate*—(1) *Purpose.* This certificate will authorize the holder to exercise the privileges of a flight navigator in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Flight Navigator Certificate," Form FAA–1863.

(3) *Issuance.* This certificate will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 34 of Chapter I of this title.

(k) *Flight engineer certificate*—(1) *Purpose.* This certificate will authorize the holder to exercise the privileges of a flight engineer in accordance with the limitations prescribed on the certificate.

(2) *Application.* A single application for this certificate shall be made on an "Application for Flight Engineer Certificate," Form FAA–1863A.

(3) *Issuance.* This certificate will be issued on Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 35 of Chapter I of this title.

§ 406.14 Aircraft certificates.

The following aircraft certificates will be issued by the Agency to qualified applicants:

(a) *Type certificate*—(1) *Purpose.* This certificate will certify that an aircraft, aircraft engine, propeller, or appliance specified in the Civil Air Regulations as eligible for a type certificate is of proper design, material, specifications, construction, and performance for safe operation, and meets the minimum requirements of the Civil Air Regulations.

(2) *Application.* A single application for this certificate shall be made on an "Application for Type Certificate," Form FAA–312. This application form may be obtained from, and shall be submitted to the Engineering and Manufacturing Branch of the regional office serving the area in which the manufacturer's plant is located.

(3) *Issuance.* This certificate will be issued on a Form FAA–331.

(4) *Reports.* Upon the initial transfer of title to any aircraft manufactured in accordance with Agency standards and requirements for United States registry, and where such aircraft has been manufactured under the terms of a type certificate only, i.e., without benefit of a production certificate, the holder of the type certificate or of a current right to the benefits of a type certificate under a licensing arrangement shall submit a "Statement of Conformity," Form FAA–317, to a duly authorized representative of the Administrator.

(5) *Additional requirements.* Further provisions regarding this certificate are contained in Part 1 of Chapter I of this title.

(b) *Production certificate*—(1) *Purpose.* This certificate will authorize duplicates of a product for which a type certificate has been issued, to be manufactured at designated places.

(2) *Application.* A single application for this certificate and a production limitation record, shall be made on an "Application for Production Certificate," Form FAA–332. The application form may be obtained from, and shall be submitted to, the Engineering and Manufacturing Branch of the regional office serving the area in which the manufacturer's plant is located. If an amendment is desired, application shall be made to such regional office.

(3) *Issuance.* This certificate will be issued on a "Production Certificate," Form FAA–333. It will include a "Production Limitation Record," Form FAA–333A, which will set forth the applicable type certificate.

(4) *Reports.* The holder of this certificate shall notify the Regional Office which issued the certificate, of any changes in organization, methods, procedures, facilities, or location of the manufacturing facilities which affect the product for which the certificate was issued.

(5) *Additional requirements.* Further provisions regarding this certificate are contained in Part 1 of Chapter I of this title.

(c) *Aircraft registration certificate*—(1) *Purpose.* This certificate will satisfy the provisions of the act requiring that an aircraft be registered by its owner before it may be operated or navigated.

(2) *Application and fee.* An application for this certificate shall be made on a Form FAA–500. This form will contain three parts: Part A, "Certificate of Registration"; Part B, "Application for Registration"; and Part C, "Bill of Sale." An applicant for a certificate of registration shall mail the original and a duplicate of Part A, an original of Part B, an original of Part C or another bill of sale or other form of conveyance described in § 501.4(b)(2) of this chapter, and a registration fee of $4 to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma. If a contract of conditional sale is submitted, an additional fee of $4 shall be enclosed to record it. The applicant shall retain the duplicate of Part B in the aircraft as a temporary registration pending receipt of the certificate of registration, Part A of Form FAA–500, and in the event later notification from the FAA authorizes continued temporary operation of the aircraft pending receipt of such certificate of registration, the applicant shall also retain such notification in the aircraft.

(3) *Issuance.* This certificate will be issued on the original "Certificate of Registration," Form FAA–500, Part A.

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 501 of this Chapter.

(d) *Dealer's aircraft registration certificate*—(1) *Purpose.* This certificate will provide an alternate form of registration permitting the operation, demonstration, and merchandising of civil aircraft moving in ordinary trade channels from a manufacturer, distributor, or dealer to an ultimate purchaser.

(2) *Application and fee.* (An application for this certificate shall be made on an "Application for Issuance of Dealer's Aircraft Registration Certificate(s)," Form FAA–1706. It will require a statement of the dealer's citizenship and certain data concerning his status as a bona fide dealer in aircraft. An application containing current data shall be submitted each time certificates are requested, and may cover as many certificates as are desired at that time. This application may be obtained from, and shall be submitted to, the Engineering and Manufacturing Branch of the Regional Office serving the area in which the applicant's business is located. A fee of $5 will be charged for the first certificate, and $1 for each additional or subsequent certificate issued to the same dealer.

(3) *Issuance.* This certificate will be issued on a "Dealers' Aircraft Registration Certificate," Form FAA–1707. It will be valid for 12 months from the date of issuance. Duplicates will not be issued.

(4) *Additional requirements.* Further provisions regarding the issuance and use of this certificate are contained in Part 502 of this chapter.

(e) *Aircraft airworthiness certificate*—(1) *Purpose.* This certificate is issued for an aircraft which complies with the airworthiness requirements of the Civil Air Regulations (Subchapter A of Chapter I of this title). (In addition to an airworthiness certificate, the Civil Air Regulations require that there be carried in the aircraft an approved airplane flight manual which sets forth the limitations for safe operation; or placards or listings or combination of both, containing operating limitations, insofar as they may have been prescribed by the Administrator for a particular aircraft.)

(2) *Application.* A single application for this certificate and an aircraft operation record shall be made on an "Application for Airworthiness Certificate and/or Annual Inspection of an Aircraft," Form FAA–305. Usually, the manufacturer obtains the certificate, which thereafter shall remain with the aircraft. If no airworthiness certificate has been issued for the aircraft, an application for such a certificate may be made by the registered owner of the aircraft, or his agent.

(3) *Issuance.* This certificate will be issued on a "Certificate of Airworthiness," Form FAA–1362 or Form FAA–1362A whichever is applicable.

(4) *Inspections.* An annual inspection of all certificated aircraft by an authorized representative of the Admin-

istrator is required unless the aircraft is being maintained and inspected by a continuous maintenance and inspection system. The aircraft and engine records must be maintained and kept available for inspection. (See Part 43 of Chapter I of this title.)

(f) *Ferry permit*—(1) *Purpose.* This permit will authorize the flight of a civil aircraft of United States registry between two specified points for the purpose of repairing, or obtaining certification of, an aircraft, or it will authorize an aircraft to be delivered via fly-away to a border of the United States or to some other point within the United State from which the aircraft is to be exported. (See § 43.10(b) of Chapter I of this title.)

(2) *Application.* An application for this permit shall be made on an "Application and Authorization for Ferry Permit," Form FAA–1779. The applicant shall furnish evidence identifying the aircraft, reveal the points between which the aircraft will be flown, estimate duration of the flight, and furnish a statement giving the reasons why an aircraft airworthiness certificate is not applicable.

(3) *Issuance.* Normally, this permit will be issued on an "Application and Authorization for Ferry Permit," Form FAA–1779, but in some instances may be authorized by wire or telephone.

(g) *Certificate of airworthiness for export*—(1) *Purpose.* This certificate will certify that the type-certificated product involved meets certain general and special requirements for export to particular foreign citizens or foreign countries.

(2) *Application.* An application for this certificate shall be made on an "Application for Export Certificate of Airworthiness," Form FAA–306.

(3) *Issuance.* This certificate will be issued on a "Certificate of Airworthiness for Export," Form FAA–26.

§ 406.15 Air carrier certificates.

The following air carrier certificates will be issued by the Agency to qualified applicants: (a) *Air carrier operating certificate*—(1) *Purpose.* This certificate will describe the operations authorized, and prescribe such operation specifications and limitations as may reasonably be required in the interest of safety. It is required for all air carriers engaged in scheduled and irregular operations.

(2) *Application.* (i) An application for a scheduled air carrier operating certificate shall be made by letter to the regional office of the Agency serving the area in which the principal office of the air carrier is located.

(ii) An application for an irregular air carrier operating certificate shall be made on an "Application for Certificate under CAR 42, 45, or 47," Form FAA–1602, to the regional office serving the area in which the principal office of the air carrier is located.

(3) *Additional requirements.* Further provisions regarding this certificate are contained in Parts 40, 41, 42 and 47 of Chapter I of this title.

§ 406.16 Air agency certificates.

The following air agency certificates and ratings will be issued by the Agency to qualified applicants:

(a) *Basic ground school rating*—(1) *Purpose.* This rating will authorize the holder to operate as a basic ground school.

(2) *Application.* An application for this rating shall be made on an "Application for Airman Agency Certificate and Rating, and Inspection Report," Form FAA–387. A new application shall be submitted at least every two years.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Reports.* The holder of this rating shall submit an "Air Agency Activity Report," Form FAA–1784, whenever it is able to report on 32 students, or at least every six months.

(5) *Additional requirements.* Further provisions regarding this rating are contained in Part 50 of Chapter I of this title.

(b) *Advanced ground school rating*—(1) *Purpose.* This rating will authorize the holder to operate as an advanced ground school.

(2) *Application.* An application for this rating shall be made on an "Application for Airman Agency Certificate and Rating, and Inspection Report," Form FAA–387. A new application shall be submitted at least every two years.

(3) *Issuance.* This certificate will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Reports.* The holder of this rating shall submit an "Air Agency Activity Report," Form FAA–1784, whenever it is able to report on 32 students, or at least every six months.

(5) *Additional requirements.* Further provisions regarding this rating are contained in Part 50 of Chapter I of this title.

(c) *Primary flying school rating*—(1) *Purpose.* This rating will authorize the holder to operate as a primary flying school.

(2) *Application.* An application for this rating shall be made on an "Application for Airman Agency Certificate and Rating, and Inspection Report," Form FAA–387. A new application shall be submitted at least every two years.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Reports.* The holder of this rating shall submit an "Air Agency Activity Report," Form FAA–1784, whenever it is able to report on 32 students or at least every six months.

(5) *Additional requirements.* Further provisions regarding this rating are contained in Part 50 of Chapter I of this title.

(d) *Commercial flying school rating*—(1) *Purpose.* This rating will authorize the holder to operate as a commercial flying school.

(2) *Application.* An application for this rating shall be made on an "Application for Airman Agency Certificate and Rating, and Inspection Report," Form FAA–387. A new application shall be submitted at least every two years.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Reports.* The holder of this rating shall submit an "Approved Air Agency Activity Report," Form FAA–1784, whenever it is able to report on 32 students or at least every six months.

(5) *Additional requirements.* Further provisions regarding this rating are contained in Part 50 of Chapter I of this title.

(e) *Instrument flying school rating*—(1) *Purpose.* This rating will authorize the holder to operate as an instrument flying school.

(2) *Application.* An application for this rating shall be made on an "Application for Airman Agency Certificate and Rating, and Inspection Report," Form FAA–387. A new application shall be submitted at least every two years.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Reports.* The holder of this rating shall submit an "Air Agency Activity Report," Form FAA–1784, whenever it is able to report on 32 students, or at least every six months.

(5) *Additional requirements.* Further provisions regarding this rating are contained in Part 50 of Chapter I of this title.

(f) *Flight instructor school rating*—(1) *Purpose.* This rating will authorize the holder to operate as a flight instructor school.

(2) *Application.* An application for this rating shall be made on an "Application for Airman Agency Certificate and Rating, and Inspection Report," Form FAA–387. A new application shall be submitted at least every two years.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Reports.* The holder of this rating shall submit an "Air Agency Activity Report," Form FAA–1784, whenever it is able to report on 32 students or at least every six months.

(5) *Additional requirements.* Further provisions regarding this rating are contained in Part 50 of Chapter I of this title.

(g) *Repair station rating*—(1) *Purpose.* This rating will authorize the holder to operate as a repair station.

(2) *Application.* An application for this rating shall be made on an "Application for Repair Station Certificate and Rating," Form FAA–394.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Additional requirements.* Further provisions regarding this rating are contained in Part 52 of Chapter I of this title.

(h) *Mechanic school rating*—(1) *Purpose.* This rating will authorize the holder to operate as a mechanic school.

(2) *Application.* An application for this rating shall be made on a "Mechanic School Application and Inspection Report," Form FAA–614.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Reports.* The holder of this rating shall submit a Mechanic School Report," Form FAA–392, in January and July of every year.

(5) *Additional requirements.* Further provisions regarding this rating are contained in Parts 50 and 53 of Chapter I of this title.

(i) *Parachute loft rating*—(1) *Purpose.* This rating will authorize the holder to operate as a parachute loft.

(2) *Application.* An application for this rating shall be made on an "Application for Parachute Loft Certificate and Rating," Form FAA–1371.

(3) *Issuance.* This rating will be issued on an "Air Agency Certificate," Form FAA–390.

(4) *Additional requirements.* Further provisions regarding this rating are contained in Part 54 of Chapter I of this title.

(j) *Ground instructor certificate and rating*—(1) *Purpose.* This certificate and rating will authorize the holder to serve as a ground instructor.

(2) *Application.* An application for this certificate and rating shall be made on an "Application for Ground Instructor Certificate or Rating," Form FAA–360.

(3) *Issuance.* This certificate and rating will be issued on a Form FAA–1710.

(4) *Additional requirements.* Further provisions regarding this certificate and rating are contained in Parts 50 and 51 of Chapter I of this title.

(k) *Commercial operator certificate*—(1) *Purpose.* This certificate will authorize the holder to serve as a commercial operator.

(2) *Application.* An application for this certificate shall be made on an "Application for Certificate under CAR 42, 45, or 47," Form FAA–1602.

(3) *Issuance.* This certificate will be issued on a Form FAA–1603, "Air Carrier Operating Certificate."

(4) *Additional requirements.* Further provisions regarding this certificate are contained in Part 45 of Chapter I of this title.

§ 406.17 Air navigation certificate and notices.

The following air navigation certificate will be issued by the Administrator to qualified applicants: In addition, the following air navigation notices are required for the construction or alteration of certain structures and landing areas.

(a) *Authorization to operate true light*—(1) *Purpose.* Upon certification by an applicant that a light will be established, maintained and operated as an aid to air navigation in accordance with the applicable requirements of the Agency, the Administrator will issue an authorization to the applicant authorizing him to operate such light as a "true light."

(2) *Application.* The application shall be submitted on Form FAA–114, "Certification and Lawful Authority to Operate a True Light."

(b) *Notice of construction or alteration*—(1) *Purpose.* The purpose of this notice is to advise the Administrator of the construction or alteration of certain structures and landing areas along or near civil airways for which a notice is required under Part 625 of this chapter.

(2) *Submittal of notice.* Notice shall be submitted to the Administrator in accordance with the provisions of Part 625 of this chapter on Form FAA–117, "Notice of Proposed Construction or Alteration."

§ 406.19 Crew member certificate.

(a) *Purpose.* This certificate will be issued to facilitate the entry and clearance into ICAO contracting states of United States citizens employed by scheduled air carriers as flight crew members or crew members on U.S.-registered aircraft engaged in scheduled international air transportation, as provided in Annex 9, as amended, to the Convention on International Civil Aviation.

(b) *Application.* An application for this certificate shall be made on an "Application for Crew Member Certificate," Form FAA–2116, and submitted to the Air Carrier District Office in charge of the air carrier by whom the applicant is employed.

(c) *Issuance.* This certificate will be issued on a "Crew Member Certificate," Form FAA–2116.1.

(d) *Surrender.* This certificate will be surrendered for cancellation by the air carrier or the certificate holder to the nearest Air Carrier District Office upon termination of the holder's assignment in scheduled international air transportation with the air carrier.

Subpart C—Medical Records

§ 406.31 Availability of medical history.

If the Administrator or his authorized representative finds that additional medical history is necessary to determine whether any person who applies for or holds a medical certificate meets the physical standards therefor, such person will be requested to authorize any clinic, hospital, doctor or other person to release to the Administrator or his authorized representative any available information or records concerning such medical history. Refusal or failure to provide the requested authorization may be cause for denial, suspension, modification, or revocation of the medical certificate.

Issued in Washington, D.C. on December 22, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60–12069; Filed, Dec. 28, 1960; 8:46 a.m.]

[Reg. Docket No. 611]

PART 410—DELEGATION OPTION PROCEDURES FOR CERTIFICATION OF SMALL AIRPLANES, GLIDERS, ENGINES, AND PROPELLERS

The language contained in Part 410, Regulations of the Administrator, has become obsolete. Without usage of current terminology, confusion and misuse can result in the application of this regulation. This revision incorporates the outstanding amendment, up-dates terminology, and deletes obsolete material.

Inasmuch as this revision is procedural only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, Part 410 of Chapter III of Title 14 of the Code of Federal Regulations is hereby revised, effective on the date of its publication in the FEDERAL REGISTER, to read as follows:

PART 410—DELEGATION OPTION PROCEDURES FOR CERTIFICATION OF SMALL AIRPLANES, GLIDERS, ENGINES, AND PROPELLERS

Subpart A—General

410.1 Definition of terms.
410.2 Basis and purpose.

Subpart B—Delegation Option Authorization

410.11 Application.
410.12 Authorization.
410.13 Eligibility.
410.14 Designated manufacturer's certification representative (DMCR).
410.15 Duration.
410.16 Maintenance of eligibility.
410.17 Transfer.
410.18 Inspections.

Subpart C—Delegation Option Procedures

410.31 Limits of applicability.
410.32 Type certificates.
410.33 Production certificates.
410.34 Airworthiness certificates.
410.35 Certificates of airworthiness for export.
410.36 Service difficulties and noncompliance.
410.37 Maintenance, repair, and alteration of products.
410.38 Data and records.

AUTHORITY: §§ 410.1 to 410.38 issued under secs. 313, 314, 603, 72 Stat. 752, 754, 776; 49 U.S.C. 1354, 1355, 1423.

Subpart A—General

§ 410.1 Definition of terms.

As used in this part:

(a) "Administrator" shall mean Administrator of the Federal Aviation Agency.

(b) "FAA" shall mean Federal Aviation Agency.

(c) "DMCR" shall mean Designated Manufacturer's Certification Representative.

(d) "Product" shall mean an airplane, a glider, an aircraft engine, or propeller.

§ 410.2 Basis and purpose.

(a) Section 603 of the Federal Aviation Act of 1958 (72 Stat. 776; 49 U.S.C. 1423) authorizes the Administrator to conduct inspections and tests necessary to the issuance of type, production, and airworthiness certificates, and to issue such certificates. Section 314 of the Federal Aviation Act of 1958 (72 Stat. 754; 49 U.S.C. 1355) authorizes the Administrator to delegate the functions to properly qualified private persons.

(b) Under delegation option procedures, type, production, and airworthiness certification of airplanes and gliders having maximum weight of 12,500 lbs. or less, and type and production certification of piston engines of less than 1,000 cubic inches piston displacement and

propellers for use on such engines, may be accomplished by manufacturers utilizing a DMCR. Standard procedures will be used by manufacturers who are not eligible to use, or do not elect to use, the delegation option procedures.

Subpart B—Delegation Option Authorization

§ 410.11 Application.

Application for an authorization from the Administrator to use the delegation option procedures shall contain the information specified in appendix A [1] to this part, and shall be submitted to the FAA regional office for the region in which the manufacturer is located.

§ 410.12 Authorization.

Upon receiving an application and finding that the applicant meets the eligibility requirements, the Administrator will issue an authorization to the applicant to use the delegation option procedures in accordance with the provisions of this part. A sample authorization is shown in appendix B [1] to this part.

§ 410.13 Eligibility.

To be eligible for an authorization to use the delegation option procedure, the applicant shall:

(a) Hold a current type certificate under the same part of the Civil Air Regulations and a production certificate, issued to the applicant under the standard procedure,

(b) Employ a competent staff of engineering, flight test, production, and inspection personnel adequate to maintain compliance with the applicable certification requirements of Parts 1, 3, 4a, 5, 8, 13, and 14 of this title, and

(c) Have requested the appointment of an individual by the Administrator as a Designated Manufacturer's Certification Representative in accordance with § 410.14.

§ 410.14 Designated manufacturer's certification representative (DMCR).

(a) A Designated Manufacturer's Certification Representative is an individual who:

(1) Holds a responsible position in a manufacturer's organization with respect to the design and manufacture of the pertinent product; and

(2) Upon request by the manufacturer, has been issued a certificate by the Administrator, and has been listed on the delegation option authorization issued to the manufacturer.

(b) The Designated Manufacturer's Certification Representative may be replaced by another individual upon request by the holder of the delegation option procedure authorization and the listing of such replacing individual by the Administrator on the authorization.

(c) A DMCR will be furnished FAA forms, and instructions on the use thereof, under the delegation option procedures.

§ 410.15 Duration.

An authorization to use the delegation option procedure shall remain in effect for 1 year unless suspended, canceled, or revoked by the Administrator. An authorization may be renewed upon application if the Administrator finds the record of the applicant to be satisfactory. (See § 410.16.) The holder of such authorization shall request the FAA to cancel it if he no longer desires to use the delegation option procedure.

§ 410.16 Maintenance of eligibility.

The holder of an authorization to use the delegation option procedure shall continue to comply with the initial requirements for issuance. To be eligible for renewal the holder must have a record over the previous year which shows he is competent, willing, and able to carry out the responsibilities delegated.

§ 410.17 Transfer.

An authorization to use the delegation option procedure is not transferable.

§ 410.18 Inspections.

At any time, upon request, the applicant for a delegation option procedure authorization or the holder of such authorization shall permit authorized employees of the Administrator to inspect his organization, facilities, product, and records.

Subpart C—Delegation Option Procedures

§ 410.31 Limits of applicability.

(a) The delegation option procedures shall be applied only to products which are manufactured by the holder of a delegation option authorization, and which:

(1) Are eligible for certification under the type, production, and airworthiness requirements of Parts 1, 3, 4a, 5, 8, 13, or 14 of this title, and

(2) Are airplanes or gliders having a maximum weight of 12,500 pounds or less, or

(3) Are piston engines having less than 1,000 cubic inches piston displacement, or

(4) Are propellers designed for use on engines having less than 1,000 cubic inches piston displacement.

(b) Within the limitations prescribed in paragraph (a) of this section, the delegation option procedure may be applied to:

(1) Type certification.

(2) Changes in the type design of products for which the manufacturer holds or obtains a type certificate.

(3) The amendment of the production certificate held by the manufacturer, to include additional models or additional types for which he holds or obtains type certificates.

(4) The issuance of airworthiness certificates for airplanes and gliders of any type for which the manufacturer holds a type certificate and holds or is in the process of obtaining a production certificate. For this privilege to be continued, the production certificate shall be obtained within 6 months from the date of issuance of the type certificate.

(c) The delegation option procedures may be applied to one or more types as selected by the manufacturer, who shall notify the FAA of each model, and the first serial number of each model manufactured by him under the delegation option procedures. Other types or models may remain under the standard procedures.

§ 410.32 Type certificates.

(a) When a manufacturer desires to obtain a type certificate for a new type under the delegation option procedures:

(1) The DMCR for such manufacturer shall submit to the FAA an application for Type Certificate (Form FAA–312) together with a statement listing particular airworthiness requirements of this title by part and date, which the DMCR considers applicable, plus a three-view drawing, a description of the salient characteristics of the design, an outline of the method to be used to substantiate compliance, and an estimated time schedule involved. After reviewing the application, the FAA will notify the DMCR in an acceptance letter that the Administrator finds such requirements, or other specified requirements, applicable.

(2) The FAA will verify compliance with standards, rules, and regulations for unconventional designs and/or design features having a substantially significant effect on safety, and will determine that there are no apparent unairworthy features. An initial review will be made by the FAA of new type designs including discussions with the manufacturer concerning any unconventional design features, interpretations of the regulations, or means of determining compliance. Following this review the FAA will notify the manufacturer concerning the extent to which the FAA will verify compliance, and the extent to which the FAA will participate in test programs. Also, the FAA will counsel and advise manufacturers upon request or indicated need.

(3) After determining that the applicable airworthiness requirements are met, the DMCR shall request the Administrator to issue a type certificate. The request shall include a Statement of Compliance and the information prescribed in appendix C [1] to this part. The proposed specification and, if required by the applicable airworthiness requirements, a copy of the Airplane Flight Manual as approved by the DMCR, or if an airplane flight manual is not required, a summary of the required DMCR approved operating limitations information, and performance, shall be transmitted with the request. If the results of his own participation in the process of determining compliance with the regulations have revealed no failure of compliance, the Administrator will issue the type certificate which includes the Type Certificate Data Sheet.

(b) Under these delegation option procedures, the manufacturer may change the type design for which he holds a type certificate, when the DMCR finds that the changes comply with the applicable airworthiness requirements. If such changes would alter the information in the specification or Airplane Flight Manual, the manufacturer shall promptly submit proposed specification revisions or Airplane Flight Manual revisions to the FAA.

[1] Not filed with the Federal Register Division.

(1) The DMCR shall furnish a statement to the FAA, briefly describing major changes to the type design and listing the particular airworthiness requirements of this title which the DMCR considers applicable. Upon receiving such a statement, the FAA will notify the DMCR that the Administrator finds such requirements or other specified requirements applicable. The FAA will verify compliance as considered necessary and will counsel and advise manufacturers upon request or indicated need.

(c) As a part of determining compliance with the applicable airworthiness requirements, the DMCR shall conduct a type inspection and complete a Type Inspection Report using an acceptable form or format which he shall sign and include in the manufacturer's technical data file.

(d) The manufacturer or the DMCR may request the advice of the FAA concerning interpretation of the certification requirements in Parts 1, 3, 4a, 5, 8, 13, and 14 of this title. The DMCR shall request the advice of the FAA on any interpretation which requires application of the equivalent safety provisions contained in the certification requirements. FAA rulings will be confirmed in writing.

(e) The manufacturer shall prepare and maintain a technical data file for each product type under the delegation option procedure, in accordance with § 410.33(a)(1). Authorized employees of the FAA shall have access to the file at any time. In the event the manufacturer goes out of business or no longer operates under the delegation option procedure the file becomes the property of the FAA.

§ 410.33 Production certificates.

(a) When a manufacturer desires to list a new model or new type certificate on his production certificate, the DMCR for such manufacturer shall, after finding that the manufacturer meets the production certificate requirements of Part 1 of this title with respect to the new model or type, submit a request therefor to the Administrator. (See § 410.31(b)(4).) This request shall be accompanied by:

(1) A Statement of Compliance containing the information prescribed in appendix D [1] of this part, and,

(2) A properly executed application for an amendment to the manufacturer's production certificate (Form FAA–332).

Upon receipt of these documents the Administrator will add the new model designation and/or type certificate number to the production certificate and forward to the manufacturer an amended production limitation record.

(b) In determining that the manufacturer meets the applicable production certificate requirements, the DMCR shall, for each new model or type added to the production certificate under the delegation option procedure, conduct an inspection of the manufacturer's organization, facilities, methods, and procedures for manufacturing and controlling the quality and conformity of the product. The FAA shall be notified in advance of such inspections and will participate as considered necessary. The DMCR shall complete and sign a Manufacturing Inspection Report (Form FAA–314) for inclusion in the manufacturer's records.

(c) At least once each year while the manufacturer holds a delegation option procedure authorization, the DMCR shall conduct an inspection of the manufacturer's facilities, methods, and procedures. The FAA will participate as considered necessary. The DMCR shall make a report to the FAA on each annual factory inspection, using form FAA–314.

(d) The manufacturer shall prepare and maintain a production certification file and make reports covering changes in organization and procedures and special processes, as required by the production certificate requirements of Part 1 of this title. He shall include such reports and inspection records for each model produced uder the delegation option procedure in his records as specified in § 410.38(a)(2).

§ 410.34 Airworthiness certificates.

(a) A DMCR shall issue an airworthiness certificate for an airplane or glider manufactured under the delegation option procedure when he finds, on the basis of the inspection and production flight check, that the aircraft conforms to a type design for which the manufacturer holds a type certificate and is in a condition for safe operation.

(b) The DMCR may authorize other employees of the manufacturer to sign such airworthiness certificates for him, over his name and designee number: *Provided*, That:

(1) Such employees perform or are in direct charge of the inspections specified in paragraph (a) of this section, and

(2) Such employees have been listed on the manufacturer's application to use the delegation option procedures (see appendix A [1] to this part), or on amendments thereto.

(c) A DMCR shall issue and attach an approval tag, Form ACA–186, to each new engine or propeller manufactured under the delegation option procedure when he finds, on the basis of the inspection and operational tests, that the engine or propeller conforms to a type design for which the manufacturer holds a type certificate and is in condition for safe operation.

After the new model has been included on the Production Limitation Record, the production certification number shall be stamped on the engine or propeller identification data plate in lieu of the issuance of the approval tag, Form FAA–186.

§ 410.35 Certification of airworthiness for export.

A certificate of airworthiness for export may be issued on the same basis as an airworthiness certificate, as specified in § 410.34.

§ 410.36 Service difficulties and noncompliance.

Service difficulties and questions of compliance on articles produced under the delegation option procedures will be handled as follows:

(a) *Reports.* When service difficulties are deemed of sufficient importance, FAA will forward copies of the reports to the manufacturer for his information and any action he deems appropriate. The FAA will not request replies or action on any report except as indicated in paragraph (b) of this section.

(b) *Serious defects.* If FAA investigation of accident or service difficulty reports indicates unsafe features or characteristics caused by defect in design or manufacture, the FAA will request the manufacturer to report the results of his investigation, and also to report the action, if any, taken or proposed by him (e.g., service bulletins, design changes, etc.). If the nature of the defect is of such importance that mandatory corrective action by the user of the product is necessary for safety, the FAA will require the manufacturer to submit the information necessary for the issuance of an airworthiness directive.

(c) *Investigation of data, products, or manufacturing facilities.* The manufacturer shall, at any time upon request, permit the FAA to inspect and test his product, and investigate his technical data files and manufacturing facilities (see §§ 410.18 and 410.38).

(d) *Maintenance of files.* The manufacturer shall maintain a file of information on service difficulties received from all sources, which will be available to the FAA at all times.

(e) *Noncompliance.* When investigation is made by the FAA, and the findings indicate that a serious safety hazard exists because of the manufacturer's failure to comply with Parts 1, 3, 4a, 5, 8, 13, or 14 of this title, the FAA will take such action as is deemed necessary to require correction of the defect in existing models and to assure compliance in articles subsequently produced.

(f) *Revocation of delegation option authorization.* If the number or importance of established cases of noncompliance warrants, or if the manufacturer is found not to comply with the requirements of this part, the FAA may request the manufacturer to show cause why his privileges under the delegation option procedures should not be withdrawn. These privileges may be withdrawn until the manufacturer reestablishes his eligibility to the satisfaction of the Administrator.

(g) *Suspension and revocation of certificates.* Any action against type or production certificates held by the manufacturer will be processed in accordance with the standard procedures.

§ 410.37 Maintenance, repair, and alteration of products.

Aircraft, engines, and propellers manufactured under the delegation option procedures shall be maintained, repaired, and altered in accordance with Part 18 of this title and the following provisions:

(a) *Approval of major repairs and alterations performed by the manufacturer.* For types included under the manufacturer's delegation option authorization:

(1) The DMCR may, after finding that the major repair or alteration com-

[1] Not filed with the Federal Register Division.

plies with the applicable requirements, approve such repair or alteration under the provisions of § 18.11 of this title.

(2) A completed Repair and Alteration Form (Form FAA–337) shall be furnished to the owner and a copy forwarded to the FAA in accordance with established procedures. Technical data covering the design change shall be included in the manufacturer's records. The Form FAA–337 shall contain a description of the repair or alteration and a statement that it was accomplished under the delegation option procedures.

(3) The DMCR may authorize other employees of the manufacturer to execute and sign Forms FAA–337 and make required logbook entries over his name and designee number: *Provided*, That:

(i) Such employees perform or are in direct charge of inspecting the repair or alteration, and

(ii) They have been listed on the manufacturer's application for the delegation option (see appendix A[1] to this part), or on amendments thereto.

(b) *Approval of major repairs and alterations performed by agencies other than the manufacturer.* Anyone performing a major repair or alteration to a product certificated under the delegation option procedure must either:

(1) Obtain the necessary technical data or advice from the manufacturer, or

(2) Conduct the technical investigations and tests necessary to demonstrate compliance with the applicable airworthiness requirements.

§ 410.38 Data and records.

(a) A manufacturer shall maintain at his factory, for all models certificated under the delegation option procedures, current records containing the following:

(1) A technical data file for each type. This data shall include the type design drawings, specifications, and reports on tests prescribed by Parts 1, 3, 4a, 5, 8, 13, or 14 of this title, the original type inspection report (Form FAA–283), and amendments thereto. This file shall be retained for the duration of the manufacturer's operation under the delegation option procedure.

(2) A complete inspection record for each model produced according to serial number and data covering the processes and tests to which materials and parts are subjected. These records shall be retained for 2 years.

(3) The report required to be submitted with the original application for the production certificate and amendments thereto. This report shall be retained for the duration of the manufacturer's operation under the delegation option procedure.

(4) The factory inspection reports specified in § 410.33 (b) and (c). These factory inspection reports shall be retained for 2 years.

(5) A record of all major repairs and alterations performed under the delegation option procedure. This record shall be retained for the duration of the manufacturer's operation under the delegation option procedure.

[1] Not filed with the Federal Register Division.

(6) A record of all reported service difficulties. These records shall be retained for 2 years.

(b) The records and data specified in paragraph (a) of this section shall be:

(1) Made available, upon request, for examination at any time by authorized employees of the Administrator,

(2) Identified and transferred to the FAA in the event the manufacturer goes out of business or no longer operates under the delegation option procedure.

Issued in Washington, D.C., on December 22, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60–12070; Filed, Dec. 28, 1960; 8:46 a.m.]

[Reg. Docket No. 610]

PART 418—REPRESENTATIVES OF THE ADMINISTRATOR

Revision of Part

The language contained in Part 418, Regulations of the Administrator, has become obsolete. Without usage of current terminology and integration of the outstanding amendments, confusion and misuse can result in the application of this regulation. For these reasons, a complete restatement of the part is necessary. This revision incorporates the outstanding amendments, up-dates terminology, deletes obsolete material and rearranges certain of the sections where necessary.

Inasmuch as this revision is procedural only and imposes no adidtional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, Part 418 of Chapter III of Title 14 of the Code of Federal Regulations is hereby revised, effective on the date of its publication in the FEDERAL REGISTER, to read as follows:

Subpart A—Introduction

Sec.
418.1 Basis and purpose.
418.2 Definitions of terms.
418.3 Use of forms, etc.

Subpart B—Certification

418.10 Selection.
418.11 Certificates.
418.12 Duration.
418.13 Reports.

Subpart C—Types of Designations and Privileges

418.20 Medical examiners.
418.21 Pilot examiners.
418.22 Technical personnel examiners.
418.23 Designated aircraft maintenance inspectors (DAMI).
418.24 Designated engineering representatives (DER).
418.25 Designated manufacturing inspection representative (DMIR).

AUTHORITY: §§ 418.1 to 418.25 issued under sec. 314, 72 Stat. 754, 49 U.S.C. 1355.

Subpart A—Introduction

§ 418.1 Basis and purpose.

This part describes the requirements under section 314 of the act for the issuance of designations to private persons to act as representatives of the Administrator, in the examination, inspection, and testing necessary for the issuance of airman and aircraft certificates by the Administrator. It also delineates the privileges of such persons and establishes basic rules for the exercise of such privileges.

§ 418.2 Definitions of terms.

As used in this part:

(a) "Act" shall mean Federal Aviation Act of 1958, as amended.

(b) "Administrator" shall mean Administrator of the Federal Aviation Agency or his authorized representative.

(c) "Inspector" shall mean Bureau of Flight Standards Inspector or Advisor.

(d) "FSDO" shall mean Flight Standards District Office.

(e) "Board" shall mean Civil Aeronautics Board.

(f) "FAA" shall mean Federal Aviation Agency.

(g) "District" shall mean Flight Standards District over which the local Flight Standards District Office has jurisdiction.

(h) "Local Flight Standards Inspector" shall mean the inspector who has been assigned by the FAA to supervise the Flight Standards Designated Representative to whom any powers or duties are delegated under this part.

(i) "Medical certificate" shall mean an acceptable evidence of an airman's physical fitness which is a part of, but has a separate entity from an airman certificate.

(j) "Senior Regional Flight Surgeon" shall mean the aviation medical officer in each region who has been assigned the duty to supervise the person to whom any power or duties related to the examination and medical certification of airmen has been delegated.

§ 418.3 Use of forms, etc.

Forms and other documents prescribed in this part which contain references to specific units of organization will not be affected by any changes in the titles of the units. Such forms and documents will continue in use until they have been superseded or revoked.

Subpart B—Certification

§ 418.10 Selection.[1]

Aviation Medical Examiners are selected by the Civil Air Surgeon or his authorized representative, from qualified physicians who have submitted application, Form FAA–861. Except for Engineering and Manufacturing Inspection Representatives, Flight Standards Designated Representatives are selected by the local Flight Standards Inspector upon a determination by such Inspector that the need for such designation exists. Designated Engineering Representatives and Designated Manufacturing Inspection Representatives are selected by the Chief, Engineering and Manufacturing Division, or his authorized representative from those qualified persons whose requests for appoint-

[1] Inquiry may be made to any FAA Regional Office or Flight Standards District Office for information concerning methods of selecting designees.

ment have been initiated by letter. This letter must be accompanied by a Statement of Qualifications of Designated Engineering Representative, Form FAA–1599, or a Statement of Qualifications for Designated Manufacturing Inspection Representative, Form FAA–1381. Air Traffic Control Tower Operator Examiners are selected by the Director, Bureau of Air Traffic Management.

§ 418.11 Certificates.

An official "Certificate of Authority", Form FAA–1382, specifying the type or types of designations for which a designee is qualified is issued to all Flight Standards Designated Representatives. In addition all designees of Flight Standards are issued a "Certificate of Designation," Form FAA–2001, for display purposes, designating the holder as a Flight Standards Representative and specifying the particular type of designations for which he is qualified. A "Certificate of Designation," Form FAA–2001, is issued to Aviation Medical Examiners along with an identification card on Form FAA–2680.1.

§ 418.12 Duration.

(a) Unless otherwise terminated under the provisions of paragraph (c) of this section, a designation as a Flight Standards Designated Representative shall be effective for one year from the date of issuance. Thereafter it may be renewed for additional periods of one year at the discretion of the Administrator. The "Certificate of Authority", Form FAA–1382 specifies the expiration date for each designation.

(b) An Aviation Medical Examiner "Certificate of Designation" is of indefinite duration subject only to the provisions of paragraph (c) of this section, except that each such certificate must be revalidated on or before the beginning of every calendar year by a letter of designation and an identification card issued by the Civil Air Surgeon which specify the year in which the designation is valid.

(c) A designation shall terminate: (1) At the written request of the designee; (2) at the written request of the employer when the recommendation of such employer is required for issuance of the designation; (3) upon the separation of the designee from the employment of the employer who recommended him for the designation; (4) upon a finding by the Administrator or his authorized representative that the designee has not properly exercised or performed the privileges of such designation; (5) when the assistance of such designee is no longer required by the Administrator; or (6) for any other reason which the Administrator deems appropriate.

§ 418.13 Reports.

A designee shall submit such reports [2] as are prescribed by the Administrator or his authorized representative.

[2] Reports required by the Administrator are prescribed in detail in instructions issued to each designee upon his designation.

Subpart C—Types of Designations and Privileges

§ 418.20 Medical examiners.

(a) A person designated as an aviation medical examiner may accept applications for, and conduct under the general supervision of the Civil Air Surgeon, or the appropriate senior regional flight surgeon, physical examinations required for the issuance of medical certificates prescribed by the Civil Air Regulations. Such examiners may also issue or deny issuance of medical certificates pursuant to the applicable regulations and procedures. As requested, aviation medical examiners may be called upon to participate in the investigation of aircraft accidents.

(b) A qualified forensic pathologist may be designated by the Civil Air Surgeon to assist in the medical investigation of aircraft accidents. Each consultant forensic pathologist is issued an appropriate "Certificate of Designation" on Form FAA–2001 and identification card, Form FAA–2680.1. When on duty these consultants will be on fee basis at the expense of the government.

§ 418.21 Pilot examiners.

(a) *Types.* The types of pilot examiner designations issued by the FAA are: Pilot Examiner, Instrument Rating Examiner, and Airline Transport Pilot Examiner.

(b) *Privileges.* A person designated as a pilot examiner may accept applications for, and conduct under the general supervision of the local Flight Standards Inspector, flight examinations and tests required for the issuance of pilot certificates and ratings prescribed by the Civil Air Regulations. Such examiner may also, at the discretion of the local agent, issue temporary pilot certificates and ratings to qualified applicants.

§ 418.22 Technical personnel examiners.

(a) *Types.* The types of technical personnel examiner designations issued by FAA are: Mechanic Examiner (Airframe and Powerplant), Parachute Rigger Examiners, Air Traffic Control Tower Operator Examiner, Air Crew Examiners (Flight Radio Operator Examiner, Flight Navigator Examiner, Flight Engineer Examiner).

(b) *Privileges*—(1) *Designated mechanic examiners (DME).* A person authorized to act as a DME may accept applications for and conduct mechanic oral and practical examinations required for the issuance of mechanic certificates prescribed by the Civil Air Regulations. Such examiner may also, at the discretion of the local inspector, issue temporary mechanic certificates to qualified applicants.

(2) *Designated parachute rigger examiners (DPRE).* A person authorized to act in the capacity of a DPRE may accept applications for and conduct parachute rigger oral and practical examinations required for the issuance of a parachute rigger certificate prescribed by the Civil Air Regulations. Such examiner may also, at the discretion of the local Flight Standards Inspector, issue temporary parachute rigger certificates to qualified applicants.

(3) *Air traffic control tower operator examiners.* A person designated as an air traffic control tower operator examiner may accept applications for, and conduct the written and practical examination for a control tower operator's certificate. Such examiner may also at the discretion of the Director, Bureau of Air Traffic Management, process the necessary airman record forms for the issuance of the certificate, but is not authorized to issue the certificate.

(4) *Air crew examiners*—(i) *Designated flight engineer examiner (DFEE).* A person authorized to act as a DFEE may accept applications for and conduct flight engineer oral and practical examinations required for the issuance of flight engineer certificates prescribed by the Civil Air Regulations. Such examiner may also, at the discretion of the local inspector, issue temporary flight engineer certificates to qualified applicants.

(ii) *Designated flight navigator examiner (DFNE).* A person authorized to act as a DFNE may accept applications for and conduct flight navigator oral and practical examinations required for the issuance of flight navigator certificates prescribed by the Civil Air Regulations. Such examiner may also, at the discretion of the local inspector, issue temporary flight navigator certificates to qualified applicants.

(iii) *Designated flight radio operator examiner (DFROE).* A person authorized to act as a DFROE may accept applications for and conduct flight radio operator oral and practical examinations required for the issuance of flight radio operator certificates prescribed by the Civil Air Regulations. Such examiner may also, at the discretion of the local inspector, issue temporary flight radio operator certificates to qualified applicants.

§ 418.23 Designated aircraft maintenance inspectors (DAMI).

A person authorized to act as a DAMI may approve maintenance on civil aircraft used by U.S. military flying clubs in foreign countries.

§ 418.24 Designated engineering representatives (DER).

(a) *Types.* The types of engineering representative designations issued by FAA are: Structural engineering, powerplant engineering, systems and equipment engineering, radio engineering, engine engineering, propeller engineering, flight analyst, and flight test pilot.

(b) *Privileges*—(1) *Structural engineering representative.* A person designated as a structural engineering representative may approve structural engineering data and other structural considerations within limitations prescribed by and under the general supervision of the Administrator or his authorized representative, when such data and other structural considerations have been determined by him to comply with pertinent Civil Air Regulations.

(2) *Powerplant engineering representative.* A person designated as a powerplant engineering representative may approve data relating to powerplant installations within limitations prescribed by and under the general supervision of the Administrator or his authorized representative, when such data have been determined by him to comply with pertinent Civil Air Regulations.

(3) *Systems and equipment engineering representative.* A person designated as a systems and equipment engineering representative may approve engineering data relating to equipment and systems other than those of a structural powerplant, or radio nature within limitations prescribed by and under the general supervision of the Administrator or his authorized representative, when such data have been determined by him to comply with pertinent Civil Air Regulations.

(4) *Radio engineering representative.* A person designated as a radio engineering representative may approve engineering data relating to the design and operating characteristics of radio equipment within limitations prescribed by and under the general supervision of the Administrator or his authorized representative, when such data have been determined by him to comply with pertinent Civil Air Regulations.

(5) *Engine engineering representative.* A person designated as an engine engineering representative may approve engineering data relating to engine design, operation, and service within limitations prescribed by and under the general supervision of the Administrator or his authorized representative, when such data have been determined by him to comply with pertinent Civil Air Regulations.

(6) *Propeller engineering representative.* A person designated as a propeller engineering representative may approve engineering data relating to propeller design, operation, and maintenance within the limitations prescribed by and under the general supervision of the Administrator or his authorized representative, when such data have been determined by him to comply with pertinent Civil Air Regulations.

(7) *Flight analyst representative.* A person designated as a flight analyst representative may approve flight test data within the limitations prescribed by and under the general supervision of the Administrator or his authorized representative, when such data have been determined by him to comply with pertinent Civil Air Regulations.

(8) *Flight test pilot representative.* A person designated as a flight test pilot representative may conduct flight tests, and prepare and approve flight test data relating to compliance with Civil Air Regulations within limitations prescribed by and under the general supervision of the Administrator or his authorized representative.

§ 418.25 Designated manufacturing inspection representative (DMIR).

A person designated as a DMIR may issue original airworthiness and export certificates for aircraft, engines, propellers, and other type certificated products which are found to conform with approved type design data; issue export ferry permits; conduct station and conformity inspections; and make such additional examinations as may be necessary to ascertain that prototype and production articles are airworthy and safe for operation. Such authorization is limited to the manufacturing plant in which the designee is employed.

Issued in Washington, D.C., on December 22, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60-12072; Filed, Dec. 28, 1960; 8:47 a.m.]

SUBCHAPTER B—AIRMAN REGULATIONS

[Reg. Docket No. 608]

PART 450—INTER-AMERICAN AVIATION TRAINING GRANTS

Revision of Part

The language contained in Part 450, Regulations of the Administrator, has become obsolete. Without usage of current terminology, confusion and misuse can result in the application of this regulation. This revision updates terminology and deletes obsolete material.

Inasmuch as this revision imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, Part 450 of Chapter III of Title 14 of the Code of Federal Regulations is hereby revised, effective on the date of its publication in the FEDERAL REGISTER, to read as follows:

Sec.
450.1 General.
450.2 Types of training.
450.3 Qualifications.
450.4 Award of training grants.
450.5 Types of training grants.
450.6 Allowances and expenses.
450.7 Duration of training grants.
450.8 Official notification.

AUTHORITY: §§ 450.1 to 450.8 issued under sec. 313, 72 Stat. 752, 49 U.S.C. 1354.

§ 450.1 General.

Training grants may be awarded to qualified male applicants from other American republics.

§ 450.2 Types of training.

Training grants may provide instruction, observation, study and practical training, in one or more of the following categories:

(a) Air traffic control and communications training, comprising such special courses of study as may be prescribed by the Administrator of the Federal Aviation Agency on the basis of the qualifications and needs of the trainee and the purpose of the training as indicated by his government, in one or more of the various specialized technical branches of aviation, including airway communications, airway traffic control, airport traffic control, aviation meteorology, aviation navigation, aeronautical charting, and airline dispatching. The special courses of study scheduled over a period not to exceed one year will consist of (1) preliminary orientation, during which the trainee may receive intensive instruction in English, (2) physical education, (3) general and observational meteorology as related to airway service; International Continental Morse Code, teletypewriting, and radio telegraph; radio telephone, interphone, broadcast and teletype communications, procedures, practices and phraseologies; Civil Air Regulations relating to air traffic rules; dead reckoning, navigation, radio navigation, radio aids to air navigation, and radio range monitoring; airport traffic control tower operation, procedures, practices and phraseologies; airway traffic control procedures, practices and phraseologies; organization, structure, and principal functions of the Federal Aviation Agency, and (4) assignment to one or more of the various offices and installations of the Federal Aviation Agency for practical on-the-job training in airport traffic control, airways communications, and airway traffic control, and assignment to United States Weather Bureau Station for practical on-the-job training in aviation meteorology. Upon satisfactory completion of the training course, a trainee is eligible to take examinations for Federal Aviation Agency airport traffic control tower operator and aircraft communicator certificates.

(b) Aviation industry training provides practical on-the-job training for a period of not to exceed 10 months in a special field in the aviation industry of the United States selected according to the background and qualifications of the individual trainee and the special needs of his country in aviation. Such training is available in airline operations; airline maintenance; aircraft, and aircraft engine, maintenance and overhaul; maintenance and overhaul of aircraft accessories; production and maintenance of single-engine aircraft; and airline traffic and administration. One month of preliminary orientation, including intensive instruction in English, may be given each trainee.

(c) Civil aviation official training provides an opportunity for high-level government and private civil aviation officials, during an eight-week period, to study and observe the organization, administration, and operation of civil aviation as developed in the United States and/or the methods and techniques in specialized fields of aviation in which they are primarily interested. This type of training is available to government and private civil aviation officials who are already experienced in their field of specialization, but who would make further contributions to civil aviation if they were afforded this opportunity to observe advanced operations.

§ 450.3 Qualifications.

Each applicant selected for an aviation training grant shall meet the following requirements:

(a) *Age.* (1) An air traffic control and communications trainee shall be in the age range of 21 to 31, inclusive, as of the closing date for receipt of applications;

(2) An aviation industry trainee shall be in the age range of 21 to 35, inclusive, as of the closing date for receipt of applications;

(3) A civil aviation official trainee shall be at least 21 years of age, as of the closing date for receipt of applications.

(b) *Citizenship.* A trainee shall be a bona fide citizen of one of the American Republics other than the United States.

(c) *Language.* (1) An air traffic control and communications trainee and an aviation industry trainee shall be able to speak, read, write, and understand the English language, and make a satisfactory score in an English written examination prescribed by the Administrator of the Federal Aviation Agency;

(2) A civil aviation official trainee should have a fair knowledge of English or an available interpreter, furnished at no expense to the Government of the United States.

(d) *Physical requirements.* (1) An air traffic control and communications trainee shall be in a satisfactory physical condition as evidenced by a Federal Aviation Agency medical certificate (Form FAA–1004.1) issued by a designated aviation medical examiner attesting compliance with Federal Aviation Agency Second Class physical requirements and shall furnish a satisfactory laboratory report of blood test:

(2) An aviation industry trainee shall be in a satisfactory physical condition as evidenced by a statement of a physical examination issued by a licensed physician within 60 days of the date of application, describing the applicant's physical condition and stating that he is free from any communicable disease or disability that would interfere with any activity incidental to the training grant and he shall furnish a satisfactory laboratory report of blood test;

(3) A civil aviation official trainee shall be in a satisfactory physical condition.

(e) *Education.* (1) An air traffic control and communications trainee shall possess a diploma attesting the successful completion of a course of study with a degree of "Bachillerato" (or the equivalent at a recognized institution of learning):

(2) An aviation industry trainee shall have completed at least six years of schooling and have sufficient training or experience in practical mathematics and mechanics to enable him to make a satisfactory grade in a written examination prescribed by the Administrator of the Federal Aviation Agency;

(3) A civil aviation official trainee shall have attained a high-ranking position in civil aviation, either commercial or government.

(f) *Purpose.* (1) An air traffic control and communications trainee or an aviation industry trainee shall have expressed in an original composition in Spanish or Portuguese, a sincere desire and intention to engage in civil aviation in the country of which he is a citizen and in that branch of aviation for which application for a training grant is made. The original composition shall constitute a part of the application papers;

(2) A civil aviation official trainee is not required to express a purpose.

(g) *Character.* (1) An air traffic control and communications trainee or an aviation industry trainee shall furnish the names of at least three responsible persons residing in the republic of which he is a citizen, who can testify to his dependability, spirit of initative, industry, stability, honesty, perserverance, and aptitude in that branch of aviation for which application for training grant is made;

(2) A civil aviation official trainee is not required to furnish references.

(h) *Sponsor.* Preference will be given to an applicant who has at least one sponsor willing and able to employ him in that branch of aviation for which the training grant has qualified him upon his return to the republic of which he is a citizen.

(i) *Endorsement.* A trainee shall have received the endorsement of the United States Embassy in the country from which he applies.

§ 450.4 Award of training grants.

Training grants will be awarded by the Administrator of the Federal Aviation Agency with the approval of the Secretary of State of the United States or their duly authorized representatives, upon the recommendation of the Inter-American Aviation Selection Committee appointed by the government of the American republic wherein the applicant resides. No applicant will be considered in the awarding of training grants unless his application and supporting papers shall have been submitted by such Selection Committee through the Department of State to the Administrator of the Federal Aviation Agency for the elimination of unqualified applicants prior to the final recommendation of the Inter-American Aviation Selection Committee. After the elimination of any unqualified applicants by the Administrator of the Federal Aviation Agency, the Inter-American Aviation Selection Committees of the respective countries shall make final recommendations from those qualified applicants remaining.

§ 450.5 Types of training grants.

Three types of training grants may be offered: Type A wherein the total cost of the training grant is paid for by the United States Government, Type B wherein the total cost of the training grant is paid for by an American republic other than the United States or by an aviation industrial concern, and Type C wherein a portion of the cost of the training grant is paid for by the United States Government and the remainder of the cost of the training grant is paid for by an American republic other than the United States or by an aviation industrial concern.

§ 450.6 Allowances and expenses.

An applicant awarded a Type B training grant will not be entitled to any allowances and expenses paid from funds appropriated by the United States Government. An applicant awarded a Type A or a Type C training grant may be paid the appropriate allowances and expenses as provided in 22 CFR Part 65, as interpreted, modified, or altered by the Department of State.

§ 450.7 Duration of training grants.

Air traffic control and communications training grants will be awarded for periods of one year; aviation industry training grants will be awarded for periods of 10 months; and civil aviation official training grants will be awarded for periods of 2 months. Subject to the availability of appropriations, training grants may be extended by the Administrator of the Federal Aviation Agency not to exceed four months. Training grants may be canceled for cause by the Administrator of the Federal Aviation Agency with the approval of the Secretary of State, or their duly authorized representatives.

§ 450.8 Official notification.

Each applicant selected for a training grant shall be notified of his award through diplomatic channels by a letter of award, which shall describe the training, state the duration and type of training grant and the allowances authorized. The amounts originally specified for allowances and expenses may be amended by the Administrator of the Federal Aviation Agency or his duly authorized representative, if necessary, provided that such amounts are kept within the maximum limits specified by regulations of the Department of State. The Administrator of the Federal Aviation Agency may amend the types of training or duration of training grants in the interest of obtaining instruction better suited to the needs and capabilities of trainees than those prescribed in the original letter of award.

Issued in Washington, D.C., on December 22, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60–12071; Filed, Dec. 28, 1960; 8:47 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60–NY–89]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Control Zone

On September 14, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 8825) stating that the Federal Aviation Agency proposed to modify the Westover, Mass., control zone. On October 22, 1960, a modification of proposal was published in the FEDERAL REGISTER (25 F.R. 10105) which proposed a further modification to the control zone.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and

due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, § 601.2276 (14 CFR 601.2276) is amended to read:

§ 601.2276 Westover, Mass., control zone.

Within a 5-mile radius of the Westover AFB (Lat. 42°11'40" N., Long. 72°32'15" W.), within 2 miles either side of the Westover TACAN 028° True radial extending from the 5-mile radius zone to 10 miles NE of the TACAN and within 2 miles either side of the NE course of the Westover ILS localizer extending from the 5-mile radius zone to 12 miles NE of the ILS OM.

This amendment shall become effective 0001 e.s.t., February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-12042; Filed, Dec. 28, 1960; 8:45 a.m.]

[Airspace Docket No. 60-NY-95]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Control Zone

On October 13, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9814) stating that the Federal Aviation Agency proposed to modify the Wright-Patterson AFB, Ohio, control zone.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, § 601.2265 (14 CFR 601.2265) is amended to read:

§ 601.2265 Wright-Patterson AFB, Ohio, control zone.

Within a 5-mile radius of Patterson AFB (Lat. 39°49'25" N., Long. 84°02'55" W.) and within a 5-mile radius of Wright AFB (Lat. 39°46'35" N., Long. 84°06'35" W.); within 2 miles either side of the 039° True radial of the Patterson TVOR extending from the Patterson AFB 5-mile radius zone to 12 miles NE of the TVOR; and within 2 miles either side of the 054° True radial of the Patterson TACAN extending from the Patterson AFB 5-mile radius zone to 8 miles NE of the TACAN, excluding that portion which coincides with the Springfield, Ohio, control zone (§ 601.2266).

This amendment shall become effective 0001 e.s.t., March 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-12043; Filed, Dec. 28, 1960; 8:45 a.m.]

[Airspace Docket No. 60-WA-184]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification of Control Zone

On September 16, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 8911) stating that the Federal Aviation Agency (FAA) proposed to modfy the Abilene, Tex., control zone.

As stated in the notice, the Abilene control zone is presently designated within a 5-mile radius of the Abilene Municipal Airport, within 2 miles either side of the north course of the Abilene radio range extending from the radio range station to a point 10 miles north; within 2 miles either side of a direct line extending from the Abilene radio range station to and including a 5-mile radius of Dyess Air Force Base; within 2 miles either side of the 292° and the 112° True radials of the Abilene VOR extending from the Abilene Municipal Airport 5-mile radius zone to a point 5 miles northwest of the VOR; within 2 miles either side of the 354° True radial of the Abilene VOR extending from the VOR to a point 10 miles north; and within 2 miles either side of the centerline of Dyess AFB north/south runway 16/34 extending to a point 10 miles south of the end of the runway. An ILS is being installed at the Abilene Municipal Airport to serve the north/south runway. The ILS outer marker will be located at Lat. 32°18'50" N., Long. 99°41'04"W. The FAA is modifying the Abilene control zone by designating an extension 2 miles either side of the ILS localizer south course extending from the 5-mile radius zone of the Abilene Municipal Airport to the ILS outer marker; revoking the control zone extension northwest of the Abilene VOR; extending the present north extensions based on the north course of the Abilene radio range and VOR to 12 miles north of the radio range and VOR; and extending the present south extension based on the Dyess radio beacon to 12 miles south of the Dyess radio beacon. These modifications would provide protection for aircraft executing the prescribed instrument approach procedures at Abilene Municipal Airport and Dyess AFB.

The Department of the Air Force concurred in the proposed modification. However, the Aircraft Owners and Pilots Association (AOPA) questioned the need for a control zone extension between the Abilene radio range station and Dyess AFB, since no published instrument approach to Dyess AFB utilizing the radio range station appears to exist. The AOPA further questioned the need for the control zone extension south of Dyess AFB which would extend 12 miles south of the Dyess radio beacon.

The FAA concurs with the first point of the AOPA's comments and action is taken herein to eliminate the extension between the Abilene radio range and Dyess AFB from the description of the modified control zone. However, with regard to the second comment, the extension south of Dyess AFB extending from the 5-mile radius zone to 12 miles south of the Dyess radio beacon is considered necessary because aircraft executing the ADF instrument approach procedure are maneuvering less than 1,000 feet above the surface south of the radio beacon due to terrain features. If the instrument procedure required aircraft to maintain 3,400 feet MSL until crossing the radio beacon, an excessive rate of descent would be required for landing aircraft. Therefore, the FAA is modifying the Abilene control zone as proposed with the exception of the extension between Dyess AFB and the Abilene radio range station.

This action will result in the Abilene control zone being designated within a 5-mile radius of Abilene Municipal Airport (Lat. 32°25'10" N, Long. 99°41'20" W); within 2 miles either side of the Abilene ILS localizer south course extending from the 5-mile radius zone to the ILS outer marker; within 2 miles either side of the north course of the Abilene radio range extending from the 5-mile radius zone to 12 miles north of the radio range; within a 5-mile radius of Dyess AFB (Lat. 32°25'10" N, Long. 99°51'15" W); within 2 miles either side of the 112° True radial of the Abilene VOR extending from the Abilene Municipal Airport 5-mile radius zone to the Abilene VOR; within 2 miles either side of the 354° True radial of the Abilene VOR extending from the Dyess AFB 5-mile radius zone to 12 miles north of the VOR and within 2 miles either side of the 168° and 348° True bearings of the Dyess AFB RBN extending from the 5-mile radius zone to 12 miles south of the RBN.

No other comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated herein and in the Notice, § 601.2247 (14 CFR 601.2247) is amended to read:

§ 601.2247 Abilene, Tex., control zone.

Within a 5-mile radius of Abilene Municipal Airport (Lat. 32°25'10" N., Long. 99°41'20" W.); within 2 miles either side of the Abilene ILS localizer

S course extending from the Abilene Municipal Airport 5-mile radius zone to the ILS OM; within 2 miles either side of the N course of the Abilene RR extending from the Abilene Municipal Airport 5-mile radius zone to 12 miles N of the RR; within 2 miles either side of the 112° True radial of the Abilene VOR extending from the Abilene Municipal Airport 5-mile radius zone to the Abilene VOR; within a 5-mile radius of Dyess AFB (Lat. 32°25'10" N., Long. 99°51'15" W.); within 2 miles either side of the 354° True radial of the Abilene VOR extending from the Dyess AFB 5-mile radius zone to 12 miles N of the VOR and within 2 miles either side of the 168° and 348° True bearings of the Dyess AFB RBN extending from the Dyess AFB 5-mile radius zone to 12 miles S of the RBN.

This amendment shall become effective 0001 e.s.t., February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-12044; Filed, Dec. 28, 1960; 8:45 a.m.]

[Airspace Docket No. 60-WA-270]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification and Revocation of Reporting Points

The purpose of these amendments to §§ 601.4020 and 601.7001 of the regulations of the Administrator is to revoke designated reporting points that the Federal Aviation Agency has determined are no longer required for air traffic management purposes and modify the location of an existing designated reporting point. Flight progress reports over designated locations, automatically initiated by pilots, will facilitate air traffic management and assist the controller in the performance of his duties. However, due to the continuous modernization of the airway structure of the United States, the need for reporting points at particular locations is constantly being revised. Thus the actions taken herein reflect this changing need on the part of air traffic control.

Since these amendments are of a procedural nature and do not assign or reasign the use of navigable airspace, compliance with the notice and public procedure of the Administrative Procedure Act is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), the following actions are taken:

1. In the text of § 601.4020 (14 CFR 601.4020) "Gooding, Idaho nondirectional radio beacon;" is deleted.

2. In the text of § 601.7001 (14 CFR 601.7001; 25 F.R. 7489) the following changes are made:

(a) "Eagle INT: The INT of the Thermal, Calif., VORTAC 069° True and the Blythe, Calif., VOR 288° True radials." is deleted and "Eagle INT: The INT of the Twentynine Palms, Calif., VORTAC 154° True and the Blythe, Calif., VOR 288° True radials." is substituted therefor.

(b) "Petersburg, INT: The INT of the Elkins, W. Va., VOR 077° and the Grantsville, Md., VOR 191° radials." is deleted.

These amendments shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-12045; Filed, Dec. 28, 1960; 8:45 a.m.]

[Airspace Docket No. 60-LA-82]

PART 608—RESTRICTED AREAS

Modification

The purpose of this amendment to § 608.20 of the regulations of the Administrator is to modify the Arco, Idaho, Restricted Area (R-500) (Pocatello Chart).

The Arco Restricted Area is designated for use by the Atomic Energy Commission (AEC) from the surface to unlimited. The AEC has advised that the ceiling of R-500 can be safely lowered from unlimited to 20,000 feet MSL. Therefore, the Federal Aviation Agency (FAA) is modifying R-500 herein to reflect this change.

Since this amendment reduces a burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary, and it may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 8005), the following action is taken:

In § 608.20 *Idaho*, the Arco, Idaho, Restricted Area (R-500) (Pocatello Chart) (23 F.R. 8580), "Surface to unlimited." is deleted and "Surface to 20,000 feet MSL." is substituted therefor.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-12046; Filed, Dec. 28, 1960; 8:45 a.m.]

Title 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

[Order No. 231; Docket No. R-191]

PART 260—FORMS

Statement of Sales and Revenues of Independent Producers

In this proceeding the Commission has under consideration the amendment of Part 260, entitled "Statements and Reports (Schedules)" of Subchapter G, Approved Forms, Natural Gas Act, Chapter I—Federal Power Commission, Title 18—Conservation of Power, Code of Federal Regulations (18 CFR, Part 260), by the revision of § 260.5 (18 CFR 260.5) and the addition of a new section, § 260.6, so as to prescribe FPC Forms No. 301-A and No. 301-B,[1] both entitled Independent Producers Report.

Section 260.5 and the reporting requirements thereof were first prescribed by Commission Order No. 187, Docket No. R-152, issued May 11, 1956, 21 FR 3146, 15 FPC 802, prescribing FPC Form No. 301, Independent Producers Report of Natural Gas Transactions for the year ending December 31, 1955. By Order No. 198, Docket No. R-162, issued November 19, 1957, 22 FR 9385, 18 FPC 662, § 260.5 was amended to prescribe a Form 301 for the year 1956 with somewhat enlarged reporting requirements. By Order No. 214, Docket No. R-176, issued July 15, 1959, 24 FR 5755, 22 FPC 81, § 260.5 was further amended to prescribe simplified and slightly revised Forms Nos. 301 for 1957 and 1958. The forms prescribed herein are essentially the same as Form No. 301-1957 or Form No. 301-1958. Proposed Form No. 301-A corresponds to Part I of the 1957 or 1958 form, with a minor revision of format. Form No. 301-B corresponds to Parts II and III of the 1957 or 1958 form.

Forms Nos. 301-A and 301-B are prescribed hereinafter to be filed annually. Forms Nos. 301-1957 and 301-1958 were intended for use in reporting for the years 1957 and 1958, respectively. The report forms for the years 1955 and 1956 were similarly intended to cover the years 1955 and 1956, respectively.

The Commission's regulations exempt independent producers from compliance with the comprehensive accounting and reporting requirements of the Commission's regulations under the Natural Gas Act. This exemption is still continued, but the Commission's experience in the regulation of producers convinces it of the necessity for continuing to require at least the minimum data called for in the forms prescribed herein in order that the regulatory responsibilities of the Commission may be viewed in relation to the relative importance and financial effects of such regulation on the regulated producers.

General public notice of the hereinafter ordered amendment was given by

[1] Filed as part of original document.

publication of Notice of Proposed Rulemaking in the FEDERAL REGISTER on October 28, 1960 (25 F.R. 10358) and by the mailing of copies of the Notice of Proposed Rulemaking to interested parties including State and Federal regulatory agencies; that Notice being accompanied by copies of the forms as proposed. In giving notice of the proposed amendment, the Commission invited all interested parties to submit data, views, or comments not later than November 14, 1960. The several responses to that invitation included in principal part: various suggestions for revision of the formats of the forms; allegations that there is an undue reporting burden on certain signatory producers; objection to requirement that residue gas and liquid hydrocarbons be reported separately for sales under standard casinghead agreements; objection to the furnishing of information about liquid hydrocarbons; objection to requiring certain small producers to file the proposed forms; suggestion that small operators be required to report in less detail; requests for more time to file for reporting year 1959. All responses have been considered by the Commission.

The Commission finds:

(1) In view of the foregoing and upon consideration of all relevant matters presented, the amendment of the regulations under the Natural Gas Act hereinafter adopted and promulgated, including the forms approved and prescribed therein (as attached hereto), is necessary and appropriate to carry out the provisions of the Natural Gas Act; all in the manner as hereinafter provided.

(2) Good cause exists that the amendment of the Regulations under the Natural Gas Act as hereinafter adopted and promulgated including the forms approved and prescribed therein, shall become effective as hereinafter provided.

The Commission, acting pursuant to authority granted by the Natural Gas Act, particularly sections 10 and 16 thereof (52 Stat. 826, 830; 15 U.S.C. 717i, 717o) orders:

(A) Part 260 of the Commission's regulations entitled "Statements and Reports (Schedules)" of Subchapter G, Approved Forms, Natural Gas Act (18 CFR, Part 260), is hereby amended by the amendment of § 260.5 thereof (18 CFR 260.5) and the addition of a new section thereto, § 260.6, both to read as follows:

§ 260.5 Form No. 301–A, Statement of sales and revenues of independent producers.

(a) FPC Form No. 301–A Independent Producers Report, being a statement of sales of natural gas made during the reporting year (calendar year or fiscal year ending prior to July 1 next following the calendar year) under rate schedules filed with the Commission pursuant to §§ 154.92 or 154.94 of this chapter, including the instructions and schedules therein contained, is hereby approved and prescribed.

(b) Each independent producer as defined in § 154.91 of this chapter who had a rate schedule on file with the Commission, pursuant to §§ 154.92 or 154.94 of this chapter, as of the end of the reporting year, shall (1) beginning with reporting year 1960 hereafter annually prepare and file with the Commission on or before the last day of the sixth month following the close of the reporting year one copy of such FPC Form No. 301–A; and (2) for the reporting year 1959 prepare and file with the Commission on or before March 31, 1961, one copy of such FPC Form No. 301–A.

§ 260.6 Form No. 301–B, Statement of sales and revenues of independent producers.

(a) FPC Form No. 301–B Independent Producers Report, being a statement of sales of natural gas totaling two million or more Mcf made during the reporting year (calander year or fiscal year ending prior to July 1 next following the calendar year) under rate schedules filed with the Commission pursuant to §§ 154.92 or 154.94 of this chapter, including the instructions and schedules therein contained, is hereby approved and prescribed.

(b) In addition to complying with the provisions of § 260.5 of this chapter, each independent producer as defined in § 154.91 of this chapter who had a rate schedule on file with the Commission, pursuant to §§ 154.92 or 154.94 of this chapter, as of the end of the reporting year and whose sales of natural gas totaled two million or more Mcf during the reporting year shall (1) beginning with reporting year 1960 hereafter annually prepare and file with the Commission on or before the last day of the sixth month following the close of the reporting year two copies of such FPC Form No. 301–B; and (2) for the reporting year 1959 prepare and file with the Commission on or before March 31, 1961, two copies of such FPC Form No. 301–B.

(B) Forms Nos. 301–A and 301–B, as approved and prescribed in paragraph (A) above, are attached hereto.

(C) The amendment of the regulations under the Natural Gas Act as adopted and promulgated herein, including the forms approved and prescribed therein, shall become effective 30 days after the issuance of this order.

Issued: December 21, 1960.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 60–12048; Filed, Dec. 28, 1960; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Nicaragua Import Prohibitions

In § 168.5 *Individual country regulations,* the country "Nicaragua", under Parcel Post, is revised by amending the last paragraph of the item *Prohibitions,* as added by Federal Register Document 60–11601, 25 F.R. 12884–12885, by deleting "boots" where it appears therein. As so amended, the last paragraph reads as follows:

Prohibitions. * * *

Footwear, including shoes, slippers, and rubbers, except when sent as personal gifts.

(R.S. 161, as amended, secs. 501, 505, 74 Stat. 580, 581, (Pub. Law 86–682); 5 U.S.C. 22, 39 U.S.C. 501, 505)

[SEAL] HERBERT B. WARBURTON, *General Counsel.*

[F.R. Doc. 60–12056; Filed, Dec. 28, 1960; 8:46 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6523]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Foreign Corporations and Estimated Income Tax Filing Requirements for Individuals

In order to make provision in the Income Tax Regulations (26 CFR Part 1) for the use of Form 1120F by foreign corporations, and in order to conform such regulations to the amendments made to section 6015(a) of the Internal Revenue Code of 1954 by section 5 of the Act of September 14, 1960 (Public Law 86–779, 74 Stat. 1000), the regulations are amended as follows:

PARAGRAPH 1. Subparagraphs (1) and (2) of § 1.6012–2(g), are amended to read as follows:

§ 1.6012–2 Corporations required to make returns of income.

* * * * *

(g) *Returns by foreign corporations—* (1) *Nonresident foreign corporations—* (i) *In general.* A nonresident foreign corporation is not required to make a return of income if the tax liability of the corporation is fully satisfied at the source. A nonresident foreign corporation shall, however, make or have made a return with respect to that portion of its income described in § 1.881–2 upon which the tax has not been fully satisfied at the source, including such income upon which the tax is limited by tax convention. Such return shall be made on Form 1120NB for taxable years ending before December 31, 1960, and on Form 1120F for taxable years ending on or after December 31, 1960. The tax liability of a nonresident foreign corporation is not fully satisfied at the source in any case where, if it were not for the allowance of deductions to such corporation, it would be liable for tax. For example, the tax liability of a nonresident foreign corporation which is a personal holding company (as defined in section 542) is not fully satisfied at the source

if such corporation would be liable for the personal holding company tax imposed by section 541 if it were not for the fact that it may be allowed a deduction for dividends paid (as defined in section 561). See section 545, relating to the definition of undistributed personal holding company income, and section 882 (c)(1), relating to allowance of deductions only if a return is filed.

(ii) *Claim for refund.* Notwithstanding the provisions of subdivision (i) of this subparagraph, a nonresident foreign corporation shall include on its return its entire income described in § 1.881–2, whether or not the tax has been fully satisfied at the source upon a portion thereof, if a claim for refund of an overpayment of tax is made in accordance with section 6402 and §§ 301.6402–2 and 301.6402–3 of this chapter (Regulations on Procedure and Administration). However, if the overpayment to be refunded consists solely of tax deemed to have been paid under section 852(b)(3)(D), relating to undistributed capital gains of a regulated investment company, it is not necessary to include on the return the entire income described in § 1.881–2.

(iii) *Inconsistent regulations.* All regulations inconsistent with the provisions of this paragraph shall be deemed to have been modified accordingly.

(2) *Resident foreign corporations.* Every resident foreign corporation shall make or have made a return of all its income described in § 1.882–1, including such income upon which the tax is limited by tax convention. Such return shall be made on Form 1120 for taxable years ending before December 31, 1960, and on Form 1120F for taxable years ending on or after December 31, 1960.

PAR. 2. Section 1.6015(a) is amended to read as follows:

§ 1.6015(a) Statutory provisions; declaration of estimated income tax by individuals; requirement of declaration.

SEC. 6015 *Declaration of estimated income tax by individuals*—(a) *Requirement of declaration.* Every individual (other than a nonresident alien with respect to whose wages, as defined in section 3401(a), withholding under chapter 24 is not made applicable, but including every alien individual who is a resident of Puerto Rico during the entire taxable year) shall make a declaration of his estimated tax for the taxable year if—

(1) The gross income for the taxable year can reasonably be expected to exceed—

(A) $5,000, in the case of—

(i) A single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b));

(ii) A married individual not entitled under subsection (b) to file a joint declaration with his spouse; or

(iii) A married individual entitled under subsection (b) to file a joint declaration with his spouse, but only if the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed $10,000; or

(B) $10,000, in the case of—

(i) A head of a household (as defined in section 1(b)(2)); or

(ii) A surviving spouse (as defined in section 2(b)); or

(2) The gross income can reasonably be expected to include more than $200 from sources other than wages (as defined in section 3401(a)).

Notwithstanding the provisions of this subsection, no declaration is required if the estimated tax (as defined in subsection (c)) can reasonably be expected to be less than $40.

[Sec. 6015(a) as amended by sec. 5, Act of Sept. 14, 1960 (Pub. Law 86–779, 74 Stat. 1000)]

PAR. 3. Paragraph (a) of § 1.6015(a)–1 is amended to read as follows:

§ 1.6015(a)–1 Declaration of estimated income tax by individuals.

(a) *Requirement*—(1) *Taxable years beginning after December 31, 1960.* With respect to taxable years beginning after December 31, 1960, a declaration of estimated income tax by an individual is not required if the estimated tax (as defined in section 6015(c)) can reasonably be expected to be less than $40. In all other cases a declaration shall be made by every citizen of the United States, whether residing at home or abroad, every individual residing in the United States though not a citizen thereof, every nonresident alien who is a resident of Canada, Mexico, or Puerto Rico and who has wages subject to withholding at the source under section 3402, and every nonresident alien who has been, or expects to be, a resident of Puerto Rico during the entire taxable year, if—

(i) The gross income for the taxable year can reasonably be expected to exceed—

(*a*) $5,000, in the case of—

(*1*) A single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b));

(*2*) A married individual not entitled under section 6015(b) to file a joint declaration with his spouse; or

(*3*) A married individual entitled under section 6015(b) to file a joint declaration with his spouse, but only if the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed $10,000; or

(*b*) $10,000, in the case of—

(*1*) A head of a household (as defined in section 1(b)(2)); or

(*2*) A surviving spouse (as defined in section 2(b)); or

(ii) The gross income can reasonably be expected to include more than $200 from sources other than wages (as defined in section 3401(a)).

(2) *Taxable years beginning before January 1, 1961.* With respect to taxable years beginning before January 1, 1961, a declaration of estimated tax shall be made by every citizen of the United States, whether residing at home or abroad, every individual residing in the United States though not a citizen thereof, every nonresident alien who is a resident of Canada, Mexico, or Puerto Rico and who has wages subject to withholding at the source under section 3402, and every nonresident alien who has been, or expects to be, a resident of Puerto Rico during the entire taxable year, if—

(i) The gross income for the taxable year can reasonably be expected to consist of wages (as defined in section 3401(a)) and of not more than $100 from sources other than such wages, and can reasonably be expected to exceed—

(*a*) $5,000, in the case of a single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b)) or in the case of a married individual not entitled to file a joint declaration with his spouse;

(*b*) $10,000, in the case of a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b)); or

(*c*) $5,000, in the case of a married individual entitled under section 6015(b) to file a joint declaration with his spouse, and the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed $10,000; or

(ii) The gross income can reasonably be expected to include more than $100 from sources other than wages (as defined in section 3401(a)) and can reasonably be expected to exceed the sum of—

(*a*) The amount obtained by multiplying $600 by the number of exemptions to which he is entitled under section 151 plus

(*b*) $400.

Because this Treasury decision makes only technical and procedural changes, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

Approved: December 23, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

[F.R. Doc. 60–12083; Filed, Dec. 28, 1960; 8:49 a.m.]

SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 6522]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Miscellaneous Amendments

On October 1, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9408), with respect to conforming the Estate Tax Regulations (26 CFR Part 20) to sections 66(c) and 206 (a), (c), and (e) of Public Law 85–866, approved September 2, 1958, relative to the rate at which interest is to be paid on estate tax and to the payment in installments of the estate tax attributable to inclusion in the gross estate of an interest in a closely held business. After consideration of all such relevant matter as was presented by in-

terested persons regarding the rules proposed, the regulations as so published are hereby adopted, subject to the changes set forth below. Such regulations supersede the temporary regulations in Part 24 relating to Certain Estate Tax Matters under Small Business Tax Revision Act of 1958 (26 CFR 24.1–1).

PARAGRAPH 1. Section 20.6166–1 is revised by changing paragraphs (a) and (d) and by inserting a new paragraph (e)(3).

PAR. 2. Section 20.6166–4 is revised by changing paragraphs (a) and (b).

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

Approved: December 23, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

In order to conform the Estate Tax Regulations (26 CFR Part 20) to sections 66(c) and 206 (a), (c), and (e) of Public Law 85–866, approved September 2, 1958, relative to the rate at which interest is to be paid on estate tax and to the payment in installments of the estate tax attributable to inclusion in the gross estate of an interest in a closely held business, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (b) of § 20.6151–1 is amended by inserting new subparagraph (3) to read as follows:

§ 20.6151–1 Time and place for paying tax shown on the return.

* * * * *

(b) *Extension of time for paying.* * * *

(3) *Interest in a closely held business.* For provisions relating to payment in installments of the estate tax attributable to inclusion in the gross estate of an interest in a closely held business, see §§ 20.6166–1 through 20.6166–4.

PAR. 2. Section 20.6161 is amended by revising subsection (a)(2) of section 6161 and by adding a historical note to read as follows:

§ 20.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return.* * * *

(2) *Estate tax.* If the Secretary or his delegate finds—

(A) That the payment, on the due date, of any part of the amount determined by the executor as the tax imposed by chapter 11,

(B) That the payment, on the date fixed for the payment of any installment under section 6166, of any part of such installment (including any part of a deficiency prorated to an installment the date for payment of which had not arrived), or

(C) That the payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived,

would result in undue hardship to the estate, he may extend the time for payment for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax.

* * * * *

[Sec. 6161 as amended by sec. 206(c), Small Business Tax Revision Act 1958 (72 Stat. 1684)]

PAR. 3. Paragraph (a) and (c) of § 20.6161–1 are amended to read as follows:

§ 20.6161–1 Extension of time for paying tax shown on the return.

(a) In any case where the district director finds that payment on the due date of any part of the tax shown on the return, or payment of any part of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived) on the date fixed for payment thereof, would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed more than 10 years from the date prescribed in section 6151(a) for payment of the tax. See paragraph (a) of § 20.6151–1. In addition, if the district director finds that payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived would impose undue hardship upon the estate, he may extend the time for payment for a similar period or periods.

* * * * *

(c) An application for such an extension must be in writing and must contain, or be supported by, information in a written statement declaring that it is made under penalties of perjury, showing the undue hardship that would result to the estate if the requested extension were refused. The application, with the supporting information, must be filed with the district director. When received, it will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. The district director will not consider an application for such an extension of time for payment of the tax or of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived) unless the extension is applied for on or before the date fixed for payment of the tax or the installment. Similarly, the district director will not consider an application for such an extension of time for payment of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived, unless the extension is applied for on or before the date prescribed for payment of the deficiency as shown by the notice and demand from the district director. If the executor desires to obtain an additional extension of time for payment of any part of the tax shown on the return, or any part of an installment under section 6166 (including any part of a deficiency prorated to an installment), it must be applied for on or before the date of the expiration of the previous extension. The granting of the extension of time for paying the tax is discretionary with the district director and his authority will be exercised under such conditions as he may deem advisable. If, in the mistaken belief that an estate satisfies the requirements of section 6166, the executor, within the time prescribed in paragraph (e) of § 20.6166–1, files a notification of election to pay estate tax in installments, the notification of election to pay tax in installments will be treated as a timely filed application for an extension, under section 6161, of time for payment of the tax if the executor so requests, in writing, within a reasonable time after being notified by the district director that the estate does not satisfy the requirements of section 6166. A request that the election under section 6166 be treated as a timely filed application for an extension under section 6161 must contain, or be supported by, information in a written statement declaring that it is made under penalties of perjury, setting forth the period of the extension requested, and showing the undue hardship that would result if the requested extension were refused.

PAR. 4. Paragraph (a) of § 20.6161–2 is amended to read as follows:

§ 20.6161–2 Extension of time for paying deficiency in tax.

(a) In any case in which the district director finds that payment, on the date prescribed therefor, of any part of a deficiency would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed four years from the date prescribed for payment thereof. However, see § 20.6161–1 for extensions of time for payment of the part of a deficiency which is prorated to installments under the provisions of section 6166.

PAR. 5. Immediately after § 20.6165–1 the following new sections are inserted:

§ 20.6166 Statutory provisions; extension of time for payment of estate tax where estate consists largely of interest in closely held business.

SEC. 6166. *Extension of time for payment of estate tax where estate consists largely of interest in closely held business*—(a) *Extension permitted.* If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds either—

(1) 35 percent of the value of the gross estate of such decedent, or

(2) 50 percent of the taxable estate of such decedent,

the executor may elect to pay part or all of the tax imposed by section 2001 in two or more (but not exceeding 10) equal installments. Any such election shall be made not later than the time prescribed by section 6075(a) for filing the return of such tax (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe. If an election under this section is made, the provisions of this subtitle shall apply as though the Secretary or his delegate were extending the time for payment of the tax. For purposes of this section, value shall be value determined for Federal estate tax purposes.

(b) *Limitation.* The maximum amount of tax which may be paid in installments as provided in this section shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as the value of the interest in a closely held business which qualifies under subsection (a) bears to the value of the gross estate.

(c) *Closely held business.* For purposes of this section, the term "interest in a closely held business" means—

(1) An interest as a proprietor in a trade or business carried on as a proprietorship.

(2) An interest as a partner in a partnership carrying on a trade or business, if—

(A) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

(B) Such partnership had 10 or less partners,

(3) Stock in a corporation carrying on a trade or business, if—

(A) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

(B) Such corporation had 10 or less shareholders.

For purposes of this subsection, determinations shall be made as of the time immediately before the decedent's death.

(d) *Special rule for interests in two or more closely held businesses.* For purposes of subsections (a), (b), and (h)(1), interests in two or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate more than 50 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 50-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property shall be treated as having been included in determining the value of the decedent's gross estate.

(e) *Date for payment of installments.* If an election is made under subsection (a), the first installment shall be paid on or before the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is one year after the date prescribed by this subsection for payment of the preceding installment.

(f) *Proration of deficiency to installments.* If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary or his delegate. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(g) *Time for payment of interest.* If the time for payment of any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at the same time as, and as a part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary or his delegate. In applying section 6601(b) (relating to the application of the 4-percent rate of interest in the case of certain extensions of time to pay estate tax) in the case of a deficiency, the entire amount which is prorated to installments under this section shall be treated as an amount of tax the payment of which is extended under this section.

(h) *Acceleration of payment*—(1) *Withdrawal of funds from business; disposition of interest*—(A) If—

(i) Aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a), made with respect to such interest, equal or exceed 50 percent of the value of such trade or business, or

(ii) 50 percent or more in value of an interest in a closely held business which qualifies under subsection (a) is distributed, sold, exchanged, or otherwise disposed of,

then the extension of time for payment of tax provided in this section shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary or his delegate.

(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

(i) Subparagraph (A)(i) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed, and

(ii) Subparagraph (A)(ii) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (e) for payment of the first installment which becomes due after the date of the distribution, there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

(C) Subparagraph (A)(ii) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of such subparagraph as an interest qualifying under subsection (a).

(D) Subparagraph (A)(ii) does not apply to a transfer of property of the decedent by the executor to a person entitled to receive such property under the decedent's will or under the applicable law of descent and distribution.

(2) *Undistributed income of estate.* (A) If an election is made under this section and the estate has undistributed net income for any taxable year after its fourth taxable year, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

(i) The amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deduction for distributions, etc.);

(ii) The amount of tax imposed for the taxable year on the estate under chapter 1; and

(iii) The amount of the Federal estate tax (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

(3) *Failure to pay installment.* If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary or his delegate.

(i) *Transitional rules*—(1) *In general.* If—

(A) A deficiency in the tax imposed by section 2001 is assessed after the date of the enactment of this section, and

(B) The estate qualifies under paragraph (1) or (2) of subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(2) *Time of election.* An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary or his delegate for the payment of the deficiency, and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) *Effect of election on payment.* If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to the installments which would have been due if an election had been timely made under this section at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

(4) *Application of subsection (h)(2).* In the case of an election under this subsection, subsection (h)(2) shall not apply with respect to undistributed net income for any taxable year ending before January 1, 1960.

(j) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to the application of this section.

(k) *Cross references*—(1) *Interest.* For provisions requiring the payment of interest at the rate of 4 percent per annum for the period of an extension, see section 6601(b).

(2) *Security.* For authority of the Secretary or his delegate to require security in the case of an extension under this section, see section 6165.

(3) *Period of limitation.* For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

[Sec. 6166 as added by sec. 206(a) Small Business Tax Revision Act 1958 (72 Stat. 1681)]

§ 20.6166–1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

(a) *In general.* Section 6166 provides that where the value of an interest in a closely held business, which is included in the gross estate of a decedent who was a citizen or resident of the United States at the time of his death, exceeds either (1) 35 percent of the value of the gross estate, or (2) 50 percent of the taxable estate, the executor

may elect to pay part or all of the Federal estate tax in installments. The election to pay the tax in installments applies to deficiencies in tax as well as to the tax shown on the return, unless the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax. Except as otherwise provided in section 6166(i) and § 20.6166–4, the provisions of section 6166 and this section apply only if the due date of the return is after September 2, 1958. See § 20.6166–4 for special rules applicable where the decedent died after August 16, 1954, and the due date of the return was on or before September 2, 1958. See also § 20.6075–1 for the due date of the return, and § 20.6166–2 for definition of the term "interest in a closely held business". Since the election must be made on or before the due date of the return, the provisions of section 6166 will not apply to a deficiency in a case where, for whatever reason, no election was made to pay in installments the tax shown on the return. However, see paragraph (e)(3) of this section concerning a protective election. The general administrative provisions of subtitle F of the Code are applicable in connection with an election by the executor to pay the estate tax in installments in the same manner in which they are applied in a case where an extension of time under section 6161 is granted for payment of the tax. See paragraph (a) of § 20.6165–1 for provisions requiring the furnishing of security for the payment of the tax in cases where an extension is granted under section 6161.

(b) *Limitation on amount of tax payable in installments.* The amount of estate tax which the executor may elect to pay in installments is limited to an amount A, which bears the same ratio to B (the gross Federal estate tax, reduced by the credits authorized by sections 2011 through 2014 and any death tax convention) as C (the value of the interest in a closely held business which is included in the gross estate) bears to D (the value of the gross estate). Stated algebraically, the limitation (A) equals

$$\frac{\text{Value of interest in a closely held business which is included in the gross estate (C)}}{\text{Value of gross estate (D)}} \times \text{Gross Federal estate tax reduced by the credits authorized by sections 2011 through 2014 and any death tax convention (B).}$$

The executor may elect to pay in installments an amount less than the amount computed under the limitation in this paragraph. For example, if the total estate tax payable is $100,000 and the amount computed under the limitation in this paragraph is $60,000, the executor may elect to pay in installments some lesser sum such as $30,000, in which event the executor must pay $73,000 to the district director on or before the date prescribed by section 6151(a) for payment of the tax. Of such payment, $70,000 represents tax which the executor either could not elect to pay in installments or did not choose to so elect, and $3,000 represents a payment of the first installment of the tax which the executor elected to pay in installments.

(c) *Number of installments and dates for payment.* The executor may elect to pay part or all of the tax (determined after application of the limitation contained in paragraph (b) of this section) in two or more, but not exceeding 10, equal annual installments. The first installment shall be paid on or before the date prescribed by section 6151(a) for payment of the tax (see paragraph (a) of § 20.6151–1), and each succeeding installment shall be paid on or before the date which is one year after the date prescribed for the payment of the preceding installment. See § 20.6166–3 for the circumstances under which the privilege of paying the tax in installments will terminate.

(d) *Deficiencies.* The amount of a deficiency which may be paid in installments shall not exceed the difference between the amount of tax which the executor elected to pay in installments and the maximum amount of tax (determined under paragraph (b) of this section) which the executor could have elected to pay in installments on the basis of a return which reflects the adjustments which resulted in the deficiency. This amount is then prorated to the installments in which the executor elected to pay the tax. The part of the deficiency prorated to installments not yet due shall be paid at the same time as, and as a part of, such installments. The part of the deficiency prorated to installments already paid or due shall be paid upon notice and demand from the district director. At the time the executor receives such notice and demand he may, of course, prepay the portions of the deficiency which have been prorated to installments not yet due. See paragraph (h) of this section.

(e) *Notice of election*—(1) *Filing of notice.* The notice of election to pay the estate tax in installments shall be filed with the district director on or before the due date of the return. However, if the due date of the return is after September 2, 1958, but before November 3, 1958, the election will be considered as timely made if the notice is filed with the district director on or before November 3, 1958. See § 20.6075–1 for the due date of the return.

(2) *Form of notice.* The notice of election to pay the estate tax in installments may be in the form of a letter addressed to the district director. The executor shall state in the notice the amount of tax which he elects to pay in installments, and the total number of installments (including the installment due 15 months after the date of the decedent's death) in which he elects to pay the tax. The properties in the gross estate which constitute the decedent's interest in a closely held business should be listed in the notice, and identified by the schedule and item number at which they appear on the estate tax return. The notice should set forth the facts which formed the basis for the executor's conclusion that the estate qualifies for the payment of the estate tax in installments.

(3) *Protective election.* In a case where the estate does not qualify under section 6166(a) on the basis of the values as returned, or where the return shows no tax as due, an election may be made, contingent upon the values as finally determined meeting the percentage requirements set forth in section 6166(a), to pay in installments any portion of the estate tax, including a deficiency, which may be unpaid at the time of such final determination and which does not exceed the limitation provided in section 6166(b). The protective election must be made on or before the due date of the return and should state that it is a protective election. In the absence of a statement in the protective election as to the amount of tax to be paid in installments and the number of installments, the election will be presumed to be made for the maximum amount so payable and for the payment thereof in 10 equal annual installments, the first of which would have been due on the date prescribed in section 6151(a) for payment of the tax. The unpaid portion of the tax which may be paid in installments is prorated to the installments which would have been due if the provisions of section 6166(a) had applied to the tax, if any, shown on the return. The part of the unpaid portion of the tax so prorated to installments the date for payment of which would not have arrived before the deficiency is assessed shall be paid at the time such installments would have been due. The part of the unpaid portion of the tax so prorated to any installment the date for payment of which would have arrived before the deficiency is assessed shall be paid upon receipt of notice and demand from the district director. At the time the executor receives such notice and demand he may, of course, prepay the unpaid portions of the tax which have been prorated to installments not yet due. See paragraph (h) of this section.

(f) *Time for paying interest.* Under the provisions of section 6601, interest at the rate of 4 percent per annum shall be paid on the unpaid balance of the estate tax which the executor has elected to pay in installments, and on the unpaid balance of any deficiency prorated to the installments. Interest on such unpaid balance of estate tax shall be paid annually at the same time as, and as a part of, each installment of the tax. Accordingly, interest is computed on the entire unpaid balance for the period from the preceding installment date to the current installment date, and is paid with the current installment. In making such a computation, proper adjustment shall be made for any advance payments made during the period, whether the advance payments are voluntary or are brought about by the operation of section 6166(h)(2). In computing the annual interest payment, the portion of any deficiency which is prorated to installments the date for payment of which has not arrived shall be added to the unpaid balance at the beginning of the annual period during which the assessment of the deficiency occurs. Interest on such

portion of the deficiency for the period from the original due date of the tax to the date fixed for the payment of the last installment preceding the date of assessment of a deficiency shall be paid upon notice and demand from the district director. Any extension of time under section 6161(a)(2) (on account of undue hardship to the estate) for payment of an installment will not extend the time for payment of the interest which is due on the installment date.

(g) *Extensions of time for payment in hardship cases.* The provisions of section 6161, under which extensions of time may be granted for payment of estate tax in cases involving undue hardship, apply to both the portion of the tax which may be paid in installments under section 6166 and the portion of the tax which is not so payable. Therefore, in a case involving undue hardship, the executor may elect under section 6166 to pay in installments the portion of the tax which is attributable to the interest in the closely held business and, in addition, may file an application under section 6161 for an extension of time to pay both the portion of the tax which is not attributable to the interest in the closely held business and such of the installments as are payable within the period of the requested extension. If an executor files a notice of election to pay the tax in installments and thereafter it is determined that the estate does not qualify for the privilege of paying the tax in installments, the executor is not deprived of the right to request an extension under section 6161 of time for payment of the tax to which the purported election applied. See § 20.6161–1 for the circumstances under which a timely filed election to pay the tax in installments will be treated as a timely filed application for an extension of time to pay the tax on account of undue hardship to the estate.

(h) *Prepayments.* Voluntary prepayment may be made at any time of all, or of any part, of the unpaid portion of the tax (including deficiencies) payable in installments. Voluntary prepayments shall be applied in payment of such installments, installment, or part of an installment as the person making the prepayment shall designate. For purposes of this paragraph, a payment described in paragraph (d)(2) of § 20.6166–3 of tax in an amount not less than the amount of money or other property distributed in a section 303 redemption is considered to be a voluntary prepayment to the extent paid before the date prescribed for payment of the first installment after the redemption or, if paid on the date prescribed for payment of such installment, to the extent it exceeds the amount due on the installment. See paragraph (b)(3) of § 20.6166–3 for the application to be made of the prepayment required by section 6166(h)(2).

§ 20.6166–2 Definition of an interest in a closely held business.

(a) *In general.* For purposes of §§ 20.6166–1, 20.6166–3, and 20.6166–4, the term "interest in a closely held business" means

(1) An interest as a proprietor in a trade or business carried on as a proprietorship.

(2) An interest as a partner in a partnership carrying on a trade or business if 20 percent or more of the total capital interest in the partnership is included in determining the decedent's gross estate or if the partnership had 10 or less partners.

(3) Stock in a corporation carrying on a trade or business if 20 percent or more in value of the voting stock of the corporation is included in determining the decedent's gross estate or if the corporation had 10 or less shareholders.

(b) *Number of partners or shareholders.* The number of partners of the partnership or shareholders of the corporation is determined as of the time immediately before the decedent's death. Where an interest in a partnership, or stock in a corporation, is the community property of husband and wife, both the husband and the wife are counted as partners or shareholders in arriving at the number of partners or shareholders. Similarly, if stock is held by coowners, tenants in common, tenants by the entirety, or joint tenants, each coowner, tenant in common, tenant by the entirety, or joint tenant is counted as a shareholder.

(c) *Carrying on a trade or business.* (1) In order for the interest in a partnership or the stock of a corporation to qualify as an interest in a closely held business it is necessary that the partnership or the corporation be engaged in carrying on a trade or business at the time of the decedent's death. However, it is not necessary that all the assets of the partnership or the corporation be utilized in the carrying on of the trade or business.

(2) In the case of a trade or business carried on as a proprietorship, the interest in the closely held business includes only those assets of the decedent which were actually utilized by him in the trade or business. Thus, if a building was used by the decedent in part as a personal residence and in part for the carrying on of a mercantile business, the part of the building used as a residence does not form any part of the interest in the closely held business. Whether an asset will be considered as used in the trade or business will depend on the facts and circumstances of the particular case. For example, if a bank account was held by the decedent in his individual name (as distinguished from the trade or business name) and it can be clearly shown that the amount on deposit represents working capital of the business as well as nonbusiness funds (e.g., receipts from investments, such as dividends and interest), then that part of the amount on deposit which represents working capital of the business will constitute a part of the interest in the closely held business. On the other hand, if a bank account is held by the decedent in the trade or business name and it can be shown that the amount represents nonbusiness funds as well as working capital, then only that part of the amount on deposit which represents working capital of the business will constitute a part of the interest in the closely held business. In a case where an interest in a partnership or stock of a corporation qualifies as an interest in a closely held business, the decedent's entire interest in the partnership, or the decedent's entire holding of stock in the corporation, constitutes an interest in a closely held business even though a portion of the partnership or corporate assets is used for a purpose other than the carrying on of a trade or business.

(d) *Interests in two or more closely held businesses.* For purposes of paragraphs (a) and (b) of § 20.6166–1 and paragraphs (d) and (e) of § 20.6166–3, interests in two or more closely held businesses shall be treated as an interest in a single closely held business if more than 50 percent of the total value of each such business is included in determining the value of the decedent's gross estate. For the purpose of the 50 percent requirement set forth in the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in community property shall be considered as having been included in determining the value of the decedent's gross estate.

§ 20.6166–3 Acceleration of payment.

(a) *In general.* Under the circumstances described in this section all or a part of the tax which the executor has elected to pay in installments shall be paid before the dates fixed for payment of the installments. Upon an estate's having undistributed net income described in paragraph (b) of this section for any taxable year after its fourth taxable year, the executor shall pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments. Upon the happening of any of the events described in paragraphs (c), (d), and (e) of this section, any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the district director.

(b) *Undistributed net income of estate.* (1) If an estate has undistributed net income for any taxable year after its fourth taxable year, the executor shall pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments. The amount shall be paid to the district director on or before the time prescribed for the filing of the estate's income tax return for such taxable year. For this purpose extensions of time granted for the filing of the income tax return are taken into consideration in determining the time prescribed for filing the return and making such payment. In determining the number of taxable years, a short taxable year is counted as if it were a full taxable year.

(2) The term "undistributed net income" of the estate for any taxable year for purposes of this section is the amount by which the distributable net income of the estate, as defined in section 643, exceeds the sum of—

(i) The amount for such year specified in section 661(a) (1) and (2),

(ii) The amount of the Federal income tax imposed on the estate for such

taxable year under chapter 1 of the Code, and

(iii) The amount of the Federal estate tax, including interest thereon, paid for the estate during such taxable year (other than any amount paid by reason of the application of this acceleration rule).

(3) The payment described in subparagraph (1) of this paragraph shall be applied against the total unpaid portion of the tax which the executor elected to pay in installments, and shall be divided equally among the installments due after the date of such payment. The application of this subparagraph may be illustrated by the following example:

Example. The decedent died on January 1, 1959. The executor elects under section 6166 to pay tax in the amount of $100,000 in 10 installments of $10,000. The first installment is due on April 1, 1960. The estate files its income tax returns on a calendar year basis. For its fifth taxable year (calendar year 1963) it has undistributed net income of $6,000. If the prepayment of $6,000 required by section 6166(h)(2)(A), and due on or before April 15, 1964, is paid before the fifth installment (due April 1, 1964), the $6,000 is apportioned equally among installments 5 through 10, leaving $9,000 as the amount due on each of such installments. However, if the prepayment of $6,000 is paid after the fifth installment, it is apportioned equally among installments 6 through 10, leaving $8,800 as the amount due on each of such installments.

(c) *Failure to pay installment on or before due date.* If any installment of tax is not paid on or before the date fixed for its payment (including any extension of time for the payment thereof), the whole of the unpaid portion of the tax which is payable in installments becomes due and shall be paid upon notice and demand from the district director. See paragraph (c) of § 20.6166–1 for the dates fixed for the payment of installments. See also § 20.6161–1 for the circumstances under which an extension of time for the payment of an installment will be granted.

(d) *Withdrawal of funds from business.* (1) In any case where money or other property is withdrawn from the trade or business and the aggregate withdrawals of money or other property equal or exceed 50 percent of the value of the trade or business, the privilege of paying the tax in installments terminates and the whole of the unpaid portion of the tax which is payable in installments becomes due and shall be paid upon notice and demand from the district director. The withdrawals of money or other property from the trade or business must be in connection with the interest therein included in the gross estate, and must equal or exceed 50 percent of the value of the entire trade or business (and not just 50 percent of the value of the interest therein included in the gross estate). The withdrawal must be a withdrawal of money or other property which constitutes "included property" within the meaning of that term as used in paragraph (d) of § 20.2032–1. The provisions of this section do not apply to the withdrawal of money or other property which constitutes "excluded property" within the meaning of that term as used in such paragraph (d).

(2) If a distribution in redemption of stock is (by reason of the provisions of section 303 or so much of section 304 as relates to section 303) treated for income tax purposes as a distribution in full payment in exchange for the stock so redeemed, the amount of such distribution is not counted as a withdrawal of money or other property made with respect to the decedent's interest in the trade or business for purposes of determining whether the withdrawals of money or other property made with respect to the decedent's interest in the trade or business equal or exceed 50 percent of the value of the trade or business. However, in the case described in the preceding sentence the value of the trade or business for purposes of applying the rule set forth in subparagraph (1) of this paragraph is the value thereof reduced by the proportionate part thereof which such distribution represents. The proportionate part of the value of the trade or business which the distribution represents is determined at the time of the distribution, but the reduction in the value of the trade or business represented by it relates back to the time of the decedent's death, or the alternate valuation date if an election is made under section 2032, for purposes of determining whether other withdrawals with respect to the decedent's interest in the trade or business constitute withdrawals equaling or exceeding 50 percent of the value of the trade or business. See example (3) of paragraph (e)(6) of this section for illustration of this principle. The rule stated in the first sentence of this subparagraph does not apply unless after the redemption, but on or before the date prescribed for payment of the first installment which becomes due after the redemption, there is paid an amount of estate tax not less than the amount of money or other property distributed. Where there are a series of section 303 redemptions, each redemption is treated separately and the failure of one redemption to qualify under the rule stated in the first sentence of this subparagraph does not necessarily mean that another redemption will not qualify.

(3) The application of this paragraph may be illustrated by the following examples, in each of which the executor elected to pay the estate tax in installments:

Example (1). A, who died on July 1, 1957, owned an 80 percent interest in a partnership which qualified as an interest in a closely held business. B owned the other 20 percent interest in the partnership. On the date of A's death the value of the business was $200,000 and the value of A's interest therein was included in his gross estate at $160,000. On October 1, 1958, when the value of the business was the same as at A's death, the executor withdrew $80,000 from the business. On December 1, 1958, when the value of the remaining portion of the business was $160,000, the executor withdrew $20,000 from the business and B withdrew $10,000. On February 1, 1959, when the value of the then remaining portion of the business was $150,000 the executor withdrew $15,000. The withdrawals of money or other property from the trade or business with respect to the interest therein included in the gross estate are considered as not having equaled or exceeded 50 percent of the value of the trade or business until February 1, 1959. The executor is considered as having withdrawn 40 percent of the value of the trade or business on October 1, 1958, computed as follows:

$$\frac{\$80{,}000 \text{ (withdrawal)}}{\$200{,}000 \text{ (value of trade or business at time of withdrawal)}} \times 100 \text{ percent} = 40 \text{ percent}$$

Immediately following the October withdrawal the remaining portion of the business represents 60 percent of the value of the trade or business in existence at the time of A's death (100 percent less 40 percent withdrawn). The executor is considered as having withdrawn 7.5 percent of the value of the trade or business on December 1, 1958, and B as having withdrawn 3.75 percent of the value thereof at that time, computed as follows:

Executor's withdrawal—

$$\frac{\$20{,}000 \text{ (withdrawal)}}{\$160{,}000 \text{ (value of trade or business at time of withdrawal)}} \times 60 \text{ percent} = 7.5 \text{ percent}$$

B's withdrawal—

$$\frac{\$10{,}000 \text{ (withdrawal)}}{\$160{,}000 \text{ (value of trade or business at time of withdrawal)}} \times 60 \text{ percent} = 3.75 \text{ percent}$$

Immediately following the December withdrawal the then remaining portion of the business represented 48.75 percent of the value of the trade or business in existence at the time of A's death (100 percent less 40 percent withdrawn by executor in October, 7.5 percent withdrawn by executor in December, and 3.75 percent withdrawn by B in December). It should be noted that while at this point the total withdrawals by the executor and B from the trade or business exceed 50 percent of the value thereof, the aggregate of the withdrawals by the executor were less than 50 percent of the value of the trade or business. Also it should be noted that while the total withdrawals by the executor exceeded 50 percent of the value of A's interest in the trade or business, they did not exceed 50 percent of the value of the entire trade or business. The executor is considered as having withdrawn 4.875 percent of the value of the trade or business on February 1, 1959, computed as follows:

$$\frac{\$15{,}000 \text{ (withdrawal)}}{\$150{,}000 \text{ (value of trade or business at time of withdrawal)}} \times 48.75 \text{ percent} = 4.875 \text{ percent}$$

As of February 1, 1959, the total withdrawals from the trade or business made with respect to A's interest therein was 52.375 percent of the value of the trade or business.

Example (2). The decedent's 40-percent interest in the XYZ partnership constituted an interest in a closely held business. Since the decedent's interest in the closely held

business amounted to less than 50 percent of the value of the business, money or other property equaling or exceeding 50 percent of the value of the business could not be withdrawn from the decedent's interest in the business. Therefore, withdrawals of money or other property from this trade or business never would accelerate the payment of the tax under the provisions of this paragraph.

Example (3). The decedent died on September 1, 1957. He owned 100 shares of B Corporation (the total number of shares outstanding at the time of his death) and a 75 percent interest in a partnership of which C was the other partner. The B Corporation stock and the interest in the partnership together make up the interest in the closely held business which was included in the decedent's gross estate. The B Corporation stock was included in the gross estate at a value of $400,000 and the interest in the partnership was included at a value of $300,000. On November 1, 1957, at which time the value of the corporation's assets had not changed, in a section 303 redemption the executor surrendered 26 shares of B Corporation stock for $104,000. On December 1, 1957, at which time the value of the partnership's assets had not changed, the partners withdrew 90 percent of the assets of the partnership, with the executor receiving $270,000 and C receiving $90,000. The estate tax amounts to $240,000, of which the executor elected under section 6166 to pay $140,000 in 10 installments of $14,000 each. On December 1, 1958, the due date for paying the estate tax which was not payable in installments and for paying the first installment under section 6166, the executor paid estate tax of $114,000, of which $100,000 represented the tax not payable in installments and $14,000 represented the first installment. Inasmuch as after the section 303 distribution and on or before the due date of the first installment (December 1, 1958) after the section 303 distribution the executor paid as estate tax an amount not less than the amount of the distribution, the section 303 distribution does not constitute a withdrawal of money or other property from the business for purposes of section 6166(h)(1). Therefore, the value of the trade or business is reduced by the amount of the section 303 distribution. Accordingly, the value of the entire trade or business is $696,000, of which $400,000 represents the value of the partnership and $296,000 represents the value of the B Corporation stock. Since the executor is considered as having withdrawn only $270,000 (the withdrawal from the partnership) from the trade or business, the withdrawal of money or other property from the trade or business made with respect to the decedent's interest therein was $\frac{270,000}{696,000}$ of the value of the entire trade or business, or less than 50 percent thereof.

(e) *Disposition of interest in business.* (1) In any case where in the aggregate 50 percent or more of the decedent's interest in a closely held business has been distributed, sold, exchanged, or otherwise disposed of, the privilege of paying the tax in installments terminates and the whole of the unpaid portion of the tax which is payable in installments becomes due and shall be paid upon notice and demand from the district director. A transfer by the executor of an interest in the closely held business to a beneficiary or trustee named in the decedent's will or to an heir who is entitled to receive it under the applicable intestacy law does not constitute a distribution thereof for purposes of determining whether 50 percent or more of an interest in a closely held business has been distributed, sold, exchanged, or otherwise disposed of. However, a subsequent transfer of the interest by the beneficiary, trustee, or heir will constitute a distribution, sale, exchange, or other disposition thereof for such purposes. The disposition must be a disposition of an interest which constitutes "included property" within the meaning of that term as used in paragraph (d) of § 20.2032–1. The provisions of this section do not apply to the disposition of an interest which constitutes "excluded property" within the meaning of that term as used in such paragraph (d).

(2) The phrase "distributed, sold, exchanged, or otherwise disposed of" comprehends all possible ways by which an interest in a closely held business ceases to form a part of the gross estate. The term includes the surrender of a stock certificate for corporate assets in complete or partial liquidation of a corporation pursuant to section 331. The term also includes the surrender of stock for stock pursuant to a transaction described in subparagraphs (A), (B), or (C) of section 368(a)(1). In general the term does not, however, extend to transactions which are mere changes in form. It does not include a transfer of assets to a corporation in exchange for its stock in a transaction with respect to which no gain or loss would be recognizable for income tax purposes under section 351. It does not include an exchange of stock in a corporation for stock in the same corporation or another corporation pursuant to a plan of reorganization described in subparagraphs (D), (E), or (F) of section 368(a)(1), nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies. However, any stock received in an exchange to which the two preceding sentences apply shall for purposes of this paragraph be treated as an interest in a closely held business.

(3) An interest in a closely held business may be "distributed" by either a trustee who received it from the executor, or a trustee of an interest which is included in the gross estate under sections 2035 through 2038, or section 2041. See subparagraph (1) of this paragraph relative to the distribution of an interest by the executor to the person entitled to receive it under the decedent's will or an intestacy law.

(4) An interest in a closely held business may be "sold, exchanged, or otherwise disposed of" by (i) the executor; (ii) a trustee or other donee to whom the decedent in his lifetime transferred the interest included in his gross estate under section 2035 through 2038, or section 2041; (iii) a beneficiary, trustee, or heir entitled to receive the property from the executor under the decedent's will or under the applicable law of descent and distribution, or to whom title to the interest passed directly under local law; (iv) a surviving joint tenant or tenant by the entirety; or (v) any other person.

(5) If a distribution in redemption of stock is (by reason of the provisions of section 303 or so much of section 304 as relates to section 303) treated for income tax purposes as a distribution in full payment in exchange for the stock redeemed, the stock so redeemed is not counted as distributed, sold, exchanged, or otherwise disposed of for purposes of determining whether 50 percent or more of the decedent's interest in a closely held business has been distributed, sold, exchanged, or otherwise disposed of. However, in the case described in the preceding sentence the interest in the closely held business for purposes of applying the rule set forth in subparagraph (1) of this paragraph is such interest reduced by the proportionate part thereof which the redeemed stock represents. The proportionate part of the interest which the redeemed stock represents is determined at the time of the redemption, but the reduction in the interest represented by it relates back to the time of the decedent's death, or the alternate valuation date if an election is made under section 2032, for purposes of determining whether other distributions, sales, exchanges, and dispositions of the decedent's interest in the closely held business equal or exceed in the aggregate 50 percent of such interest. See example (3) of subparagraph (6) of this paragraph for illustration of this principle. The rule stated in the first sentence of this subparagraph does not apply unless after the redemption, but on or before the date prescribed for payment of the first installment which becomes due after the redemption, there is paid an amount of estate tax not less than the amount of money or other property distributed. Where there are a series of section 303 redemptions, each redemption is treated separately and the failure of one redemption to qualify under the rule stated in the first sentence of this subparagraph does not necessarily mean that another redemption will not qualify.

(6) The application of this paragraph may be illustrated by the following examples, in each of which the executor elected to pay the tax in installments:

Example (1). The decedent died on October 1, 1957. He owned 8,000 of the 12,000 shares of D Corporation outstanding at the time of his death and 3,000 of the 5,000 shares of E Corporation outstanding at that time. The D Corporation stock was included in the gross estate at $50 per share, or a total of $400,000. The E Corporation stock was included in the gross estate at $100 per share, or a total of $300,000. On November 1, 1958, the executor sold the 3,000 shares of E Corporation and on February 1, 1959, he sold 1,000 shares of D Corporation. Since the decedent's shares of D Corporation and E Corporation together constituted the interest in a closely held business, the value of such interest was $700,000 ($400,000 plus $300,000) and the D Corporation stock represented $\frac{400,000}{700,000}$ thereof and the E Corporation stock represented $\frac{300,000}{700,000}$ thereof. While the sale of 3,000 shares of E Corporation on November 1, 1958, was a sale of the decedent's entire interest in E Corporation and a sale of more than 50 percent of the outstanding stock of E Corporation, nevertheless it constituted a sale of only $\frac{300,000}{700,000}$ of the interest in the closely held business. The sale of 1,000 shares of D Corporation stock on February 1, 1959, represented a sale of $\frac{50,000}{700,000}$ of the interest in the closely held business. The numerator of $50,000 is determined as follows:

$$\frac{1{,}000 \text{ (shares sold)}}{8{,}000 \text{ (shares owned)}} \times \$400{,}000 \text{ (value of shares owned, as included in gross estate)}$$

Taken together the two sales represented a sale of 50 percent $\left(\frac{350{,}000}{700{,}000}\right)$ of the interest in the closely held business. Therefore, as of February 1, 1959 (the date of the sale of 1,000 shares of E Corporation), 50 percent or more in value of the interest in the closely held business is considered as distributed, sold, exchanged, or otherwise disposed of.

Example (2). The decedent died on September 1, 1958. The interest owned by him in a closely held business consisted of 100 shares of the M Corporation. On February 1, 1959, in a section 303 redemption, 20 shares were redeemed for cash and an amount equivalent to the proceeds was paid on the Federal estate tax before the date of the next installment. On July 1, 1959, the executor sold 40 of the remaining shares of the stock. The section 303 redemption is not considered to be a distribution, sale, exchange, or other disposition of the portion of the interest represented by the 20 shares redeemed. As a result of the section 303 redemption the remaining 80 shares represent the decedent's entire interest in the closely held business for purposes of determining whether in the aggregate 50 percent or more of the interest in the closely held business has been distributed, sold, exchanged, or otherwise disposed of. The sale on July 1, 1959, of the 40 shares represents a sale of 50 percent of the interest in the closely held business.

Example (3). The facts are the same as in example (2) except that the 40 shares were sold on December 1, 1958 (before the section 303 redemption was made) instead of on July 1, 1959 (after the section 303 redemption was made). The sale of the 40 shares in December represents, as of that date, a sale of 40 percent of the interest in the closely held business. However, the section 303 redemption of 20 shares does not count as a distribution, sale, exchange, or other disposition of the interest, but it does reduce the interest to 80 shares (100 shares less 20 shares redeemed) for purposes of determining whether other distributions, sales, exchanges, and dispositions in the aggregate equal or exceed 50 percent of the interest in the closely held business. Since the reduction of the interest to 80 shares relates back to the time of the decedent's death, or the alternate valuation date if an election is made under section 2032, the sale of the 40 shares, as recomputed represents a sale of 50 percent of the interest. However, since the sale of the 40 shares did not represent a sale of 50 percent of the interest until the section 303 distribution was made, February 1, 1959 (the date of the section 303 distribution) is considered the date on which 50 percent of the interest was distributed, sold, exchanged, or otherwise disposed of.

(f) *Information to be furnished by executor.* (1) If the executor acquires knowledge of the happening of any transaction described in paragraph (d) or (e) of this section which, in his opinion, standing alone or when taken together with other transactions of which he has knowledge, would result in

(i) Aggregate withdrawals of money or other property from the trade or business equal to or exceeding 50 percent of the value of the entire trade or business, or

(ii) Aggregate distributions, sales, exchanges, and other dispositions equal to or exceeding 50 percent of the interest in the closely held business which was included in the gross estate,

the executor shall so notify the district director, in writing, within 30 days of acquiring such knowledge.

(2) On the date fixed for payment of each installment of tax (determined without regard to any extension of time for the payment thereof), other than the final installment, the executor shall furnish the district director, in writing, with either

(i) A complete disclosure of all transactions described in paragraphs (d) and (e) of this section of which he has knowledge and which have not previously been made known by him to the district director, or

(ii) A statement that to the best knowledge of the executor all transactions described in paragraphs (d) and (e) of this section which have occurred have not produced a result described in subparagraph (1) (i) or (ii) of this paragraph.

(3) The district director may require the submission of such additional information as is deemed necessary to establish the estate's right to continue payment of the tax in installments.

§ 20.6166–4 Special rules applicable where due date of return was before September 3, 1958.

(a) *In general.* Section 206(f) of the Small Business Tax Revision Act of 1958 (72 Stat. 1685) provides that section 6166(i) of the Code shall apply in cases where the decedent died after August 16, 1954, but only if the date for filing the estate tax return (including extensions thereof) expired before September 3, 1958. Therefore, the privilege of paying the estate tax in installments as described in §§ 20.6166–1 through 20.6166–3 is available also in cases where the due date of the return is before September 3, 1958, but under somewhat different circumstances. These differences are explained in paragraphs (b) through (e) of this section. Therefore, except as otherwise provided in paragraphs (b) through (e) of this section, the regulations contained in §§ 20.6166–1 through 20.6166–3 apply also in cases where the due date of the return is before September 3, 1958. See § 20.6075–1 for the due date of the return. The value of the gross estate as determined for purposes of a deficiency in tax assessed after September 2, 1958, and the value at which the interest in the closely held business, to which the election applies, is included in such value of the gross estate are used in ascertaining whether an estate coming within the purview of section 6166(i) and this section satisfies the percentage requirements as to qualification set forth in section 6166(a).

(b) *Tax to which election applies.* In a case where the due date of the return was before September 3, 1958, an election to pay estate tax in installments does not apply to the tax shown on the return nor to a deficiency in tax assessed before that date. It does apply to a deficiency in tax assessed after September 2, 1958, unless the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax. The amount of the deficiency which may be paid in installments shall not exceed that proportion of the total tax (including the deficiency) which is determined by applying thereto the ratio set forth in paragraph (b) of § 20.6166–1. See paragraph (c) of this section for the method of prorating the deficiency to the installments.

(c) *Proration of deficiency to installments.* The deficiency in tax which may be paid in installments is prorated to the installments which would have been due if the provisions of section 6166(a) had applied to the tax shown on the return and if an election had been timely made at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived before the election is made shall be paid at the time the election is made. The portion of the deficiency so prorated to installments the date for payment of which would not have arrived before the election is made shall be paid at the time such installments would have been due if such an election had been made.

(d) *Notice of election.* The notice of election to pay the deficiency in installments shall be filed with the district director not later than 60 days after issuance of notice and demand by the district director for payment of the deficiency. The number of installments in which the executor elects to pay the deficiency includes those installments the dates for payment of which would have arrived within the meaning of paragraph (c) of this section. See paragraph (c)(2) of § 20.6166–1 for further information relative to the notice of election.

(e) *Undistributed income of estate.* In any case where the due date of the estate tax return was before September 3, 1958, the provisions of paragraph (b) of § 20.6166–3 (providing for acceleration of payment of estate tax by amount of estate's undistributed net income for any taxable year after its fourth taxable year) shall not apply with respect to the estate's undistributed net income for any taxable year ending before January 1, 1960.

PAR. 6. Section 20.6601 is amended by revising subsection (b) of section 6601 and by adding a historical note to read as follows:

§ 20.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.

SEC. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax.* * * *

(b) *Extensions of time for payment of estate tax.* If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6161(a)(2) or 6166, or if the time for payment of an amount of such tax is postponed or extended as provided by section 6163, interest shall be paid at the rate of 4 percent, in lieu of 6 percent as provided in subsection (a).

* * * * *

[Sec. 6601 as amended by sec. 66(c), Technical Amendments Act 1958 (72 Stat. 1658); sec. 206(e), Small Business Tax Revision Act 1958 (72 Stat. 1685)]

[F.R. Doc. 60–12082; Filed, Dec. 28, 1960; 8:49 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER H—PASSENGER VESSELS

[CGFR 60–36a]

PART 75—LIFESAVING EQUIPMENT

Subpart 75.20—Equipment for Lifeboats, Life Rafts, Life Floats, and Buoyant Apparatus

LIFEBOATS

The Coast Guard document CGFR 60–36 (F.R. document 60–10395) contained miscellaneous amendments to the vessel inspection regulations and was published as Part II of the FEDERAL REGISTER dated November 5, 1960. Among the changes set forth in this document were revised requirements for "painters" for lifeboats. In listing the required equipment for lifeboats for passenger vessels, Table 75.20–10(a) was reprinted in its entirety (25 F.R. 10627). The revised requirements were intended to include a change in the number of required "painters" from "1" to "2" for Great Lakes passenger vessels while no change in the quantity of "storm oil" required was contemplated. However, a mistake was made in Table 75.20–10(a) under the heading "Great Lakes" (fourth column), when the quantity for "storm oil" (opposite letter identification "y") was increased from "1" to "2" while no change is indicated for "painter" (opposite letter identification "z").

By virtue of the authority vested in me as Commandant, United States Coast Guard by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167–9, dated August 3, 1954 (19 F.R. 5915), 167–14, dated November 28, 1954 (19 F.R. 8026), 167–20, dated June 18, 1956 (21 F.R. 4894), CGFR 56–28, dated July 24, 1956 (21 F.R. 5659), and 167–38, dated October 26, 1959 (24 F.R. 8857), and in accordance with the authority in R.S. 4405, as amended, 4462, as amended, 4426, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, and sec. 3, 68 Stat. 675 (46 U.S.C. 375, 416, 404, 481, 489, 367, 1333, 390b, 50 U.S.C. 198), the Table 75.20–10(a) in § 75.20–10(a), regarding required equipment for lifeboats (25 F.R. 10627), is amended in the fourth column under heading "Great Lakes" by changing "2" to "1" opposite letter identification "y" for item "oil, storm (gallons)," and by changing "1" to "2" opposite the letter identification "z" for the item "painter."

Dated: December 22, 1960.

[SEAL] A. C. RICHMOND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 60–12086; Filed, Dec. 28, 1960; 8:49 a.m.]

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 22, Rev., Amdt. 5]

PART 282—UNIFORM SYSTEM OF ACCOUNTS FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACTORS

Part 282 is hereby amended as follows:

1. Amend § 282.301 Capital Reserve Fund by changing the heading of paragraphs (a) and (b), and adding a new paragraph (c) to read as follows:

§ 282.301 Capital Reserve Fund.

* * * * *

(a) *301–1 Cash and securities, non-trust.* * * *

(b) *301–2 Discounts and premiums, non-trust.* * * *

(c) *301–3 Common Stock Trust.* This account shall be charged with the amount of the non-trust portion of the Capital Reserve Fund transferred to the Capital Reserve Fund-Common Stock Trust, the acquisition cost of common stock in which the trust is invested, the income, capital gains, and other principal, and shall be credited with withdrawals therefrom and capital losses in accordance with the provisions of section 607(d) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administrator may issue. Subsidiary accounts of the Capital Reserve Fund-Common Stock Trust are to be maintained to record cash, common stocks, and other principal.

2. Amend § 282.302 Special Reserve Fund by changing the heading of paragraphs (a) and (b), and adding a new paragraph (c) to read as follows:

§ 282.302 Special Reserve Fund.

* * * * *

(a) *302–1 Cash and securties, non-trust.* * * *

(b) *302–2 Discounts and premiums, non-trust.* * * *

(c) *302–3 Common Stock Trust.* This account shall be charged with the amount of the non-trust portion of the Special Reserve Fund transferred to the Special Reserve Fund-Common Stock Trust, the acquisition cost of common stock in which the trust is invested, the income, capital gains, and other principal, and shall be credited with withdrawals therefrom and capital losses in accordance with the provisions of section 607(d) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administrator may issue. Subsidiary accounts of the Special Reserve Fund-Common Stock Trust are to be maintained to record cash, common stocks, and other principal.

3. Three new sections are added as follows:

§ 282.307 Escrow funds.

This account shall be charged with the amounts required to be deposited in the Escrow fund and credited with disbursements therefrom, in connection with the insurance of loans and mortgages financed by sale of bonds to the general public, pursuant to the provisions of section 1111 of the Merchant Marine Act, 1936, as amended, and/or the provisions of contracts or agreements as may be entered into. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

§ 282.308 Construction funds.

This account shall be charged with the amounts required to be deposited therein, representing the difference between the principal of insured bonds and the principal amount required to be deposited in the Escrow fund or such other amounts required by contracts or agreements entered into, and shall be credited with authorized disbursements therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

§ 282.310 Restricted funds.

This account shall be established at the time of the first deposit required therein, and shall be charged with deposits pursuant to the provisions of contracts or agreements. This account shall be credited with authorized withdrawals therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

4. Amend § 282.525 to read as follows:

§ 282.525 Long-term debt.

This account shall be subdivided as set forth in §§ 282.526, 282.527, 282.530, and 282.534.

5. Add a new section following § 282.526, to read as follows:

§ 282.527 U.S. Government insured Merchant Marine mortgage bonds and mortgage notes.

This account shall include all U.S. Government insured Merchant Marine mortgage bonds and mortgage notes issued pursuant to the provisions of contracts or agreements, and shall be maintained by vessel.

6. Amend § 282.530 *Mortgage bonds and debentures* by changing the title and text to read as follows:

§ 282.530 Other mortgage bonds and debentures.

This account shall include the face amount of bonds and debentures not provided for in other accounts and shall be maintained to show full particulars in respect to each issue outstanding. Reacquired bonds and debentures shall be charged to this account at face amount.

7. Amend § 282.779 by changing the example of charges pertaining to Canal tolls to read as follows:

§ 282.779 **Other port expenses.**

* * * * *

Canal tolls other than Panama Canal, Suez Canal, and Saint Lawrence Seaway (see account 795).

8. Amend § 282.795 to read as follows:

§ 282.795 **Canal tolls.**

This account shall include only the cost of tolls levied against vessels for traversing the Panama Canal, Suez Canal, and Saint Lawrence Seaway. Tolls assessed for passage through other canals shall be included in account 779, "Other port expenses."

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114; sec. 607, P.L. 85–637 (72 Stat. 592); sec. 1111, P.L. 86–127 (73 Stat. 272)

Dated: November 22, 1960.

By order of the Maritime Administrator.

THOMAS LISI,
Secretary.

[F.R. Doc. 60–12051; Filed, Dec. 28, 1960; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 125—RAILROAD ACCIDENTS; REPORTS AND CLASSIFICATION

Monthly Reports of Railroad Accidents

At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 8th day of December 1960.

The matter of rules governing monthly reports of railroad accidents being under consideration, and

It appearing that representatives of the Commission have been participating in conferences with representatives designated by the Association of American Railroads, the American Short Line Railroad Association, and the Railway Labor Executives' Association for the purpose of revising the Rules Governing Monthly Reports of Railroad Accidents in conformance with the Accident Reports Act as amended by Public Law 86–762, 74 Stat. 903, approved September 13, 1960, and in conformance with certain recommendations of interested parties; and

It further appearing that full agreement on the revised rules as set forth herein has been reached by the representatives mentioned above;

And it further appearing that the revised rules appear to be noncontroversial, and that rule-making procedures under section 4(a) of the Administrative Procedure Act, 5 U.S.C. 1003 are unnecessary and impracticable;

It is ordered, That common carriers subject to the Accident Reports Act (45 U.S.C. 38–43), shall make to the Commission monthly reports of accidents in the form and manner set forth in Appendix A attached hereto, and made a part hereof;

It is further ordered, That 49 CFR § 125.9 to § 125.60, inclusive, be deleted in their entirety and that § 125.9 to § 125.12, and § 125.14 to § 125.60, both inclusive, as set forth below, be substituted therefor;

It is further ordered, That the Commission's order of November 23, 1956, entitled "Rules Governing Monthly Reports of Railroad Accidents," and supplemental orders of December 27, 1956, and of July 25 and December 23, 1957, be, and they are hereby, vacated and set aside, effective February 1, 1961, except insofar as they apply to reports of accidents occurring before January 1, 1961;

It is further ordered, That a copy of this order shall be served on the common carriers subject to the provisions of the Accident Reports Act, and that notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the FEDERAL REGISTER;

And it is further ordered, That this order shall be effective February 1, 1961, and shall apply to all accidents occurring on and after January 1, 1961.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

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125.50 Classification of persons.

CODES FOR ACCIDENT REPORTING

Sec.
125.55 Codes for accident reporting.

ELECTRIC RAILWAYS

125.60 Electric railways; Form of report.

AUTHORITY: §§ 125.9 to 125.60 issued under sec. 12, 24 Stat. 383, as amended, 49 U.S.C. 12; sec. 1–sec. 7, as amended, 36 Stat. 350, as amended, 45 U.S.C. 38–43, as amended. Interpret or apply sec. 20, as amended, 24 Stat. 386, as amended, 49 U.S.C. 20.

GENERAL INSTRUCTIONS

§ 125.9 Public examination of reports only after approval.

Accident reports made by railroads in compliance with the rules in this part shall be for the information of the Commission and shall be open to public inspection only upon prior approval of an application by this Commission. Applications for public inspection will be granted if the Commission is satisfied that such inspection will not result in a violation of section 4 of the Accident Reports Act and is for the purpose of obtaining information to be presented before Federal and other governmental bodies, or which will contribute to the promotion of safety in railroad operations.

§ 125.10 Purpose.

The purpose of reporting accidents and injuries to persons arising from the operation of a railroad to this Commission is to carry out the intent of Congress as expressed in the Accident Reports Act, as amended, namely the disclosure of hazards arising in the provision of common carrier transportation by railroad. The purpose of this revision of the accident reporting rules is to implement the amendment of September 13, 1960, and to improve further the quality and accuracy of reporting.

§ 125.11 Definition of the phrase "Arising from the operation of such railroad."

Section 7 of the Accident Reports Act, as amended, defines the phrase "arising from the operation of such railroad", as used in the Act, to "include all activities of the railroad which are related to the performance of its transportation business." The scope of this definition includes all the usual activities of a railroad. Insofar as employees on duty are concerned, it includes all such employees as are reported to this Commission under the "Rules Governing the Classification of Railroad Employees and Reports of their Service and Compensation" (Part 127 of this chapter).

§ 125.12 Definition of "Accidents".

An accident is a collision, derailment or other accidental event resulting in death or injury to any person or damage to equipment or roadbed. As used in the rules in this part, an "accident" presupposes an occurrence. An "injury" is the result of an accident.

§ 125.14 Accidents to be reported.

An accident which results in one or more of the following:

(a) Death of a person: A death resulting from an accident within 24 hours immediately following the accident is

reportable as a fatality; if death occurs after the expiration of the 24-hour period, the casualty is reportable as an injury and also as a subsequent fatality.

(b) Injury to an employee on duty sufficient to incapacitate him from performing fully and acceptably and without extra assistance all the duties customarily included in the assignment of the employee at the time of the injury for more than 24 hours in the aggregate during the 10 days (240 hours) immediately following the accident. Under this subsection, incapacitation includes Sundays, holidays, and lay-off days, and begins whenever the pain or inconvenience resulting from the accident becomes so serious that it would prevent the injured person from performing all of his duties, whether or not there is necessity or opportunity for him to do so at the time. Incapacitation ends whenever the injured person has recovered sufficiently to be able to resume performance of all his duties whether or not there is necessity or opportunity for him to do so at the time.

(c) Injury to any person other than an employee on duty if the injury is sufficient to incapacitate the injured person from following his customary vocation or mode of life for more than 24 hours in the aggregate during the 10 days (240 hours) immediately following the accident.

(d) Collisions, derailments, or other train accidents with more than $750 damage to equipment, track, or roadbed, excluding cost of clearing wreck. The term "other train accident" does not include equipment failures resulting from ordinary wear and tear.

§ 125.15 Accidents or occurrences not to be reported.

(a) Accidents at highway or street crossings, or on parts of highways within railroad rights-of-way, not involving the presence or operations of trains, locomotives, cars, track cars, or similar equipment and not involving employees then engaged in the operation of a railroad;

(b) Accidents in or about living quarters not arising from the operation of a railroad;

(c) Disability resulting from illness or disease, only of the person afflicted;

(d) Suicides as determined by a coroner or other public authority, or attempted suicides; and

(e) The consequences of horseplay, insofar as the participants are concerned.

§ 125.16 Doubtful cases.

Whenever any person declares that he has been injured in an accident arising from the operation of a railroad and the carrier involved denies the allegation, the reporting railroad must report the case, but may designate it as "claimed but not admitted by the carrier", or otherwise as may be appropriate, with a statement of the carrier's position thereon. Even though there may be no witness to an accident, if there is any evidence which indicates that an accident may have occurred, a report of an accident must be made. In contrast, if there is no evidence of an accident due to the operation of a railroad, the occurrence should not be reported.

§ 125.17 Joint operations.

(a) "Joint operations" is a term intended to cover operations conducted on terminal or other tracks used jointly or in common by two or more reporting carriers, or where the equipment of one carrier moves as its own train over the track of another carrier.

(b) Locomotives, with or without crews, if loaned or leased by one carrier to another, are not thereby made subject to the rules relative to "joint operations".

(c) Trains or locomotives of a nonreporting carrier which may become involved in reportable accidents on the line of a reporting carrier do not fall under the rules pertaining to "joint operations"; such accidents, however, must be included in the report of the reporting carrier.

(d) If a reportable accident occurs on a private siding or track of like character, it must be reported by the carrier having possession of the locomotive concerned or employing the persons involved, but not as a joint-operation accident.

(e) The question of responsibility among carriers for accidents classifiable under the rules applicable to joint operations is not to be considered in relation to the making of reports concerning them, but all carriers involved must make reports as respectively required.

(f) Train accidents resulting in death or injury or damage to equipment, track, or roadbed, in excess of $750, or collisions, derailments, or other accidents, with damage to equipment, track, or roadbed in excess of $750, occurring on tracks used by two or more reporting carriers must be severally reported by the carrier or carriers whose equipment or employees are involved and the carrier whose superintendent is in immediate charge of the track on which the accident occurs. Each carrier concerned in such an accident must report the death or injury, if any, and the damage to its equipment and other items of expense as provided in the report form and state (estimating, if unknown) the death or injury, if any, and the amount of damage sustained by the other carriers involved, the names of which must be respectively indicated before casualties and the items of damage. If a reportable train accident, though occurring on jointly used track, involves only the equipment and employees of the carrier whose superintendent is in immediate charge of such track, the accident must be reported only by the carrier concerned.

(g) Train-service accidents occurring on terminal or other tracks used jointly or in common by two or more reporting carriers must be reported by each of the carriers concerned.

(h) Death or injury to railroad employees on an adjacent track of another railroad must be reported by both railroads, whether or not a joint operation is involved.

Classification of Railroad Accidents

§ 125.21 Primary groups and their definitions.

Sections 125.21 to 125.24, relating to classification of railroad accidents, are intended solely as a guide to reporting and do not limit in any way those accidents to be reported, as set forth in § 125.14.

Reportable railroad accidents are divided into three groups:

GROUP I—TRAIN ACCIDENTS
GROUP II—TRAIN-SERVICE ACCIDENTS
GROUP III—NONTRAIN ACCIDENTS

(a) *Group I.* Train accidents are those arising from the operation or movement of trains, locomotives, or cars which result in:

(1) A reportable death or injury and more than $750 damage to equipment, track or roadbed[1]; or

(2) A collision, derailment or other train accident, with more than $750 damage to equipment, track or roadbed.[1]

(b) *Group II.* Train-service accidents are those arising from the operation or movement of trains, locomotives, or cars which result in a reportable death or injury but not more than $750 damage to equipment, track, or roadbed.[1]

(c) *Group III.* Nontrain accidents are those which do not result from the operation or movement of trains, locomotives, or cars.

GROUP I—TRAIN ACCIDENTS

§ 125.22 Classification.

Train accidents should be classified as:

(a) A collision (Class C), which is an impact of a train, locomotive, or car with some other train, locomotive, or car while both are on rails. Accidents, however, in which cars not in suitable condition to withstand common train usage, that when coupled in trains, may be damaged through ordinary train movements, should be classified as other train accidents, and not as collisions. Accidents caused by trains, etc., striking bumping posts, or track motor cars and like roadway machines not equipped with A.A.R. couplers, except when operating under train rules and subject to the protection afforded to trains, are not classified as collisions.

(1) Reports of collisions, in addition to furnishing the information required by sections of these rules having general application, should describe briefly the method of operation in use for the track involved, stating whether a signal system was in use, and, if in use, whether it was manual, controlled manual or automatic block, interlocking or C.T.C., cab signal or automatic train control. For collisions involving any question of train orders, the information should show whether they were on Form "19" or Form "31" (A.A.R. Standard Code of Train Rules).

(2) In the case of a collision, the number of main tracks in use in the locality of the accident should be stated.

(3) Collisions should be classified as follows:

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[1] Excluding cost of clearing wreck.

(i) *Rear-end collisions.* A rear-end collision is a collision in which the trains or locomotives involved are bound in the same direction on the same track.[2]

(ii) *Head-on collisions.* A head-on collision is a collision in which the trains or locomotives involved are bound in opposite directions on the same track.[2]

(iii) *Broken-train collisions.* A broken-train collision is a collision in which a moving train breaks into parts and a violent impact of two or more of the uncoupled parts of the same train occurs, or one or more of the parts collide with another train, locomotive, or car. Collisions in which the equipment involved is employed in a switching movement are not to be included in this class.

(iv) *Side or raking collisions.* This class does not include collisions of trains with cars classifiable under subdivision (vi) of this subparagraph or collisions of equipment employed in switching movements classifiable under subdivision (vii) of this subparagraph. An accident caused by parts of equipment on one track coming in contact with equipment on a parallel track should not be classified as a collision, but as a miscellaneous train accident, unless a derailment occurs.

(v) *Crossing collisions at railroad crossings.* The term "crossing collisions at railroad crossings" is used herein to mean collisions occurring at crossings or junctions involving trains, locomotives, or cars operated on the intersecting tracks.[3] This class does not include accidents due to striking automobiles or other highway vehicles.

(vi) *Collisions of trains with cars not in trains.* This class does not include collisions of trains with cars, subject by train rules to the protection afforded to trains, which should be classified, under subdivisions (i), (ii), (iii), (iv) or (v) of this subparagraph in accordance with the circumstances of the particular cases.

(vii) *Switching collisions.* The term "switching collisions" is used herein to mean collisions occurring to equipment being switched, as in making or breaking up trains, shifting or setting out cars, etc., including accidents to locomotives involved in such service. A collision should not receive this classification when two or more locomotives, trains, or cuts of cars are involved unless both or all such units of equipment are employed in switching movements at the time of accident, but it should be classified under subdivisions (i), (ii), (iii), (iv), (v), (vi), or (vii) of this subparagraph in accordance with the circumstances of the particular case.

(viii) *Collisions not elsewhere classifiable.* This class includes collisions between light locomotives moving to or from servicing facilities; also collisions between a locomotive and cars of a train or cut of cars occurring in recoupling the locomotive after it has been cut off for servicing, but does not include collisions between locomotives and cars while engaged in switching movements as described in subdivision (vii) of this subparagraph.

(b) (1) Derailment (Class D): In reporting derailments the information required by provisions of these rules having general application must be furnished, and this must be indicated in particular, by initials and number, or name, the equipment causing the derailment. The term "derailment" does not include derailment of track-motor cars and like roadway machines not equipped with A.A.R. couplers.

(2) If a derailment is the result of a public highway grade-crossing accident, a Supplement to a Form T, in addition to a Form T must be supplied.

(c) (1) Other train accidents (Class O) include all train accidents other than collisions and derailments, as defined in § 125.21.

(2) If any such other train accident is the result of a public highway grade-crossing accident, a Supplement to a Form T, in addition to a Form T, must be supplied.

GROUP II—TRAIN SERVICE ACCIDENTS

§ 125.23 Train service accidents.

(a) (Class S) are those arising from the operation or movement of trains, locomotives, or cars which result in a reportable death or injury but not more than $750 damage to equipment, track or roadbed, excluding cost of clearing wreck.

(b) If a train-service accident is the result of a public highway grade-crossing accident, a Supplement to a Form T, in addition to a Form T, must be supplied.

GROUP III—NONTRAIN ACCIDENTS

§ 125.24 Nontrain accidents (Class N).

This group covers accidents that do not occur directly in connection with the operation or movement of trains, locomotives, or cars. Examples of this class would be accidents occurring in connection with the construction, repair or painting of buildings, tracks, or other structures or equipment, accidents in offices, stations, and shops, and accidents to employees on duty while traveling off railroad property. This group includes reportable accidents resulting from the movement of locomotives or cars on shop tracks, or the movement of locomotives at servicing facilities by inside hostlers. Accidents in which injuries are received by trackmen, bridge and building men, and other classes of employees or other persons and which are caused by trains, locomotives, or cars striking hand cars, tools, or other objects, should be appropriately reported as train accidents or train service accidents.

FORM AND ARRANGEMENT OF REPORTS

§ 125.25 Forms used and duplicate reports.

(a) Sections 125.25 to 125.32 on form and arrangement are intended solely as a guide to reporting, and do not limit in any way those accidents to be reported, as set forth in § 125.14.

(b) Monthly reports of railroad accidents must be made on forms provided by the Interstate Commerce Commission or on forms identical therewith in arrangement, size, and in color and weight of paper, and every reporting carrier is required to retain in its files a duplicate of each report rendered to the Commission. For the reporting railroads' files, this duplicate must also show the name or names of the casualty or casualties reported and the precise location at which the accident occurred. The forms provided, which are of four kinds, are designated as Form V, T, Supplement to T, and F.

(c) The first sheet of each report must show in the appropriate place the name of the company for which it is filed; the following sheets may designate the name of the company by a commonly used short version or initials. Each sheet of each report must show the month and year to which the report relates, and all other particulars called for by the form. Each sheet of each report following Form V must bear the autograph signature of a responsible officer or employee.

§ 125.26 Form V (Verification).

(a) A report must be made on this form each month, even though no reportable (train, train-service, or nontrain) accident occurred during the month covered. Such report must include an oath or verification, made by the proper officer of the reporting carrier, as provided for attestation on Form V, which must show the total number of train, train-service, and nontrain accidents (whether reported on Form V or Form T) that occurred during the month for which the report is made, and the number of sheets, inclusive of Form V. If no reportable accident occurred during the month, that fact must be stated on this form. Form V must also show the total number of locomotive and motor-train miles run during the month, computed in accordance with Train-Mile, Locomotive-Mile and Car-Mile accounts in the Uniform System of Accounts for Railroad Companies prescribed by the Interstate Commerce Commission.

(b) In the calendar year 1961 reportable train-service and nontrain accidents of the following type may be reported in sections A and B of Form V: all reportable accidents involving only employees on duty in which there is no death or no disability of more than 72 hours in the aggregate during the 10 days (240 hours) immediately following the accident. Alternatively if the carrier desires, these accidents may be reported on Form T sheets as provided in § 125.27. All such accidents must be reported, but they may be reported in either of the methods described in this paragraph.

§ 125.27 Form T (Train, train-service, and nontrain accidents).

(a) In the calendar year 1961 a separate Form T sheet, showing the required particulars concerning the accident, must be used for each reportable train,

[2] The time-table or schedule direction, when applicable, should govern the classification of collisions in classes § 125.22(a)(3)(i) and (ii) if at the time of the accident either of the trains or locomotives is at rest or if its incidental movement temporarily differs from its schedule direction.

[3] Crossing collisions must be reported by each carrier affected. Items of damage and casualties to persons must be reported in the same manner as described in connection with "joint operation" accidents, § 125.17.

train-service and nontrain accident except for those accidents involving employees on duty which may be reported in section A and B of Form V as provided in § 125.26. Where a reportable accident results in any injury which must be reported on a Form T sheet, all reportable injuries resulting from such accident must be included on the Form T sheet, and none reported in sections A and B of Form V. If the carrier desires, each accident no matter of what type may be reported on separate Form T sheet, but no accident should be reported twice.

(b) In the calendar year 1962 and in subsequent years, a separate Form T sheet (or a modified Form T sheet approved by this Commission) must be used for each reportable train accident, train-service accident, or nontrain accident and must show the required particulars concerning the accident.

(c) Information called for by each of the questions shown on T sheets must be supplied except where the answers would not be significant, in which case the space provided for the answer may be left blank or blanked out.

§ 125.28 Supplemental Form T.

A Supplement to each Form T sheet also must be used for each reportable:

(a) Derailment due to highway grade-crossing accident;

(b) Other train accident due to a highway grade-crossing accident;

(c) Train-service accident due to a highway grade-crossing accident.

§ 125.30 Form F (Subsequent fatalities).

If, as the result of an injury, a person dies more than 24 hours after the occurrence of the accident the casualty must be reported as an injury and, in addition, a memorandum of the death must be given on Form F in accordance with the requirements of that form. This additional report is to be made in connection with the report for the month in which the accident occurred, if practicable, otherwise it must separately accompany the first monthly report filed after the death has come to the knowledge of the carrier. A single Form F may contain reports of more than one such fatality, provided all persons included therein were injured during the same month.

§ 125.31 Classification symbols.

Symbols indicating the class of train, train-service, or nontrain accidents and the class of persons involved should be entered in the appropriate spaces on Form T as follows:

(a) *Class of accident.* Sheets carrying reports of collisions are to be marked "C"; those relating to derailments, "D"; those relating to other train accidents, "O"; those relating to train-service accidents, "S", and those relating to nontrain, N.

(b) *Class of person.* The designation of the class of person should include the applicable capital letter preceding the name of the class. The number of the "Reporting Division" with such other descriptive detail as may be appropriate should be added in the case of employees.

§ 125.32 Arrangement and numbering of sheets.

(a) All the forms in a monthly report should be arranged in the order V, T, and F. Supplements to T sheets should follow the T sheet to which each refers. All Forms T should be further grouped in accordance with the character of the accidents and arranged in the order C, D, O, S, and N. Collisions should be subgrouped in order by subclasses; as, for example, all of C–1, followed by all of C-2, followed in turn by all of C–3, etc., throughout the series. All sheets are to be numbered consecutively beginning with number 1 for Form V each month. When properly arranged and numbered, all sheets including Form V, should be securely fastened.

(b) In no case should the report for any month include a Form T sheet completed for an accident that did not occur during the month covered by the report. Should it be discovered by a carrier that the report of a particular accident on a Form T has, through mistake or otherwise, been improperly omitted from its regular monthly accident report, the sheet covering such accident must be separately transmitted to the Bureau of Transport Economics and Statistics, with a suitable letter of explanation.

PARTICULARS TO BE REPORTED

§ 125.40 General.

(a) The codes shown in the index § 125.55, have been designed, so far as that is practicable, to indicate the primary causes of the accidents reported. As to each specific reportable accident, the Reporting Officer should first examine all the evidence available, to the railroad from which he should determine the cause of accident. The code number should be entered on the Form T sheet to be sent to the Interstate Commerce Commission.

(b) In addition to reporting the number of the code under which each accident should be classified, the Reporting Officer should supply sufficient information to not only enable the Interstate Commerce Commission to verify the code number selected but also to classify all other data called for as they pertain to each of the accidents reported.

§ 125.41 Yard.

A system of tracks within defined limits provided for the making up or breaking up of trains, for the storing of cars, and for other purposes over which movements not authorized by timetable, or by train order, may be made, subject to prescribed signals and rules or under special instructions.

§ 125.42 Train, locomotives and cars.

For the purpose of reporting railroad accidents, a train is defined as a unit of equipment, or a combination of units of equipment (exclusive of light locomotives), in condition for movement over tracks by self-contained motor equipment. A locomotive is a self-propelled unit of equipment designed solely for moving other equipment. A light locomotive is a locomotive in condition for movement by its own motor equipment, uncoupled to cars, work equipment, or dead locomotives. A motor car is a self-propelled unit of equipment designed to carry freight or passenger traffic, and is not to be considered a locomotive. (Train or train-service accidents may result from the movement of cars without the use of a locomotive.) Track motor cars and like roadway machines not equipped with A.A.R. couplers are not regarded as "cars" within the meaning here used.

In reporting accidents involving trains, locomotives, or cars, sufficient particulars should be given to show definitely to which of the four classes of service described below the equipment was assigned. Definite information is required in this respect and descriptive terms of local application, such as "milk", "transfer", "mine", etc., should not be used to designate classes of trains. In connection with this matter, a light engine involved in an accident should be classified as belonging to that class of service to which its assignment at the time of the accident was related.

(a) Transportation service-Freight includes trains run between terminals or stations containing loaded or empty freight-train cars and trains consisting of a locomotive and caboose running light in connection with such service. Trains which contain passenger-train cars shall be classed as freight trains whenever the number of freight-train cars is in excess of the number of passenger-train cars in them.[4]

(b) Transportation service-Passenger includes trains run between terminals or stations containing loaded or empty passenger-train cars. Trains which contain freight-train cars shall be classed as passenger trains whenever the number of passenger-train cars is in excess of the number of freight-train cars in them.[4]

(c) Work service includes nonrevenue trains run in the administration and upkeep service of the railroad, such as official trains, inspection trains, pay trains, special trains running with company fire apparatus to save the railroad's property from destruction, and trains run for the purpose of transporting the railroad's employees to and from work when no transportation charge is made; wrecking trains; construction and upkeep trains run in connection with maintenance and improvement work, the cost of operating such trains being chargeable to the appropriate capital or maintenance accounts for rail-line operations; and material and supply trains run in connection with operation.

Work service trains do not include solid fuel trains and other freight trains laden with company material and running from station to station under the same operating conditions as ordinary revenue freight trains.

(d) Yard service includes the handling of equipment being switched or used in switching other equipment, as, for example, in making up or breaking up trains, serving industrial tracks, stor-

[4] Passenger-equipped box or refrigerator cars are counted as passenger-train cars.

ing, weighing, or classifying cars, and other like operations. Operations incidental to a road run when performed by a road train crew are not included.

When significant, state the number of cars in the train; where and when locomotives, cars, and brakes were last inspected; and under what orders the train was moving and what were its rights of track at the particular time and place of the accident.

§ 125.43 Negligence of employees.

(a) All of the codes of causes in § 125.55 numbered between 1000 and 1988, and some but not all of those numbered between 5000 and 5988, refer to those situations in which it is known that the direct or immediate cause of the train or train-service accident was the negligence, mistake, or misconduct of railroad employees. These include such matters as, for example, improper handling of switches, misunderstanding of or error in giving signals, excessive speed in violation of instructions, failure of trackmen to protect while replacing rails, etc.

(b) All of the codes of causes not specifically referred to in the preceding paragraph refer to those situations in which it is known that the direct or immediate cause of the accident was not the negligence, mistake, or misconduct of railroad employees. In these instances there may or may not be present an indirect negligence of railroad employees which contributed to the accident. These include such matters as, for example the failure of inspectors or maintenance men to discover defects in equipment, track, and roadbed. Because a complete knowledge of these matters cannot be acquired, it is not practicable to place such accidents in usable categories which would indicate contributary negligence. Therefore they should be reported in their proper codes as defects.

(c) There is another form of contributary negligence which is brought about by a prior direct negligence. For example, the prior negligence of a first crew in running through a switch may be the contributing cause of a following train being derailed. But to the crew of the following train, this accident was due to a defective switch and not necessarily its own negligence. Such an accident should be reported under the proper one of the cause codes which go to defective track.

§ 125.44 Defective equipment.

(a) All of the codes of causes in § 125.55 numbered 2000 to 2888, and some but not all of those numbered between 5000 and 5988, refer to those situations in which it is known that defects in or failure of equipment were the direct or immediate cause of the train or train-service accident. The report should show whenever significant, details as to:

Number and initials of locomotive or car,
Manufacturer and type of equipment or part,
Weight, number, and other identifying marks,
Year of manufacture and year of placing in service,
When, where, and by what class of employees the equipment was last inspected, whether any defects were noted, and, if any, what remedies were applied.

(b) The following relates to explanation of certain specific codes:

(1) On locomotives other than steam, Code 2110, relates only to fires in wiring connecting electrical apparatus. Fires within electrical apparatus should be listed under the respective kinds of electrical equipment involved (see Codes 2103 to 2107, inclusive).

(2) Fires caused by steam generating boiler or appurtenances should be coded under that equipment in Code 2109 and not in Code 2112.

(3) Body center plate should be coded in Code 2210.

(4) Body side bearings should be coded in Code 2213.

§ 125.45 Defective way and structures.

All of the codes of causes in § 125.55 numbered 3000 to 3588, and some but not all of those numbered between 5000 and 5988, refer to those situations in which it is known that defects in or improper maintenance of way and structures were the direct or immediate cause of the train or train-service accident, including accidents which occur as the result of ordinary wear and weather conditions. The report should show, whenever significant:

Manufacture and type of apparatus or part,
Weight, number, and other identifying marks,
Year of manufacture and year of placing in service,
When and by what class of employee inspected, whether any defects were noted, and, if any, what remedies were applied.

§ 125.46 Accidents due to miscellaneous causes.

Included in this category are train accidents in codes of causes numbered 4000 to 4388 in § 125.55, and train-service accidents in codes of causes numbered 5800 to 5988. This category includes accidents caused by coal, ballast or parts of equipment or lading of another train falling on or afoul of track, throwing track out of alignment or wedging in switch, and other unforeseen happenings or obstructions of similar character. Parts of the equipment or lading of a train which, by falling on or afoul of the track, cause an accident to the same train, are not to be regarded as obstructions classifiable under 4300 to 4388 codes, but should be properly classified under other appropriate codes.

§ 125.47 Casualties.

In reporting casualties to persons, personal injuries should be sufficiently described to indicate:

(a) The part of body injured and the specific nature and extent of the injury received which should be reported in sufficient detail to enable the Interstate Commerce Commission to classify the injury. Indefinite terms such as "mashed", "crushed", "injured", "hurt", etc., should not be used. In case of loss of any part, the extent should be indicated, as, for example, tip of index finger of right hand, two middle fingers to second joint of left hand, left arm to elbow, loss of right eye, etc.

(b) The actual number of days of disability if ascertained at the time the report is made but, if the disability has not terminated by that time or is not ascertainable, an estimate of the number should be shown in the appropriate column on Form T, or the absence of an estimate fully explained. When the injury is of a permanent nature, that fact may be stated in lieu of the number of days' disability.

(c) The degree to which the person is maimed, if at all.

§ 125.48 Damage.

(a) The question on Form T which calls for the amount of damage occasioned by an accident should be answered only in the case of train accidents. The question should not be answered as to train-service or nontrain accidents.

(b) Amounts of damage should not only include damage to equipment (including damage to foreign cars), track, or roadbed of the reporting railroad but should include comparable expenses of all reporting railroads. Other expenses of reporting railroads occasioned by the accident (such as overhead, cost of clearing wrecks, loss and damage, etc.), all expenses of nonreporting railroads, and contingent expenses because of personal injuries are not to be included. If the amount of damage is not known at the time the report is filed, it should be estimated as accurately as practicable and the fact that it is estimated should be stated.

CLASSIFICATION OF PERSONS

§ 125.50 Classification of persons.

For the purpose of permitting an appropriate classification, sufficient particulars of each person involved in a train, train-service, or nontrain accident should be given on Form T. The aggregate of all persons of each class involved in all railway accidents should be given on Form V.

The classes "employees" (A and B) apply to any person having such classification or relationship to a reporting railroad. As used herein, it is intended to include every person in the service of the reporting carrier who is subject to its continuing authority to supervise and direct the manner of rendering his service.

When a casualty is known or believed to be an employee of another reporting railroad that fact should be stated and appropriate class symbols indicating the customary occupation of the employee, with the name of the railroad by which he is employed, should be entered.

(a) *Employees on duty; class (A).* Employees on duty are those persons who are engaged in the operation of a railroad as herein defined in § 125.11 above. Ordinarily the fact that the employee is or is not under pay will determine whether he is or is not "on duty". There may, however, be exceptions such as employees "trading time" or doing work which they are expected to do but actually perform before pay starts or after pay stops. Such persons must be considered as "employees on duty".

(b) *Employees not on duty; class (B).* (1) Employees not on duty are those persons who are on railroad property, before and after duty; for purposes con-

nected with their employment; or with other railroad permission. An employee is "not on duty" until he actually begins duty in the operation of a railroad as herein defined in § 125.11; while he has been relieved from the performance of any and all service for a definite time; when he has wilfully left the vicinity of his post of duty contrary to accepted or tolerated practice; or when he has completed his duty.

(2) Employees (including members of train and engine crews deadheading between terminals) on trains for the purpose of travel and riding in that part of the train assigned to the use of passengers should be included in class (D) as passengers. Employees trespassing should be included in class (F) as trespassers.

(c) *List of employee reporting divisions.* The following list of 128 Reporting Divisions into which all the distinctive classes of railroad positions are grouped is derived from the "Rules Governing the Classification of Steam Railroad Employees and Reports of Their Service and Compensation" prescribed by the Interstate Commerce Commission to be effective on January 1, 1951 (§§ 127.1 to 127.7 of this chapter). The returns on all accident report forms should, with respect to the classification of employees, be made in conformity with these Reporting Divisions. For each employee reported on Form T or Form V as killed or injured there should be given the correct number of the Reporting Division to which the employee is properly assignable, and also, in the case of Form T, the pay-roll or distinctive class title of his occupational position. The letter (A) or (B) should be used to indicate respectively whether he was on or off duty at the time of accident. Abbreviations or contractions may be used in the indication of position titles if their meaning is sufficiently clear. For example, to indicate a casualty sustained by a road freight brakeman (through freight) on duty, the proper designation of class of person on Form T should be A–117, Road freight brakemen and flagmen (through freight), while that of a casualty incurred in a train or train-service accident by a train attendant on duty would be A–101, Train attendants.

LIST OF REPORTING DIVISIONS FOR EMPLOYEES

Division No. — *Reporting division*

I—EXECUTIVES, OFFICIALS, AND STAFF ASSISTANTS

1 Executives, general officers, and assistants.
2 Division officers, assistants, and staff assistants.

II—PROFESSIONAL, CLERICAL, AND GENERAL

3 Professional and subprofessional assistance.
4 Supervisory or chief clerks (major departments).
5 Chief clerks (minor departments) and assistant chief clerks and supervising cashiers.
6 Clerks and clerical specialists (A).
7 Clerks (B) and (C).
8 Mechanical device operators (office).
9 Stenographers and secretaries (A).
10 Stenographers and typists (B).
11 Storekeepers, sales agents, and buyers.
12 Ticket agents and assistant ticket agents.
13 Traveling auditors or accountants.
14 Telephone switchboard operators and office assistants.
15 Messengers and office boys.
16 Elevator operators and other office attendants.
17 Lieutenants and sergeants of police.
18 Patrolmen and watchmen.
19 Traffic and various other agents, inspectors, and investigators.
20 Claim agents or investigators.
21 Freight claim agents or investigators.
22 Chief claim agents or investigators.
23 Miscellaneous trade workers (other than plumbers).
24 Motor vehicle and motor car operators.
25 Teamsters and stablemen.
26 Janitors and cleaners.

III—MAINTENANCE OF WAY AND STRUCTURES

27 Roadmasters, general foreman, and assistants.
28 Maintenance of way and scale inspectors.
29 Bridge and building gang foremen (skilled labor).
30 Bridge and building carpenters.
31 Bridge and building ironworkers.
32 Bridge and building painters.
33 Masons, bricklayers, plasterers, and plumbers.
34 Maintenance of way and structures helpers and apprentices.
35 Portable steam equipment operators.
36 Portable steam equipment operator helpers.
37 Pumping equipment operators.
38 Gang foremen (extra gang and work-train laborers).
39 Gang foremen (bridge and building, signal and telegraph laborers).
40 Gang or section foremen.
41 Extra gang men.
42 Section men.
43 Maintenance of way laborers (other than track and roadway) and gardeners and farmers.
44 General and assistant general foremen and inspectors (signal, telegraph, and electrical transmission).
45 Gang foremen (signal and telegraph skilled trades labor).
46 Signalmen and signal maintainers.
47 Linemen and groundmen.
48 Assistant signalmen and assistant signal maintainers.
49 Signalman and signal maintainer helpers.

IV—MAINTENANCE OF EQUIPMENT AND STORES

50 General, assistant general, and department foremen.
51 General and assistant general foremen (stores).
52 Equipment, shop, electrical, material and supplies inspectors.
53 Gang foremen and gang leaders (skilled labor).
54 Blacksmiths.
55 Boilermakers.
56 Carmen (A and B).
57 Carmen (C and D).
58 Electrical workers (A).
59 Electrical workers (B).
60 Electrical workers (C).
61 Machinists.
62 Molders.
63 Sheet-metal workers.
64 Skilled trades helpers (M. of E. and stores).
65 Helper apprentices (M. of E. and stores).
66 Regular apprentices (M. of E. and stores).
67 Coach cleaners.
68 Gang foremen (shops, engine houses, and power plants).
69 Gang foremen (stores and ice, reclamation, and timber-treating plants).
70 Classified laborers (shops, engine houses, and power plants).
71 General laborers (shops, engine houses, and power plants).
72 General laborers (stores and ice, reclamation, and timber-treating plants).
73 Stationary engineers (steam).
74 Stationary firemen, oilers, coal passers, and water tenders.

V—TRANSPORTATION (OTHER THAN TRAIN, ENGINE, AND YARD)

75 Chief train dispatchers.
76 Train dispatchers.
77 Train directors.
78 Station agents (supervisory, major stations, nontelegraphers).
79 Station agents (smaller stations, nontelegraphers).
80 Station agents (telegraphers and telephoners).
81 Chief telegraphers and telephoners or wire chiefs.
82 Clerk-telegraphers and clerk-telephoners.
83 Telegraphers, telephoners, and towermen.
84 Stationmasters and assistants.
85 Supervising baggage agents.
86 Baggage agents and assistants.
87 Baggage, parcel room, and station attendants.
88 General foremen (freight stations, warehouses, grain elevators, and docks).
89 Assistant general foremen (freight stations, warehouses, grain elevators, docks).
90 Gang foremen (freight station, warehouse, grain elevator, and dock labor).
91 Callers, loaders, sealers, scalers, and perishable-freight inspectors.
92 Truckers (stations, warehouses, and platforms).
93 Laborers (coal and ore docks and grain elevators).
94 Common laborers (stations, warehouses, platforms, and grain elevators).
95 Stewards, restaurant and lodging-house managers, and dining-car supervisors.
96 Chefs and cooks (restaurants or dining cars).
97 Waiters, camp cooks, kitchen helpers, etc.
98 Officers, workers, and attendants on barges, launches, ferry boats, towing vessels, steamers, and shore workers.
99 Transportation and dining-service inspectors.
100 Parlor and sleeping car conductors.
101 Train attendants.
102 Bridge operators and helpers.
103 Crossing and bridge flagmen and gatemen.
104 Foremen (laundry) and laundry workers.

VI (a)—TRANSPORTATION (YARDMASTER, SWITCHTENDERS, AND HOSTLERS)

105 Yardmasters.
106 Assistant yardmasters.
107 Switch tenders.
108 Outside hostlers.
109 Inside hostlers.
110 Outside hostler helpers.

VI(b)—TRANSPORTATION (TRAIN AND ENGINE)

111 Road passenger conductors.
112 Assistant road passenger conductors and ticket collectors.
113 Road freight conductors (through freight).
114 Road freight conductors (local and way freight).
115 Road passenger baggagemen.
116 Road passenger brakemen and flagmen.
117 Road freight brakemen and flagmen (through freight).

118 Road freight brakemen and flagmen (local and way freight).
119 Yard conductors and yard foremen.
120 Yard brakemen and yard helpers.
121 Road passenger engineers and motormen.
122 Road freight engineers and motormen (through freight).
123 Road freight engineers and motormen (local and way freight).
124 Yard engineers and motormen.
125 Road passenger firemen and helpers.
126 Road freight firemen and helpers (through freight).
127 Road freight firemen and helpers (local and way freight).
128 Yard firemen and helpers.

(d) *Passengers on trains, class (D).* Passengers on trains are those persons who are on, or boarding, or alighting from, railroad cars for the purpose of travel.

(e) *Nontrespassers, class (E).* Nontrespassers are those persons who are lawfully on that part of railroad property which is used in railroad operation, as herein defined in § 125.11 above, other than those herein defined as employees, passengers, or trespassers, and persons adjacent to railroad premises when injured as the result of the operation of a railroad.

(f) *Trespassers, class (F).* (1) Trespassers are those persons who are on that part of railroad property which is used in railroad operation, as herein defined in § 125.11 above, whose presence is prohibited, or forbidden, or unlawful.

(2) Whenever persons are classed as "trespassers" the report should state the circumstances that warrant such a classification and, if possible, the regular occupation of such persons killed or injured.

(3) A person should not be classed as a trespasser on a highway grade crossing unless the crossing is protected by gates, or other similar barriers, which were closed when the person went on the crossing, or unless the person attempted to pass over or under trains or cars at the crossing.

Codes for Accident Reporting

§ 125.55 Codes for accident reporting.

The following pages contain information pertaining to the codes that are to be used in connection with accident reports. Certain codes should be inserted by the Reporting Officer in reports furnished to the Commission; namely, the following:

(a) On Form T, Class of Person.

(b) On Form T, Reporting Division number and title of employee's position (from list in § 125.50).

(c) On Form T, Cause of train, train-service or nontrain accident, causes should be reported in accordance with the lists designated "Train accidents," "Train-service accidents" and "Nontrain accidents" shown in this section under "Code of Causes".

(d) On Form V, cause of train-service or nontrain accident (from lists).

(e) On Form V Sections A and B, Reporting Division number from list in § 125.50.

All other coding will be done by the Commission.

Trains or Cars

1. Freight.
2. Passenger.
3. Work.
4. Yard.
5. Train, handled by hostler.
6. Standing cars.
7. Runaway cars.
8. Industrial.
9. Unknown.

Kind of Equipment

1. Main line track.
2. Freight-train car (or work equipment), or
3. Passenger-train car (including rail motor car).

Kind of Track

1. Main line track.
2. Branch line track, or
3. Way switching, yard switching, or other track.

Highway Crossing Protection

0. Gates, automatic.
1. Gates, manual.
2. Watchman.
3. Employee other than watchman.
4. Audible and visual signal.
5. Audible signal.
6. Visual signal.
7. Fixed signs.
8. Unprotected.

Class of Person

Employees on duty (A).
Employees not on duty (B).
Passengers (D).
Nontrespassers (E).

Trespassers—Employees

Trespassers, employees (F).
1. Walking along track (a).
2. Crossing tracks at public highway crossings (b).
3. Crossing tracks at other places (c).
4. On or getting on or off trains (d).
5. Not otherwise classed (e).

Trespassers—Other Than Employees

Trespassers; under 14 years of age (G).
1. Walking along track (a).
2. Crossing tracks at public highway crossings (b).
3. Crossing tracks at other places (c).
4. On or getting on or off trains (d).
5. Not otherwise classed (e).

Trespassers; 14 to 21 years of age (H).
1. Walking along track (a).
2. Crossing tracks at public highway crossings (b).
3. Crossing tracks at other places (c).
4. On or getting on or off trains (d).
5. Not otherwise classed (e).

Trespassers; adult hoboes or tramps (I).
1. Walking along track (a).
2. Crossings tracks at public highway crossings (b).
3. Crossing tracks at other places (c).
4. On or getting on or off trains (d).
5. Not otherwise classed (e).

Trespassers: adults except hoboes or tramps (J).
1. Walking along track (a).
2. Crossing tracks at public highway crossings (b).
3. Crossing tracks at other places (c).
4. On or getting on or off trains (d).
5. Not otherwise classed (e).

Nature of Injury

1. Bruise.
2. Sprain or strain.
3. Cut or laceration.
4. Electrical shock or burn.
5. Other burn.
6. Dislocation.
7. Fracture.
8. Amputation.
9. Not classifiable above, such as concussion, nervous shock, internal injuries, etc.

Each of the above classes should be subdivided to show the part of the body injured and other information as follows:

1. One eye, causing blindness therein.
2. Both eyes, causing total blindness
3. Other injury to eyes.
4. Scalp.
5. Nose.
6. Ears.
7. Mouth or teeth.
8. Skull.
9. Face or head (other part).
10. Collar bone.
11. Ribs.
12. Spine.
13. Back (other part).
14. Chest (other part).
15. Abdomen (not internal injury)
16. Other body injury (external).
17. Internal body injury.
18. Private parts.
19. Shoulder.
20. Upper arm.
21. Elbow.
22. Lower arm.
23. Wrist.
24. Hand.
25. Finger or thumb.
26. Hip.
27. Upper leg.
28. Knee.
29. Lower leg.
30. Ankle.
31. Foot.
32. Toes.
33. Heel.

States and Territories

1. Alabama.
2. Arizona.
3. Arkansas.
4. California.
5. Colorado.
6. Connecticut.
7. Delaware.
8. Florida.
9. Georgia.
10. Idaho.
11. Illinois.
12. Indiana.
13. Iowa.
14. Kansas.
15. Kentucky.
16. Louisiana.
17. Maine.
18. Maryland.
19. Massachusetts.
20. Michigan.
21. Minnesota.
22. Mississippi.
23. Missouri.
24. Montana.
25. Nebraska.
26. Nevada.
27. New Hampshire.
28. New Jersey.
29. New Mexico.
30. New York.
31. North Carolina.
32. North Dakota.
33. Ohio.
34. Oklahoma.
35. Oregon.
36. Pennsylvania.
37. Rhode Island.
39. South Carolina.
39. South Dakota.
40. Tennessee.
41. Texas.
42. Utah.
43. Vermont.
44. Virginia.
45. Washington.
46. West Virginia.
47. Wisconsin.
48. Wyoming.
49. District of Columbia.
50. Alaska.
51. Hawaii.
52. Puerto Rico.

Code of Causes

Train Accidents

1. Negligence of Employees

Train Orders

1001 Error in transmission or copying.
1002 Misunderstanding by train or engine crew.
1003 Other improper handling by dispatcher.
1004 Other improper handling by operator.
1005 Other improper handling by train or engine crew (including failure to pick up, read or obey).
1006 Meeting point overrunning.
1088 Other negligence in connection with train orders.

Cab Signals

1101 Operation of train contrary to cab signal indications without authority.
1188 Other negligence in connection with cab signals.

AUTOMATIC TRAIN CONTROL

1201 Failure to operate train in accordance with automatic train control.

FIXED SIGNALS

1301 Clear signal displayed for occupied block.
1302 Clear approach signal displayed with home signal at stop.
1303 Train order signal, failure to display.
1304 Restore signal to normal, failure to.
1305 Position of signal improperly changed in face of approaching train.
1306 Other improper display of signals.
1307 Stop signal, disregard of.
1308 Restricting signal, disregard of.
1309 Train-order signal, disregard of.
1310 Switch signal, disregard of.
1311 Signal light out, disregard of.
1312 Failure to keep proper lookout for signals necessitating emergency application of brakes.
1388 Other improper observance or disregard of signals.

HAND SIGNALS

1401 Failure to give hand signal.
1402 Failure to pass hand signal, including failure to be in position to pass.
1403 Failure to regard hand signal, including failure to watch for.
1404 Failure to stop when hand signal could not be seen.
1405 Wrong hand signal given.
1406 Misunderstanding of hand signals given by member of own train or yard crew.
1407 Acceptance of hand signal given by member of another train or yard crew.
1488 Other negligence in connection with hand signals.

TRAIN FLAGGING

(Including use of lanterns, torpedoes and fusees)

1501 Failure to flag.
1502 Failure to go back or ahead a sufficient distance.
1503 Torpedoes, failure to use or place properly.
1504 Fusees, failure to use or place properly.
1505 Other improper flagging, including failure to carry flagman's equipment.
1506 Failure to regard flag, including failure to watch for.
1507 Torpedoes, failure to regard.
1508 Fusees, failure to regard.
1588 Other negligence in connection with train flagging.

AIR BRAKES

1601 Insufficient air pressure, failure of engineman to regard.
1602 Improperly releasing air brakes.
1603 Emergency or severe application from locomotive, unjustifiable.
1604 Improper handling of independent air brake.
1605 Other improper handling by engineman.
1606 Failure to test.
1607 Application from train, unjustifiable.
1608 Pressure retaining valves, failure to set sufficient number.
1609 Failure to have sufficient air brakes in service.
1610 Air not fully coupled.
1611 Other improper handling of air brakes by train or yard crew.
1688 Other negligence in connection with air brakes.

HAND BRAKES

1701 Failure to control by hand brake.
1702 Failure to secure by hand brake including failure to set hand brakes on sufficient number of cars.
1703 Failure to test properly.
1704 Premature release of hand brake.
1788 Other negligence in connection with hand brakes.

SWITCHES

1801 Hand-operated switch, improperly set.
1802 Hand-operated switch, thrown under train.
1803 Hand-operated switch, failure to latch or secure lever.
1804 Hand-operated switch failure to see that points fitted up.
1805 Reverse movement before train had cleared spring switch.
1806 Equipment fouling switch.
1807 Switch, running through.
1808 Derail, running off.
1888 Other negligence in connection with switches.

OTHER FORMS OF NEGLIGENCE

1901 Excessive speed or failure to control in yard limits.
1902 Excessive speed in other than yard limits.
1903 Headlight improperly used.
1904 Superior train, failure to clear.
1905 Meeting point, or passing point, failure to clear switch or other tracks.
1906 Disregard of slow flag or other protection placed by maintenance or other nontrain employees.
1907 Failure to whistle or otherwise warn in accordance with rules or instructions.
1908 Failure to sufficiently reduce speed in accordance with rules or instructions where view was obstructed by weather conditions.
1909 Failure to sufficiently reduce speed in accordance with rules or instructions where view was obstructed by other than weather conditions.
1910 Failure of engineman to keep proper lookout, not otherwise classified.
1911 Moving locomotives, trains, or cars without orders or signals.
1912 Locomotives, trains or cars improperly secured, unexpected movement of.
1913 Low water in locomotive boiler.
1914 Premature opening of cover plates on diesel locomotive crankcase, after overheating of lubricating oil.
1915 Other improper handling of locomotives, rail motor cars or trains by enginemen.
1916 Running of locomotive or rail motor car by unauthorized person.
1917 Absence of man on or at leading car being pushed.
1918 Cutting off cars at excessive speed.
1919 Cutting off cars without rider to control.
1920 Failure or inability of rider to get on cars to control.
1921 Failure to sufficiently slow down cars in retarder.
1922 Stop or excessively slow down cars in retarder.
1923 Failure to place skate or derail ahead of car.
1924 Failure of maintenance or other employees to put out slow flag or otherwise to protect when obstructing track.
1925 Disregard of slow flag or other protection placed by maintenance or other employees.
1926 Failure to remove skate or derail from under car.
1927 Failure to return skate to skate-placing mechanism.
1928 Attempted or actual coupling at excessive speed.
1929 Coupling not properly made.
1930 Improper shifting of cars on or off floats or vessels.
1931 Other improper handling in switching.
1932 Improper movement of locomotives by hostlers.
1933 Turntable or transfer table, failure to align, latch or secure.
1934 Joint failure to protect and disregard of restricting signal.
1935 Joint failure to protect and excessive speed.
1936 Failure by supervisors (Terminal Trainmaster, Yardmaster, etc.) to convey correct information.
1937 Improper routing of car with high or wide load onto line not having sufficient clearance for same.
1988 Other negligence of employees.

2. DEFECTS IN OR FAILURES OF EQUIPMENT

STEAM LOCOMOTIVES

2001 Boiler explosions.
2002 Boilers or appurtenances, other failures of or defects in.
2003 Rods, main and side, crank pins and collars.
2004 Other machinery.
2088 Other defects in steam locomotives (including tenders).

LOCOMOTIVES OTHER THAN STEAM INCLUDING PROPULSION EQUIPMENT OF RAIL MOTOR CARS

2101 Crankcase and air box explosions.
2102 Internal combustion engines and turbines, other failures of, or defects in.
2103 Generators and motor-generator sets.
2104 Traction motor armature bearing seized.
2105 Traction motors, other failures of or defects in.
2106 Current collection systems.
2107 Electrical control and conversion equipment (including batteries).
2108 Hydraulic, mechanical or other non-electrical power transmission to axles.
2109 Steam generating boiler or appurtenances.
2110 Fires from short circuits or grounds in wiring.
2111 Fires from fuel or lubricating oil leaks.
2112 Other fires, not otherwise classified.
2113 Fumes from internal combustion engine or appurtenances.
2188 Other defects on locomotives other than steam.

TRUCKS

2201 Truck side frame, bent or broken.
2202 Equalizer, bent or broken.
2203 Pedestal tie bar, loose or defective.
2204 Journal box, non-integral type.
2205 Journal bearing assembly, defects, including fires.
2206 Transom, bent or broken.
2207 Truck bolster, bent or broken.
2208 Truck bolster anchor, loose or defective.
2209 Snubbing device in truck bolster guides, locked, broken or otherwise defective.
2210 Center plate.
2211 Center pin, broken or missing.
2212 Side bearing, improper clearance.
2213 Side bearing, broken, defective or missing.
2214 Spring plank, bent or broken.
2215 Swing hanger broken.
2216 Swing hanger pin, broken or missing.
2217 Spring or snubber, missing or defective.
2218 Spring seat or support bar, missing or defective.
2219 Truck safety hanger, loose or defective.
2220 Truck, insufficient weight on any wheel.
2221 Truck, stiff, improper lateral or improper swivelling.
2288 Other truck defects.

WHEELS AND AXLES

2301 Cast-iron wheel, flange broken.
2302 Cast-iron wheel, tread or rim defective.
2303 Cast-iron wheel, broken, overheating.

2304 Cast-iron wheel, broken, other causes.
2305 Cast-steel wheel, flange broken.
2306 Cast-steel wheel, tread or rim defective.
2307 Cast-steel wheel, broken, overheating.
2308 Cast-steel wheel, broken, other causes.
2309 Wrought-steel wheel, flange broken.
2310 Wrought-steel wheel, tread or rim defective.
2311 Wrought-steel wheel, broken, overheating.
2312 Wrought-steel wheel, broken, other causes.
2313 Wheel, other or unknown composition, broken.
2314 Wheel, flange worn.
2315 Wheel, loose or out of gage.
2316 Wheel, tire loose or broken.
2317 Axle, broken between journals.
2318 Journal broken, cold.
2319 Journal broken, overheating.
2387 Other defects in wheels.
2388 Other defects in axles.

AIR BRAKES AND APPURTENANCES

2401 Air compressor.
2402 Air reservoir, or its fittings, safety valve or check valve.
2403 Air brake control valve.
2404 Brake pipe, or fittings, broken or defective.
2405 Air brake hose, broken or burst.
2406 Air brake parts, falling off.
2407 Air brake, sticking.
2408 Air brake, defective, due to snow and ice.
2409 Air brake failure, excessive piston travel.
2410 Triple valves, lazy, dirty, or otherwise defective.
2488 Other air brake defects.

HAND BRAKES, BRAKE RIGGING AND APPURTENANCES

2501 Brake beam, broken, disconnected, displaced, etc.
2502 Brake chains or bolts, breaking or giving way.
2503 Brake chains, kinking, twisting, overlapping, or too long.
2504 Brake hanger, broken or disconnected.
2505 Brake rod, broken, defective, or disconnected.
2506 Brake shaft, broken or defective.
2507 Brake shoe, worn, broken, or missing.
2508 Brake wheel, loose or defective.
2509 Pawl or ratchet, failure or defect.
2510 Brake rigging coming down, other failure or defect.
2511 No brake on car.
2512 Insufficient braking power, not otherwise provided for.
2588 Miscellaneous.

COUPLERS, DRAFT GEAR AND RELATED PARTS

2601 Coupler, broken, not pulled out.
2602 Coupler, improper height.
2603 Jackknifing of couplers.
2604 Couplers passing in attempting to make coupling.
2605 Knuckle, broken or defective.
2606 Knuckle lock or locklift assembly.
2607 Uncoupling device.
2608 Friction buffer or diaphragm.
Coupler or draft gear pulled out or down, due to failure of:
2609 Coupler.
2610 Coupler rivets or swivel pin.
2611 Coupler yoke.
2612 Coupler key.
2613 Coupler key retainer.
2614 Striking casting or coupler carrier.
2615 Sills or draft lugs.
2616 Draft gear carrier.
2617 Cushion underframe parts.
2618 Other parts causing coupler or draft gear to drop.
2686 Other defects in couplers.
2687 Other defects in draft gear.
2688 Other defects in cushion underframe.

CAR STRUCTURE

2701 Sills, bent or broken.
2702 Body bolster.
2703 Other underframe parts.
2704 Sides, spreading or buckling beyond equipment clearance line.
2705 Drop end, falling off.
2706 Passenger car—end gate, falling off.
2707 Floor, material falling from or through.
2708 Side door, falling off.
2709 Drop door, open or defective.
2710 Hatch, dome or manhole cover.
2711 Stake pocket or load retainer.
2788 Other defects in car structure.

OTHER PARTS OF EQUIPMENT

2801 Air dump cars, dumping mechanism.
2802 Crane boom on car or tiedowns for.
2803 Snow plow, flanger, ditcher or spreader defects.
2804 Steam heat connections, dragging or falling off.
2805 Car water tanks.
2806 Axle-driven generator.
2807 Internal combustion power plant for car electrical auxiliaries or refrigeration.
2887 Other defects in car electrical or mechanical equipment for lighting, heating, cooling, radio, etc. (not propulsion).
2888 Other equipment defects.

3. DEFECTS IN OR IMPROPER MAINTENANCE OF WAY AND STRUCTURES

BRIDGES, TRESTLES, CULVERTS, AND TUNNELS

3001 Bridges, structural defect or failure.
3002 Bridges, improper or insufficient maintenance.
3003 Trestles, structural defect or failure.
3004 Trestles, improper or insufficient maintenance.
3005 Culverts, structural defect or failure.
3006 Culverts, improper or insufficient maintenance.
3007 Tunnels, structural defect or failure.
3008 Tunnels, improper or insufficient maintenance.
3088 Other defects in or failures of bridges, trestles, culverts, and tunnels.

TIES AND TIE PLATES

3101 Ties, broken.
3102 Ties, decayed or worn.
3103 Ties, soft or poor quality of timber.
3104 Ties, insufficient number or size.
3105 Tie plates, broken or otherwise defective.
3106 Steel, concrete or other nonwood tie.
3107 Non-metallic tie plate, or non-metallic inserts in metallic tie plate, broken or otherwise defective.
3188 Other defects in ties and tie plates.

RAILS AND JOINTS

3201 Broken rail, with bolted joint.
3202 Broken rail, with welded joints.
3203 Flow of metal.
3204 Crushed head.
3205 Split head.
3206 Split web.
3207 Broken base.
3208 Other forms of rail failures not due to wear.
3209 Rails, spreading because improperly spiked or braced.
3210 Rails, spreading because joints loosely or improperly bolted.
3211 Rails, spreading, other causes.
3212 Rails, giving way or causing accidents because of worn condition.
3213 Rail joints, angle bars or bolts broken or otherwise defective.
3214 Rail joints, failure at, due to insulation for signal apparatus.
3215 Rail joints, loosely or improperly bolted.
3216 Compromise joints, defect, or improper maintenance.
3288 Other defects in or failures of rail joints.

FROGS AND SWITCHES

3301 Frogs, broken or missing bolts.
3302 Frogs, guard rail or fastenings defective or missing.
3303 Frogs, guard rail improperly placed or secured.
3304 Frogs, springs or spring bolts loose or defective.
3305 Frogs, wing rails broken.
3306 Frogs, point broken.
3307 Other defects in frogs.
3308 Switch-detector bar, broken or defective.
3309 Switch, lost motion or out of adjustment.
3310 Switch lug, broken.
3311 Switch point, bent or sprung.
3312 Switch point, broken.
3313 Switch point, worn.
3314 Switch stand or head block, loose, broken, or defective.
3315 Switch, rod broken or disconnected.
3316 Switch, rod bent or sprung.
3317 Switch indicator, defective.
3318 Spring switch, defective.
3319 Keeper or latch, broken, defective, or missing.
3320 Electric or interlocking parts or appurtenances, failure or defect.
3321 Switch, spiked, working loose.
3388 Other defects in or improper maintenance of switches.

INTERLOCKING AND BLOCK SIGNAL SYSTEM

3401 Signal displaying false "clear" for restricting.
3402 Signal displaying false "clear" for stop.
3403 Signal displaying false "restricting" for stop.
3404 Other improper indications of.
3405 Improper location of signal.
3406 Sand, rust or other deposits on rails.
3488 Other defects in, or improper maintenance of, signal system.

OTHER WAY AND STRUCTURE ITEMS

3501 Guard rail improperly placed or secured.
3502 Improper superelevation of track.
3503 Improper alignment of track.
3504 Improper surface of track.
3505 Improper gage of track.
3506 Improper curvature for traffic conditions and equipment used.
3507 Dirty ballast or other poor drainage.
3508 Soft track not otherwise provided for.
3509 Rigid track not otherwise provided for.
3510 Insufficient side entrance.
3511 Insufficient overhead clearance.
3512 Car retarder.
3513 Skates and skate-placing mechanism.
3514 Mules, car dumping equipment and car shakeout devices.
3515 Float bridges.
3516 Fueling facilities.
3517 Sanding facilities.
3518 Water columns and other water supply facilities for servicing equipment.
3519 Turntables and transfer tables.
3520 Dragging equipment detectors.
3521 Rail lubricators.
3522 Catenary, third rail or other wayside current collection apparatus.
3588 Other defects in way and structures.

4. MISCELLANEOUS CAUSES

IMPROPER LOADING

4001 Load too high for proper clearance.
4002 Load too wide for proper clearance.
4003 Load too heavy or other unbalanced loading.
4004 Car overloaded.
Load shifted, due to improper or defective:
4005 Steel banding.
4006 Steel banding retainer.
4007 Cable, chain or rope.

4008 Stakes, blocking, bracing or other fastenings.
4009 Load on two or more cars, failure to adjust for curves, failure to properly block coupler or failure to make uncoupling mechanism inoperative.
4088 Other improper loading of cars.

NEGLIGENCE OF NONEMPLOYEES

4101 Failure to control movement of locomotive or car.
4102 Failure to secure locomotive or car.
4103 Improper use of hand-operated switch or derail.
4104 Swinging car door left open.
4105 Car drop doors left open.
4106 Tractors, lift trucks, cranes and other portable machines not in clear.
4107 Chutes, ramps, conveyors, pipes and other loading or unloading devices not in clear.
4108 Dirt or other obstructions on track.
4188 Other negligence of nonemployees.

MALICIOUS OR CARELESS ACTS OF NONEMPLOYEES

4201 Switch stand run into by vehicle.
4202 Switch or derail padlock, tampered with.
4203 Other tampering with switch or derail.
4204 Obstruction placed on track.
4205 Track or structure tampered with.
4206 Signal system tampered with.
4207 Brakes or chocks tampered with.
4208 Incendiarism.
4288 Other malicious acts or misbehavior of nonemployees.

OBSTRUCTIONS, FORCES OF NATURE, ETC.

4301 Landslides or boulders on, or foul of track.
4302 Snow or ice on track.
4303 Animals on track.
4304 Switch, derail or frog obstacles in.
4305 Roadway machine or track motor car obstructing track.
4306 Accidents caused by other train accidents.
4307 Track or structures damaged or washed out by floods.
4308 Bridge or trestle, timber construction, damaged by accidental fire.
4309 Timber tunnel lining damaged by accidental fire.
4310 Car damaged by accidental fire.
4386 Other accidental fires.
4387 Other track obstructions.
4388 Other forces of nature.

RAIL-HIGHWAY GRADE CROSSING ACCIDENTS

Struck by locomotive or car:
4401 Passenger automobile.
4402 Bus.
4403 Truck.
4404 Other vehicle.
Ran into side of locomotive or car:
4411 Passenger automobile.
4412 Bus.
4413 Truck.
4414 Other vehicle.
4421 Accident caused by sudden brake application to avoid highway crossing accident.
4422 Highway vehicle struck by locomotive or car at private crossing.
4423 Highway vehicle ran into side of locomotive or car at private crossing.
4488 Other highway grade crossing accidents.

COMBINATION OF TWO OR MORE CAUSES

Wheel flange worn and:
4501 Switch point worn.
4502 Switch and adjoining frog too close together.
4503 Improper surface of track.
4504 Tight gage of track.
4505 Improper loading of car.
Truck stiff, close side bearing clearance or improper swiveling and:
4506 Switch point worn.
4507 Improper surface of track.
4508 Tight gage of track.
4509 Improper loading of car.
4510 Wheel flange worn.
Excessive side bearing clearance and:
4511 Improper surface of track.
4512 Improper superelevation of track on curve.
4513 Improper loading of car.
Slack action and:
4514 Improper surface of track.
4515 Tight gage of track.
4516 Improper loading of car.
4517 Heavy impact and weakened condition of car.
4518 High locomotive tractive effort and light cars on sharp curve.
4588 Other combinations of two or more causes.

OTHER ASCERTAINED CAUSES

4601 Rocking or swaying of car.
4602 Rail slippery.
4603 Car blown out of siding by wind.
4604 Unable to control locomotive or cars on grade.
4605 Use of helper locomotive, not otherwise provided for.
4606 Emergency or severe application of air brakes.
4607 Slack action, not otherwise classified.
4608 Handling bad order equipment, including use of chains, bars, etc., in place of standard coupler.
4609 Cars parted, not otherwise classified.
4610 Vision obscured by smoke, steam, fog, smog, ice, snow, rain, etc.
Use of, or operation of:
4611 Crane car.
4612 Snow plow, flanger, ditcher or spreader.
4613 Air dump car.
4614 Fueling, watering or sanding facilities.
4615 Mules, car dumpers or shakeout devices.
4616 Turntables or transfer tables.
4617 Float bridges.
4618 Car retarder.
4619 Skates or skate-placing mechanism.
4687 Accident investigated—other ascertained cause.
4688 Accident not investigated.

TRAIN-SERVICE ACCIDENTS

5. SPECIFIED GROUPS OF CAUSES

COUPLING AND UNCOUPLING LOCOMOTIVES OR CARS, OR MANIPULATING AIR OR STEAM CONNECTIONS

Coupling and uncoupling locomotives or cars:
5001 Adjusting coupler, unexpected movement of cars due to slack.
5002 Adjusting coupler, unexpected movement of cars due to mistake or misunderstanding in giving or observing hand signals.
5003 Adjusting coupler, unexpected movement of cars due to other causes.
5004 Adjusting coupler, when moving cars were nearing each other.
5005 Adjusting coupler on moving cars, lost footing.
5006 Adjusting coupler with foot, cars moving.
5007 Adjusting coupler with foot, cars not moving.
5008 Adjusting coupler, part of coupler fell striking person.
5009 Uncoupling without using lever.
5010 Uncoupling lever, manipulation of.
5011 Uncoupling, lost footing, or fell from car.
5012 Uncoupling, unexpected movement of cars or locomotives.
5013 Coupling or uncoupling with chains or other emergency appliances.
5014 Coupling or uncoupling damaged or bad-order cars, not otherwise provided for.
5015 Foot caught in frog, switch, guard rail, crossing plank, etc.
5016 Coming in contact with objects or material, etc., or striking parts of body against cars or locomotives while coupling or uncoupling, not otherwise provided for.
5017 Hand, arm, foot, or any part of body caught between projecting load and car, not otherwise provided for.
5018 Stumbling, slipping, or falling, not otherwise provided for.
5019 Struck by freight or other objects falling from cars or locomotives.
5048 Miscellaneous.

Coupling and uncoupling air hose (or turning angle cocks), steam hose, and safety chains:
5051 Air or steam hose, angle cocks or safety chains, cars moved while manipulating.
5052 Air or steam hose, angle cocks or safety chains, going between moving cars to manipulate.
5053 Air hose, uncoupling, struck by hose because of sudden release of air.
5054 Steam hose, burned by hot water or steam from.
5055 Stumbling, slipping, or falling, not otherwise provided for.
5056 Parts defective, or hard to manipulate.
5057 Struck by freight or other objects falling from cars or locomotives, while manipulating.
5088 Miscellaneous.

OPERATING LOCOMOTIVES AND RAIL MOTOR CARS

A. Operating Steam Locomotives

5101 Fueling, watering or sanding, other causes.
5102 Shoveling coal or using other hand tools, other causes.
5103 Burn from firebox, steam or hot water, other causes.
5104 Coming in contact with objects on the locomotive, negligence.
5105 Stumbling, slipping or falling, other causes.
5148 Other accidents while operating steam locomotives, other causes.

B. Operating locomotives other than steam, including rail motor cars

5151 Fueling, watering or sanding.
5152 Using hand tools.
5153 Burn from hot oil, steam, or hot water.
5154 Operating steam generating boiler and appurtenances.
5155 Electrical flash, shock or burn.
5156 Fumes from internal combustion engine or appurtenances.
5157 Coming in contact with objects on the locomotive, defective equipment.
5158 Coming in contact with objects on the locomotive, other causes.
5159 Struck by tools or other objects falling.
5160 Stumbling, slipping, or falling on ground.
5161 Stumbling, slipping, or falling, due to oil leaks.
5162 Stumbling, slipping, or falling, other defective equipment.
5163 Stumbling, slipping, or falling, other causes.
5164 Running of locomotive or rail motor car by unauthorized person.
5165 Checking, oiling locomotive, etc.
5166 Unexpected movement of locomotive not otherwise classified.
5167 Doors, injured by.

5186 Other accidents while operating locomotives other than steam including rail motor cars, negligence.
5187 Other accidents while operating locomotives other than steam including rail motor cars, defective parts.
5188 Other accidents while operating locomotives other than steam including rail motor cars, other causes.

OPERATING HAND BRAKES

5201 Brake chains or bolts breaking or giving way.
5202 Brake chains kinking, twisting, overlapping, or too long.
5203 Brake shaft, broken or defective.
5204 Brake wheel, loose or defective.
5205 Pawl or ratchet, defect in or failure of.
5206 Defective hand brakes not included above.
5207 Pawl slipping or accidentally knocked out of ratchet, no defects.
5208 Brake club slipping in wheel.
5209 Brake club, struck by, because wheel flew around.
5210 Brake club, breaking.
5211 Sudden stopping, starting, lurch, or jerk of train or car.
5212 Slipping or falling because of ice or snow on cars or locomotives.
5213 Losing hold, slipping, or falling, not otherwise classified.
5214 Using or holding hand brakes against air.
5215 Caught between running boards.
5216 Load shifting.
5217 Finger, hand, or other part of body caught between parts of equipment or lading, not otherwise provided for.
5218 Operating ratchet-handle brake, no defect.
5288 Miscellaneous.

OPERATING SWITCHES

5301 Switch lever flying up.
5302 Switch lever or ball falling on or catching hand, foot, or other part of body.
5303 Slipping or falling on ice or snow on tracks or elsewhere.
5304 Tripping, slipping, or falling, not otherwise classified.
5305 Caught between locomotive or car and switch lever or stand.
5306 Struck by locomotive or cars.
5307 Foot, hand, or other part of body caught in or by mechanism of switch.
5388 Miscellaneous.

PERSONS ON LOCOMOTIVES OR CARS COMING IN CONTACT WITH STRUCTURES, ETC.

Person on locomotive or car coming in contact with fixed structure

Overhead:
5401 Standard clearance.
5402 Less than standard clearance (notified).
5403 Less than standard clearance (not notified).
5404 Less than standard clearance (not notified) defective railroad-owned structure.
5405 Less than standard clearance (not notified) nonrailroad - owned structure.
Side:
5406 Standard clearance.
5407 Less than standard clearance (notified).
5408 Less than standard clearance (not notified).
5409 Less than standard clearance (not notified) defective railroad-owned structure.
5410 Less than standard clearance (not notified) nonrailroad-owned structure.

Person on locomotive or car coming in contact with other than fixed structure

Temporary obstruction at less than standard clearance notified:
5411 Overhead.
5412 Side.
Temporary obstruction at less than standard clearance not notified:
Overhead:
5413 Railroad-owned or placed obstruction.
5414 Nonrailroad-owned or placed obstruction.
Side:
5415 Railroad-owned or placed obstruction.
5416 Nonrailroad-owned or placed obstruction.
Portable loading and unloading devices, gangplanks, chutes, etc.:
5417 Standard side clearance.
5418 Less than standard side clearance.
5419 Less than standard side clearance railroad-owned devices, etc.
5420 Less than standard side clearance nonrailroad-owned devices, etc.
Locomotive or car on adjacent track:
5421 Standard side clearance.
5422 Less than standard side clearance (notified).
5423 Less than standard side clearance (not notified).
Tractors, lift trucks, etc.:
5424 Standard side clearance.
5425 Less than standard side clearance railroad-owned tractor, etc.
5426 Less than standard side clearance nonrailroad-owned tractor, etc.
5488 Person on locomotive or car coming in contact with other structures, etc.

GETTING ON OR OFF CARS OR LOCOMOTIVES

5501 Handhold or grab iron, missing or losing hold of.
5502 Handhold or grab iron, defective.
5503 Step, stirrup, or footboard, missing footing or slipping on.
5504 Step, stirrup, or footboard, defective.
5505 Ladder, missing foothold, or slipping on or losing hold of rung.
5506 Ladder, defective.
5507 Striking hands, arms, feet, legs, head, or body against cars or locomotives.
5508 Stepping or tripping on coal, boards, stone, rubbish, or other loose or refuse material, or in holes.
5509 Stepping or tripping on ties, rails, ballast, etc. (part of track).
5510 Slipping on ice or snow on ground.
5511 Slipping on ice or snow on locomotives or freight cars.
5512 Slipping or falling on or from coach steps, foot catching.
5513 Slipping or falling on or from coach steps, ice or snow on step.
5514 Slipping or falling on or from coach steps, defective step.
5515 Slipping or falling on or from coach steps, train starting or stopping.
5516 Slipping or falling on or from coach steps, not otherwise classified.
5517 Slipping or falling on station platform, ice or snow on platform.
5518 Slipping or falling on station platform, defective platform.
5519 Stepping or falling between car and high platform.
5520 Stepping or falling between car steps and low platform.
5521 Slipping or falling on station platform, not otherwise classified.
5522 Falling, slipping, tripping, or ankle turned or sprained, not otherwise classified.
5523 Missing footing on porter's footstool.
5524 Falling from or through bridge or trestle.
5525 Getting on front end of approaching locomotive.
5526 Coming in contact with trucks (baggage, express, mail, etc.).
5527 Coming in contact with or tripping over baggage, express matter, etc.
5528 Coming in contact with nails, splinters, part of lading, etc., on cars, not otherwise provided for.
5529 Struck by loose material, tools, etc., falling on or from locomotives or cars.
5530 Hand or other part of body striking or being struck by loose or swinging car doors, or projections from locomotives or cars.
5531 Trapdoors on coach, injured by.
5532 Otherwise injured by car doors.
5533 Clothing catching.
5534 Sudden stopping, starting, lurch, or jerk of locomotive or car.
5535 Attempting to carry material or tools while getting on or off locomotives or cars.
5536 Jumping from equipment in anticipation of an accident.
5537 Jumping from equipment, while mentally deranged, or to escape from custody, etc.
Coming in contact with fixed structure:
5538 Standard side clearance.
5539 Less than standard side clearance (notified).
5540 Less than standard side clearance (not notified).
5541 Less than standard side clearance (not notified) defective railroad-owned structure.
5542 Less than standard side clearance (not notified) nonrailroad-owned structure.
Coming in contact with other than fixed structures:
5543 Temporary obstruction at less than standard side clearance (not notified) railroad-owned or placed obstruction.
5544 Temporary obstruction at less than standard side clearance (not notified) nonrailroad-owned or placed obstruction.
Portable loading and unloading devices, gangplanks, chutes, etc.:
5545 Standard side clearance.
5546 Less than standard side clearance railroad-owned devices, etc.
5547 Less than standard side clearance nonrailroad-owned devices, etc.
Locomotive or car on adjacent track:
5548 Standard side clearance.
5549 Less than standard side clearance (notified).
5550 Less than standard side clearance (not notified).
Tractors, lift trucks, etc.:
5551 Standard side clearance.
5552 Less than standard side clearance railroad-owned tractor, etc.
5553 Less than standard side clearance nonrailroad-owned tractor, etc.
5588 Getting on or off, not otherwise provided for.

ACCIDENTS AT PUBLIC RAIL-HIGHWAY CROSSINGS

5601 Pedestrian struck by locomtive or car.
5602 Passenger automobile struck by locomotive or car.
5603 Bus struck by locomotive or car.
5604 Truck struck by locomotive or car.
5605 Motorcycle struck by locomotive or car.
5606 Other vehicle, machine or animal struck by locomotive or car.
5607 Pedestrian ran into, or drawn into locomotive or car.
5608 Passenger automobile ran into side of locomotive or car.
5609 Bus ran into side of locomotive or car.
5610 Truck ran into side of locomotive or car.

5611 Motorcycle ran into side of locomotive or car.
5612 Other vehicle, machine or animal ran into side of locomotive or car.
5613 Vehicle ran into roadway structure to avoid locomotive or car.
5614 Accident caused by sudden brake application to avoid highway crossing accident.
5615 Pedestrian passing over, through or under cars on crossing.
5688 Highway crossing accidents due to other causes.

STRUCK BY OR RAN INTO LOCOMOTIVES OR CARS AT PLACES OTHER THAN PUBLIC RAIL-HIGHWAY CROSSINGS

5701 Standing, walking, or running on or along track.
5702 Crossing track at private crossing.
5703 Crossing track not at crossing.
5704 While on public thoroughfare (track in street).
5705 Sitting or lying on track or near track not in clear.
5706 While working on or along track, negligence.
5707 While working on or along track, improper instructions.
5708 While working on or along track, improper protection.
5709 While working on or along track, defective protective devices.
5710 While working on or along track, other causes.
5788 Other accidents to persons by locomotives or cars at places other than public rail-highway crossings.

MISCELLANEOUS CAUSES

FREIGHT, BAGGAGE, EXPRESS OR MAIL

5801 Handling freight.
5802 Lading shifted.
5803 Improper routing of car with high or wide load onto line not having sufficient clearance for same.
5804 Handling baggage, express or mail.
5805 Locomotive or car striking baggage, express, freight or mail, or striking baggage trucks or similar objects.
5806 Baggage or similar articles falling from luggage rack in passenger car.
5807 Baggage or similar articles in passenger car aisle or vestibule, tripping over.
5808 Other accidents involving freight, baggage, express or mail.

BRAKING OR SECURING EQUIPMENT

5811 Emergency or severe application of air brakes, negligence of engineman.
5812 Emergency or severe application of air brakes, negligence of train crew.
5813 Other accidents in braking or securing equipment.

DOORS, WINDOWS, AND RELATED PARTS

5821 Locomotive door, defective.
5822 Locomotive door, no defect.
5823 Freight car door, defective.
5824 Freight car door, no defect.
5825 Caboose door, defective.
5826 Caboose door, no defect.
5827 Baggage car door, defective.
5828 Baggage car door, no defect.
5829 Power-operated passenger car door, defective.
5830 Power-operated passenger car door, no defect.
5831 Hand-operated passengar car door, defective.
5832 Hand-operated passenger car door, no defect.
5833 Passenger car trap door, defective.
5834 Passenger car trap door, no defect.
5835 Passenger car end gate, defective.
5836 Passenger car end gate, no defect.
5837 Gondola car end gate, defective.
5838 Gondola car end gate, no defect.
5839 Hopper car drop door, defective.
5840 Hopper car drop door, no defect.
5841 Car door falling off.
5842 Loose or swinging door projecting beyond equipment clearance line.
5843 Locomotive, caboose or passenger car window, defective.
5844 Locomotive, caboose or passenger car window, no defect.
5845 Glass breaking in locomotive or car door or window.
5846 Other accidents involving doors, windows and related parts.

SERVICING OR MAINTENANCE ACCIDENTS INVOLVING TRAIN OPERATION

5851 Fueling, watering or sanding locomotive or rail motor cars.
5852 Lubrication of locomotive or cars.
5853 Icing of refrigerator cars.
5854 Servicing of car mechanical refrigeration equipment.
5855 Cleaning or washing of locomotive or cars.
5856 Icing or watering of passenger cars.
5857 Servicing of passenger car heating, lighting or air-conditioning equipment.
5858 Locomotive or car coming against locomotive or car being repaired under flag or signal protection.
5859 Locomotive or car coming against locomotive or car being repaired without flag or signal protection.
5860 Locomotive or car being repaired on the road or in yard, not otherwise provided for.
5861 Rerailing locomotives or cars or handling rerailing devices.
5862 While working around wrecks, not otherwise provided for.
5863 Failure of maintenance or other employees to put out slow flag or otherwise to protect when obstructing track.
5864 Disregard of slow flag or other protection placed by maintenance or other employees.
5865 Track motor car, jumping from, in anticipation of being struck by locomotive or car.
5866 Other on-rail roadway machines struck by locomotive or car.
5867 Removing obstacles from track.
5868 Other servicing or maintenance accidents.

STUMBLING, SLIPPING, FALLING, CAUGHT, ETC., NOT ELSEWHERE CLASSIFIED

5871 On snow or ice on locomotives or cars.
5872 On passenger car buffer or foot plate, defective.
5873 On passenger car buffer or foot plate, no defect.
5874 In passenger cars, not elsewhere classified.
5875 Stepping or jumping between locomotives or cars in the same train.
5876 Falling from, not otherwise classified.
5877 Stumbling, slipping or falling on, not otherwise classified.
5878 On snow or ice on ground.
5879 Falling off or through bridges, trestles or retaining walls, equipped with handrails.
5880 Falling off or through bridges, trestles or retaining walls, not equipped with handrails.
5881 On stairways, ramps, station platforms, etc.
5882 Falling into transfer table, turntable, inspection or other pits.
5883 Stepping or tripping into holes or depressions.
5884 On switch or signal parts in place.
5885 On rails, ties or other parts of track in place.
5886 On loose or piled track material.
5887 On nails, splinters or other sharp materials or sharp trash.
5888 On coal, boards or other loose material or loose trash.
Between locomotive or car and fixed structure:
5889 Less than standard side clearance (notified).
5890 Less than standard side clearance (not notified).
5891 Less than standard side clearance (not notified) defective railroad-owned structure.
5892 Less than standard side clearance (not notified) nonrailroad-owned structure.
Between locomotive or car and other than fixed structures:
5893 Temporary obstruction at less than standard side clearance (notified).
5894 Temporary obstruction at less than standard side clearance (not notified).
5895 Temporary obstruction at less than standard side clearance (not notified) railroad-owned or placed obstruction.
5896 Temporary obstruction at less than standard side clearance (not notified) nonrailroad-owned or placed obstruction.
5897 Portable loading and unloading devices, gangplanks, chutes, etc., at less than standard side clearance.
5898 Portable loading and unloading devices, gangplanks, chutes, etc., at less than standard side clearance railroad-owned devices, etc.
5899 Portable loading and unloading devices, gangplanks, chutes, etc., at less than standard side clearance nonrailroad-owned devices, etc.
5900 Tractors, lift trucks, etc., at less than standard side clearance.
5901 Tractors, lift trucks, etc., at less than standard side clearance, railroad-owned tractor, etc.
5902 Tractors, lift trucks, etc., at less than standard side clearance nonrailroad-owned tractor, etc.
Between locomotives and/or cars on adjacent tracks:
5903 Less than standard side clearance (notified).
5904 Less than standard side clearance (not notified).
5905 Caught by nails or splinters.
5906 While standing, walking or running beside locomotives or cars, not elsewhere classified.
5907 Other stumbling, slipping, falling, caught, pinched or crushed.

FLYING OR FALLING OBJECTS, BURNS AND SIMILAR CAUSES

5908 Sparks, cinders or other flying objects, in eye.
5909 Stones, or other objects "picked up" by train.
5910 Other injuries by flying objects.
5911 Coal, coke or other material or lading falling from tenders or cars.
5912 Electrical flash, shock or burn from locomotive or car.
5913 Electrical flash, shock or burn from third rail.
5914 Electrical flash, shock or burn from catenary construction.
5915 Electrical flash, shock or burn from other sources.
5916 Fire or explosion of fuses or torpedoes.
5917 Fire or explosion on locomotive.
5918 Fire or explosion on freight-train car (or work equipment).
5919 Fire or explosion on passenger-train car or rail motor car.
5920 Fire or explosion along right-of-way.
5921 Burned by hot or corrosive substances.
5922 Other burns, not elsewhere classified.
5923 Overcome by fumes or gases, not elsewhere classified.

5924 Other flying or falling objects, burns and similar causes.

OTHER ASCERTAINED CAUSES

5925 Crossing over, under or between locomotives or cars.
5926 Locomotive or car coming against car placed for loading or unloading.
5927 Sudden starting, stopping, lurch or jerk of locomotive or car, not elsewhere classified.
5928 Poling or roping cars.
5929 Car sides spreading or buckling beyond equipment clearance line.
5930 Blocking or chocking cars.
5931 Projections of material, tools, or equipment parts beyond the equipment clearance line on other locomotive or car.
5932 Caught by passenger car buffer or foot plate, defective.
5933 Caught by passenger car buffer or foot plate, no defect.
5934 Passenger car diaphragm.
5935 Emergency or severe application of air brakes, burst or parted air hose.
5936 Emergency or severe application of air brakes, other defective equipment.
5937 Accident investigated—other ascertained cause.

UNASCERTAINED CAUSES

5948 Accident investigated-cause undetermined.
5988 Accident not investigated.

NONTRAIN ACCIDENTS

7. EQUIPMENT

LOCOMOTIVES

Servicing of locomotive, including facilities used for doing this work

7001 Fueling, watering or sanding.
7002 Lubricating or cleaning.
7003 Maintenance of servicing facilities.
7004 Use of portable tools.
7005 Use of scaffolds, ladders, etc.
7006 Use of cranes, hoists, turntables, etc.
7007 Use of shop machinery.
7008 Use of lift trucks and other portable material-handling equipment.
7009 Use of paint spraying or paint removing equipment.
7010 Maintenance of shop buildings or storehouses.
7011 Maintenance of shop machinery.

Accidents while servicing locomotive due to:

7012 Flying objects.
7013 Falling objects.
7014 Electrical flash, shock or burn.
7015 Fire or explosion.
7016 Hot or corrosive substances.
7017 Fumes or gases.
7018 Stumbling, slipping or falling.
7019 Moving locomotive for repairs.
7020 Unexpected movement of locomotive.
7088 Other causes.

CONSTRUCTION SERVICING OR MAINTENANCE OF CARS

A. Car Bodies

7101 Use of portable tools.
7102 Use of scaffolds, ladders, etc.
7103 Use of cranes, hoists, transfer tables, etc.
7104 Use of shop machinery.
7105 Use of lift trucks and other portable material-handling equipment.
7106 Use of paint spraying or paint removing equipment.

B. Car Trucks

7111 Use of portable tools.
7112 Use of cranes, hoists, transfer tables, etc.
7113 Use of shop machinery.
7114 Use of lift trucks and other portable material-handling equipment.
7115 Use of paint spraying or paint removing equipment.

C. Other Equipment

7121 Construction, rebuilding or dismantling of floating equipment.
7122 Operation of floating equipment.
7123 Servicing of floating equipment.
7124 Maintenance of floating equipment.
7131 Lubricating.
7132 Cleaning.
7133 Icing.
7134 Servicing of car mechanical refrigeration equipment.
7135 Servicing of car heaters.
7136 Construction, reconstruction or removal of servicing facilities.
7137 Maintenance of servicing facilities.

Accidents due to:

7141 Flying objects.
7142 Falling objects.
7143 Electrical flash, shock or burn.
7144 Fire or explosion.
7145 Hot or corrosive substances.
7146 Fumes or gases.
7147 Stumbling, slipping or falling.
7148 Moving car for repairs.
7149 Unexpected movement of car.
7188 Other causes.

CONSTRUCTION OR MAINTENANCE OF FACILITIES FOR EQUIPMENT

7201 Construction, reconstruction or removal of shop buildings or storehouses.
7202 Maintenance of shop buildings or storehouses.
7203 Installation or removal of shop machinery.
7204 Maintenance of shop machinery.

MISCELLANEOUS EQUIPMENT

A. Operation (except on public highways) of

7301 Passenger automobiles.
7302 Buses.
7303 Trucks.
7304 Other highway vehicles and machines.

B. Servicing of

7311 Passenger automobiles.
7312 Buses.
7313 Trucks.
7314 Other highway vehicles and machines.

C. Maintenance of

7321 Passenger automobiles.
7322 Buses.
7323 Trucks.
7324 Other highway vehicles and machines.
7388 Accidents involving other equipment not elsewhere classified.

D. Operation (on public highway) of

7401 Passenger automobiles.
7402 Buses.
7403 Trucks.
7404 Other highway vehicles and machines.

8. WAY AND STRUCTURE

BRIDGES, TUNNELS, CULVERTS, ETC.

8001 Use of hand tools at site.
8002 Use of portable power tools at site.
8003 Use of scaffolds, ladders, etc. at site.
8004 Use of paint spraying or paint removing equipment at site.
8005 Use of cranes, derricks, piledrivers, etc. at site.
8006 Loading or unloading material on cars or trucks.
8007 Moving cars in bridge work.
8008 Use of machinery and other equipment at shop.
8009 Moving cars in tunnel work.
8010 Flying objects.
8011 Falling objects.
8012 Electrical flash, shock or burn.
8013 Fire or explosion.
8014 Fumes or gases.
8015 Stumbling, slipping or falling.
8088 Other causes.

OTHER STRUCTURES

A. Freight or Passenger Stations

8101 Use of hand tools at site.
8102 Use of portable power tools at site.
8103 Use of scaffolds, ladders, etc. at site
8104 Use of paint spraying or paint removing equipment at site.
8105 Use of cranes, derricks, piledrivers, etc. at site.
8106 Loading or unloading material on cars or trucks.
8107 Moving cars in station building structure work.
8108 Use of machinery and other equipment at shop.

B. Roadway Buildings

8111 Use of hand tools at site.
8112 Use of portable power tool at site.
8113 Use of scaffolds, ladders, etc. at site.
8114 Use of paint spraying or paint removing equipment at site.
8115 Use of cranes, derricks, etc. at site.
8116 Loading or unloading material on cars or trucks.
8117 Moving cars in roadway building structure work.
8118 Use of machinery and other equipment at shop.

C. Bridge and Building Department Shop Facilities

8121 Construction, reconstruction or removal of shop buildings or storehouses.
8122 Maintenance of shop buildings or storehouses.
8123 Installation or removal of machinery and other shop equipment.
8124 Maintenance of machinery and other shop equipment.

D. Wharves, Docks, or Floatbridges

8131 Use of hand tools at site.
8132 Use of portable power tools at site.
8133 Use of scaffolds, ladders, etc. at site.
8134 Use of cranes, derricks, piledrivers, etc. at site.
8135 Loading or unloading material on cars, trucks or vessels.
8136 Moving cars in wharf work.
8137 Use of machinery and other equipment at shop.

E. Grain Elevators or Warehouses

8141 Use of hand tools at site.
8142 Use of portable power tools at site.
8143 Use of scaffolds, ladders, etc. at site.
8144 Use of paint spraying or paint removing equipment at site.
8145 Use of cranes, derricks, piledrivers, etc. at site.
8146 Loading or unloading material on cars or trucks.
8147 Moving cars in grain elevator or warehouse work.
8148 Use of machinery and other equipment at shop.

F. Other Miscellaneous Structures

8151 Use of hand tools at site.
8152 Use of portable power tools at site.
8153 Use of scaffolds, ladders, etc. at site.
8154 Use of paint spraying or paint removing equipment at site.
8155 Use of cranes, derricks, piledrivers, etc. at site.
8156 Loading or unloading material on cars or trucks.
8157 Moving cars in miscellaneous structure work.
8158 Use of machinery and other equipment at shop.

Accidents while engaged in work on other structures, due to:

8161 Flying objects.
8162 Falling objects.
8163 Electrical flash, shock or burn.
8164 Fire or explosion.
8165 Fumes or gases.

8166 Stumbling, slipping or falling.
8188 Other causes.

ROADBED

A. Earth or Rock Cuts or Fills

8201 Use of hand tools at site.
8202 Use of portable power tools at site.
8203 Loading or unloading material on cars or trucks.
8204 Moving cars or other on-track machines for earthwork at site.
8205 Moving off-track roadway machines at site.
8206 Use of machinery and other equipment at shop.

B. Retaining Walls and Cribbing

8211 Use of hand tools at site.
8212 Use of portable power tools at site.
8213 Use of scaffolds, ladders, etc. at site.
8214 Use of cranes, derricks, piledrivers, etc. at site.
8215 Loading or unloading material on cars or trucks.
8216 Moving cars in retaining wall work.
8217 Use of machinery and other equipment at shop.
Accidents while engaged in roadbed work, due to:
8221 Flying objects.
8222 Falling objects.
8223 Fire or explosion.
8224 Fumes or gases.
8225 Stumbling, slipping or falling.
8288 Other causes.

TRACK

A. Ties, switch timbers, and tie plates

8301 Inserting or removing by use of hand tools.
8302 Inserting or removing by use of power tools.
8303 Loading or unloading cars or trucks.
8304 Moving cars in tie work.
8305 Machining or other processing at shop.

B. Rail and fastenings

8311 Laying or removing by use of hand tools.
8312 Welding, building-up, cutting or hardening rail at site.
8313 Welding, building-up, cutting or hardening rail at shop.
8314 Loading or unloading cars or trucks.
8315 Moving cars in rail work.

C. Special work

8321 Laying or removing by use of portable tools at site.
8322 Laying or removing by use of cranes or derricks at site.
8323 Welding, building-up, cutting or hardening at site.
8324 Welding, building-up, cutting or hardening at shop.
8325 Loading or unloading material on cars or trucks.
8326 Moving cars in installing or removing special work.
8327 Use of machinery and other equipment at shop in fabricating or assembly of special work.

D. Track and roadway shop facilities

8331 Construction, reconstruction or removal of shop buildings or storehouses.
8332 Maintenance of shop buildings or storehouses.
8333 Installation or removal of machinery and other shop equipment.
8334 Maintenance of machinery and other shop equipment.
Accidents due to:
8341 Flying objects.
8342 Falling objects.
8343 Electrical flash, shock or burn.
8344 Fire or explosion.
8345 Fumes or gases.
8346 Stumbling, slipping or falling.
8388 Other causes.

SIGNAL SYSTEM

A. Block, Interlocking and Highway Crossing Signals

8401 Use of hand tools at site.
8402 Use of portable power tools at site.
8403 Use of scaffolds, ladders, etc. at site.
8404 Use of paint spraying or paint removing equipment.
8405 Use of cranes or derricks at site.
8406 Loading or unloading material on cars or trucks.
8407 Moving cars in signal work.
8408 Use of machinery and other equipment at shop.

B. Signal Shop Facilities

8411 Construction, reconstruction or removal of shop buildings or storehouses.
8412 Maintenance of shop buildings or storehouses.
8413 Installation or removal of machinery and other shop equipment.
8414 Maintenance of machinery and other shop equipment.
Accidents due to:
8421 Flying objects.
8422 Falling objects.
8423 Electrical flash, shock or burn.
8424 Fire or explosion.
8425 Hot or corrosive substances.
8426 Fumes or gases.
8427 Stumbling, slipping or falling.
8488 Other causes.

COMMUNICATIONS SYSTEM

A. Telephone, Telegraph, and Radio Communications

8501 Use of hand tools at site.
8502 Use of portable power tools at site.
8503 Use of ladders, lineman's climbing irons, etc.
8504 Use of pole-setting or other hoisting equipment at site.
8505 Loading or unloading material on cars or trucks.
8506 Moving cars in communications work.
8507 Use of machinery and other equipment at shop.

B. Communications Shop Facilities

8511 Construction, reconstruction or removal of shop buildings or storehouses.
8512 Maintenance of shop buildings or storehouses.
8513 Installation or removal of machinery and other shop equipment.
8514 Maintenance of machinery and other shop equipment.
Accidents due to:
8521 Flying objects.
8522 Falling objects.
8523 Electrical flash, shock or burn.
8524 Fire or explosion.
8525 Hot or corrosive substances.
8526 Fumes or gases.
8527 Stumbling, slipping or falling.
8588 Other causes.

OTHER WAY AND STRUCTURES

A. Operation of Track Motor Cars and Other Roadway Machines

8601 Track motor cars striking each other.
8602 Track motor cars striking other roadway machines.
8603 Track motor cars leaving the track while in motion.
8604 Track motor cars, jumping from, in anticipation of nontrain accident.
8605 Other nontrain accidents involving operation of track motor cars.
8606 Other nontrain accidents involving operation of other roadway machines, not elsewhere classified.

B. Servicing or Maintenance of Roadway Machines

8611 Use of portable tools.
8612 Use of shop machinery.
8613 Construction, reconstruction or removal of shop buildings or storehouses.
8614 Maintenance of shop buildings or storehouses.
8615 Installation or removal of shop machinery.
8616 Maintenance of shop machinery.

C. Power Plants

8621 Construction, reconstruction, installation or removal of power plant buildings and machinery.
8622 Operation of power plant buildings and machinery.
8623 Servicing of power plant buildings and machinery.
8624 Maintenance of power plant buildings and machinery.

D. Substations

8631 Construction, reconstruction, installation or removal of substations.
8632 Operation of substations.
8633 Servicing of substations.
8634 Maintenance of substations.

E. Power Transmission Systems

8641 Construction, reconstruction, installation or removal of power transmission systems.
8642 Operation of power transmission systems.
8643 Servicing of power transmission systems.
8644 Maintenance of power transmission systems.

F. Power Distribution Systems

8651 Construction, reconstruction, installation or removal of power distribution systems.
8652 Operation of power distribution systems.
8653 Servicing of power distribution systems.
8654 Maintenance of power distribution systems.

G. Construction, Maintenance of Fences and Signs

8661 Use of portable tools at site.
8662 Use of paint spraying equipment at site.
8663 Use of paint spraying equipment at shop.
8664 Use of machinery at shop.
Accidents due to:
8671 Flying objects.
8672 Falling objects.
8673 Electrical flash, shock or burn.
8674 Fire or explosion.
8675 Hot or corrosive substances.
8676 Fumes or gases.
8677 Stumbling, slipping or falling.
8688 Other causes.

9. MISCELLANEOUS CAUSES

9001 Operating freight stations, and the freight portion of combination stations.
9002 Handling freight within stations, to or from cars, between cars or within cars, by hand.
9003 Handling freight within stations, to or from cars, between cars or within cars, by power.
9004 Operating passenger stations, and the passenger portion of combination stations.
9005 Handling baggage, express and mail by hand.
9006 Handling baggage, express and mail by power.
9087 Other accidents within stations, not elsewhere classified.

9088 Other accidents to station employees outside stations, not elsewhere classified.
9101 Operating storehouse buildings and equipment and storage yards.
9102 Operating car dumpers, gantry cranes, mules, skip hoists, shakeout devices, etc.
9201 Accidents to yard office employees and others within yard offices.
9202 Accidents to yard office employees and others outside yard offices.

Other miscellaneous accidents

9301 Accidents to crossing and bridge flagmen and gatemen.
9302 Accidents to patrolmen and watchmen.
9303 Accidents to commissary and laundry employees.

Accidents not elsewhere classified, due to:
9401 Flying objects.
9402 Falling objects.
9403 Electrical flash, shock or burn.
9404 Fire or explosion.
9405 Hot or corrosive substances.
9406 Fumes or gases.
9407 Stumbling, slipping or falling.
9488 Accident investigated—other ascertained cause.

UNASCERTAINED CAUSES

9548 Accident investigated—cause undetermined.
9588 Accident not investigated.

ELECTRIC RAILWAYS

§ 125.60 Electric railways; form of report.

(a) All carriers by electric railway subject to the Accident Reports Act, approved May 6, 1910, shall render their monthly accident reports to this Commission on Form L, as adopted for such carriers and shall be subject in all other respects to the provisions of "Rules Governing Monthly Reports of Railroad Accidents". (§§ 125.10–125.55)

(b) Such rules shall be construed in such manner as to be conformable with the tenor of the modified requirements concerning electric railway companies indicated in this section.

[F.R. Doc. 60–12002; Filed, Dec. 28, 1960; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER C—CARRIERS BY WATER

[No. 32451]

PART 323—UNIFORM SYSTEM OF ACCOUNTS FOR MARITIME CARRIERS

Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 13th day of December 1960.

The matter of accounting regulations prescribed for maritime carriers being under consideration pursuant to provisions of the Interstate Commerce Act, as amended; and,

It appearing, that certain technical modifications of those regulations are necessary in order to provide at this time suitable accounts in which to classify funds which such carriers are now required to maintain pursuant to provisions of the Merchant Marine Act, 1936, as amended, and certain other technical minor amendments are required for clarification and administration of the regulations; and these modifications are of such a nature that, for good cause, the notice of proposed rule making requirements of section 4 of the Administrative Procedure Act are deemed unnecessary; therefore,

It is ordered, That the modifications designated "Modifications in the accounts relating to reserve funds and other matters," which are attached hereto and made a part hereof shall become effective December 30, 1960;

It is further ordered, That this order shall be served on all carriers by water subject to provisions of the Interstate Commerce Act which also operate vessels in foreign service, and every lessor thereof, and on every receiver, trustee, executor, administrator, or assignee of any such carrier or lessor, and notice of this order shall be given to the general public by depositing one order with the attached modifications in the office of the Secretary of the Commission at Washington, D.C., and by filing the order with the Director, Office of the Federal Register.

(Sec. 313, 54 Stat. 944, as amended; 49 U.S.C. 913)

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY, *Secretary.*

Part 323 is amended as follows:

§ 323.301 [Amendment]

Item No. 1. In § 323.301 *Capital reserve fund*, make the following changes and addition:

In subsection 301–1 *Cash and securities*, change the title of this subsection to read: *Cash and securities, nontrust.*

In subsection 301–2 *Discounts and premiums*, change the title of this subsection to read: *Discounts and premiums, nontrust.*

At the end of § 323.301 add the following new and additional paragraph:

301–3 *Common stock trust.* This account shall be charged with the amount of the non-trust portion of the Capital Reserve Fund transferred to the Capital Reserve Fund-Common Stock Trust, the acquisition cost of common stock in which the trust is invested, the income, capital gains, and other principal, and shall be credited with withdrawals therefrom and capital losses in accordance with the provisions of section 607(d) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administrator may issue. Subsidiary accounts of the Capital Reserve Fund-Common Stock Trust are to be maintained to record cash, common stocks, and other principal.

§ 323.302 [Amendment]

Item No. 2. In § 323.302 *Special reserve fund*, make the following changes and addition:

In subsection 302–1 *Cash and securities*, change the title of this subsection to read: *Cash and securities, nontrust.*

In subsection 302–2 *Discounts and premiums*, change the title of this subsection to read: *Discounts and premiums, nontrust.*

At the end of § 323.302 add the following new and additional paragraph:

302–3 *Common stock trust.* This account shall be charged with the amount of the non-trust portion of the Special Reserve Fund transferred to the Special Reserve Fund-Common Stock Trust, the acquisition cost of common stock in which the trust is Invested, the income, capital gains, and other principal, and shall be credited with withdrawals therefrom and capital losses in accordance with the provisions of section 607(d) of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administrator may issue. Subsidiary accounts of the Special Reserve Fund-Common Stock Trust are to be maintained to record cash, common stocks, and other principal.

§ 323.306 [Amendment]

Item No. 3. After § 323.306 add the following three new and additional sections:

§ 323.307 Escrow funds.

This account shall be charged with the amounts required to be deposited in the Escrow fund and credited with disbursements therefrom, in connection with the insurance of loans and mortgages financed by sale of bonds to the general public, pursuant to the provisions of section 1111 of the Merchant Marine Act, 1936, as amended, and/or the provisions of contracts or agreements as may be entered into. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

§ 323.308 Construction funds.

This account shall be charged with the amounts required to be deposited therein, representing the difference between the principal of insured bonds and the principal amount required to be deposited in the Escrow fund or such other amounts required by contracts or agreements entered into, and shall be credited with authorized disbursements therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

§ 323.310 Restricted funds.

This account shall be established at the time of the first deposit required therein, and shall be charged with deposits pursuant to the provisions of contracts or agreements. This account shall be credited with authorized withdrawals therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Maritime Administrator may issue.

Item No. 4. In § 323.525 *Long-term debt*, add to the text in the appropriate

numerical sequence reference to § 323.527. Make no change in existing reference to §§ 323.526, 323.530, and 323.534.

Item No. 5. After § 323.526 add the following new and additional section:

§ 323.527 U.S. Government insured Merchant Marine Mortgage bonds and mortgage notes.

This account shall include all U.S. Government insured Merchant Marine mortgage bonds and mortgage notes issued pursuant to the provisions of contracts or agreements, and shall be maintained by vessel.

§ 323.530 [Amendment]

Item No. 6. In § 323.530 *Mortgage bonds and debentures,* change the title of this section to read: *Other mortgage bonds and debentures.*

In addition to this change in title, insert in the text between the word "debentures" and the word "and", the following: not provided for in other accounts.

§ 323.779 [Amendment]

Item No. 7. In § 323.779 *Other port expenses,* list of items (5th item), insert "Saint Lawrence Seaway" so that the item will read:

Canal tolls other than Panama, Suez, and Saint Lawrence Seaway Canals (see account 795).

Item No. 8. In § 323.795 *Canal tolls,* text of the section, add "Saint Lawrence Seaway" so that the complete text will read as follows:

§ 323.795 Canal tolls.

This account shall include only the cost of tolls levied against vessels for traversing the Panama Canal, Suez Canal and Saint Lawrence Seaway. Tolls assessed for passage through other canals shall be included in account 779, "Other port expenses."

[F.R. Doc. 60-11928; Filed, Dec. 28, 1960; 8:47 a.m.]

Title 50—WILDLIFE

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Mark Twain National Wildlife Refuge, Illinois and Iowa

The following special regulation is issued.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ILLINOIS AND IOWA

MARK TWAIN NATIONAL WILDLIFE REFUGE

Sport fishing on the Mark Twain National Wildlife Refuge, Illinois and Iowa is permissible only under the following conditions:

(a) Species permitted to be taken: as prescribed by State regulations.

(b) Open season:

ILLINOIS

In the Calhoun and Batchtown Units of the Mark Twain National Wildlife Refuge the fishing season is open from January 1, 1961 through October 14, 1961.

In the Gardner and Keithsburg Units of the Mark Twain National Wildlife Refuge the fishing season is open from April 1, 1961 through September 30, 1961.

IOWA

In the Lower Louisa Unit of the Mark Twain National Wildlife Refuge the fishing season is open from January 1, 1961 through September 30, 1961.

In the Upper Louisa Unit of the Mark Twain National Wildlife Refuge the fishing season is open from April 1, 1961 through September 30, 1961.

(c) Daily creel limits: as prescribed by State regulations.

(d) Methods of fishing: as prescribed by State regulations.

(e) Description of areas open to fishing: Fishing is permitted in accordance with the above on the posted area which comprises approximately 5,300 acres and 23 percent of the total refuge and which is described as follows:

ILLINOIS

In Pool 25, Calhoun County, all waters of Swan and Gilbert Lakes within the Calhoun Unit of the Mark Twain Wildlife Refuge.

In Pool 24, Calhoun County, all waters within the boundaries of the Batchtown Unit of the Mark Twain National Wildlife Refuge.

In Pool 21, Adams County, all waters within the boundaries of the Gardner Unit of the Mark Twain National Wildlife Refuge.

In Pool 18, Mercer County, all waters within the boundaries of the Keithsburg Unit of the Mark Twain National Wildlife Refuge.

IOWA

In Pool 17, Louisa County, all waters within the boundaries of the Lower Louisa Unit of the Mark Twain National Wildlife Refuge.

In Pool 18, Louisa County, all waters within the boundaries of the Upper Louisa Unit of the Mark Twain National Wildlife Refuge.

(f) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective January 1, 1961 through October 14, 1961.

R. W. BURWELL,
Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 20, 1960.

[F.R. Doc. 60-12049; Filed, Dec. 28, 1960; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Carryover Method of Accounting in Certain Corporate Acquisitions

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

The following regulations are hereby prescribed under section 381(c)(4) of the Internal Revenue Code of 1954, relating to the carryover of method of accounting in certain corporate acquisitions:

§ 1.381(c)(4) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; method of accounting.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

* * * * *

(4) *Method of accounting.* The acquiring corporation shall use the method of accounting used by the distributor or transferor corporation on the date of distribution or transfer unless different methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of computing taxable income adopted pursuant to regulations prescribed by the Secretary or his delegate.

§ 1.381(c)(4)–1 Method of accounting.

(a) *Carryover requirement*—(1) *General rule.* (i) Section 381(c)(4) provides that, in a transaction to which section 381(a) applies, an acquiring corporation shall use the same method of accounting used by the distributor or transferor corporation on the date of distribution or transfer unless different methods of accounting were used on that date by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods of accounting were used, the acquiring corporation shall use the method or combination of methods of accounting adopted pursuant to this section.

(ii) The acquiring corporation shall take into its accounts the dollar balances of those accounts of the distributor or transferor corporation representing items of income or deduction which, because of its method of accounting, were not required or permitted to be included or deducted by the distributor or transferor corporation in computing taxable income for taxable years ending on or before the date of distribution or transfer. The acquiring corporation shall similarly take into its accounts the dollar balances of those accounts of the distributor or transferor corporation which represent reserves in respect of which the distributor or transferor corporation has taken a deduction for taxable years ending on or before the date of distribution or transfer. The acquiring corporation shall include or deduct in computing its taxable income any item of income or deduction of the distributor or transferor corporation which the distributor or transferor corporation, by reason of its method of accounting, would have been required or permitted to include or deduct for a taxable year ending after the date of distribution or transfer. The acquiring corporation shall not include or deduct in computing its taxable income any item of income or deduction of the distributor or transferor corporation which the distributor or transferor corporation, by reason of its method of accounting, was required or permitted to include or deduct for a taxable year ending on or before the date of distribution or transfer. Items of income and deduction shall have the same character in the hands of the acquiring corporation as they would have had in the hands of the distributor or transferor corporation or corporations if no distribution or transfer had occurred. This section shall have no application to items of income or deduction, or dollar balances, to the extent they are attributable to assets or obligations not distributed or transferred, and shall have no application to items the tax treatment of which is specifically provided for in other paragraphs of section 381(c).

(2) *Rules of application.* For purposes of section 381(c)(4) and this section, the term "method of accounting" shall have the same meaning as that provided in section 446 and the regulations thereunder. This section shall not be construed as preventing the application of section 269, 453(c), or 482, or the regulations thereunder. For provisions defining the date of distribution or transfer, see paragraph (b) of § 1.381(b)–1. See other paragraphs of section 381(c) and the regulations thereunder for other rules regarding the treatment of the carryover of certain items specifically enumerated therein.

(b) *Conditions for continuation of methods of accounting.* (1) *No differences in methods of accounting.* If all the parties to a section 381(a) transaction used the same method of accounting on the date of distribution or transfer, the acquiring corporation shall continue to use such method of accounting, unless the acquiring corporation has obtained the consent of the Commissioner in accordance with paragraph (e) of § 1.446–1 to use a different method of accounting. This subparagraph may be illustrated by the following examples:

Example (1). X and Y Corporations use the accrual method as their over-all method of accounting. Both corporations have established a reserve for bad debts under section 166(c). Pursuant to elections made by each corporation they are amortizing trademark and trade name expenditures over a 60-month period under section 177, expensing intangible drilling and development costs under section 263(c), and accruing real property taxes ratably under section 461(c). It is assumed that there are no other items of income or deduction to which paragraph (a) of this section might apply. Y Corporation acquires all of the assets of X Corporation in a transaction to which section 381(a) applies. On and after the date of distribution or transfer Y Corporation must continue, without further election, to use the same over-all method of accounting and the same accounting treatment of the specified items, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the methods of accounting. Thus, Y Corporation shall add to the balance in its reserve for bad debts account the balance in X Corporation's reserve for bad debts account, shall continue to amortize and deduct over the remaining portion of the 60-month period the unamortized portion of the trademark and trade name expenditures carried over from X Corporation, and shall continue the same treatment of intangible drilling and development costs and of real property taxes.

Example (2). M and N Corporations use the cash receipts and disbursements method of accounting. N Corporation acquires all the assets and assumes all the obligations of M Corporation in a transaction to which section 381(a) applies. M Corporation, immediately prior to the transaction, is entitled to receive $10,000 for unbilled services performed, and has billed, but not received payment for services performed in an amount of $20,000. It has received but not paid invoices amounting to $18,000, and has received services in the amount of $5,000 for

which no invoices have been received. Since M and N Corporations are both on the cash receipts and disbursements method, N Corporation must continue to use that method, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change its method of accounting. Accordingly, N Corporation must include in income when received the unrealized receivables of M Corporation and may deduct the payment of those obligations of M Corporation which would have been deductible by such corporation if paid by it. Thus, N Corporation shall treat as ordinary income the receipt by it of M Corporation's $30,000 of receivables, and may deduct upon payment the amount of M Corporation's $23,000 of payables which would have been deductible by it.

(2) *Separate businesses.* If, after the date of distribution or transfer, the trades or businesses of the parties to a transaction described in section 381(a) are operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then the method of accounting employed by the parties to the transaction on the date of distribution or transfer with respect to each trade or business shall be used by the acquiring corporation, unless the acquiring corporation has obtained the consent of the Commissioner in accordance with paragraph (e) of § 1.446–1 to use a different method of accounting. However, if only a single method of accounting may be employed by a taxpayer with respect to a particular item, but different methods were employed by the several corporations on the date of distribution or transfer with respect to such an item, then the acquiring corporation shall adopt the method of accounting described in paragraph (c) of this section for such an item, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of accounting. This subparagraph may be illustrated by the following examples:

Example (1). M Corporation is engaged in a retail furniture business. N Corporation is engaged in a personal service business. M Corporation uses the accrual method of accounting. N Corporation uses the cash receipts and disbursements method of accounting. M Corporation acquires the assets of N Corporation in a transaction to which section 381(a) applies. In accordance with paragraph (d) of § 1.446–1, M Corporation operates as a separate and distinct trade or business the business formerly operated by N Corporation. Unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of accounting, M Corporation shall continue to use the cash receipts and disbursements method of accounting with respect to the business formerly operated by N Corporation, and shall use the accrual method of accounting with respect to the retail furniture business.

Example (2). Assume the same facts as in example (1), except that N Corporation has elected under section 171 to amortize bond premium with respect to fully taxable bonds. M Corporation has not made the election to amortize bond premium with respect to such bonds owned by it. M Corporation may not continue separate accounting methods as to amortizable bond premium but must consistently apply only a single method of accounting with respect to such bond premium since the election to amortize bond premium applies to all fully taxable bonds held by the taxpayer. M Corporation shall use the method of accounting described in paragraph (c) of this section for such bond premium, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of accounting.

(3) *Integrated businesses.* (i) If, after the date of distribution or transfer, any of the trades or businesses of the parties to a transaction described in section 381(a) are not operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then, to the extent that the same methods of accounting were employed on the date of distribution or transfer by the parties to the transaction with respect to any trades or businesses which are integrated or are required to be integrated in accordance with section 446 (d) and the regulations thereunder, the acquiring corporation shall continue to employ such methods of accounting, unless the acquiring corporation has obtained the consent of the Commissioner in accordance with paragraph (e) of § 1.446–1 to use a different method of accounting.

(ii) If, after the date of distribution or transfer, any of the trades or businesses of the parties to a transaction described in section 381(a) are not operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then, to the extent that different methods of accounting were employed on the date of distribution or transfer by the parties to the transaction with respect to any trades or business which are integrated or required to be integrated in accordance with section 446(d) and the regulations thereunder, the acquiring corporation shall adopt the method of accounting described in paragraph (c) of this section, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of accounting.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). M and N Corporations both use the accrual method as an over-all method of accounting. M Corporation has established a reserve for bad debts while N Corporation uses the specific charge-off method with respect to its bad debts. M Corporation acquires all of the assets of N Corporation in a transaction to which section 381(a) applies and integrates the business formerly operated by N Corporation into the business operated by M Corporation before the date of distribution or transfer. M Corporation shall continue to use the accrual method as its over-all method of accounting, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change its method of accounting. M Corporation shall use the method of accounting described in paragraph (c) of this section with respect to bad debts, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of accounting.

Example (2). X Corporation conducts two separate and distinct trades or businesses, a personal service business with respect to which the cash receipts and disbursements method of accounting is used and a manufacturing business with respect to which the accrual method of accounting is used. Y Corporation conducts a manufacturing business and uses the accrual method of accounting. Y Corporation acquires all of the assets of X Corporation in a transaction to which section 381(a) applies. After the date of distribution or transfer, Y integrates the manufacturing business formerly operated by X Corporation into the manufacturing business operated by it and continues to operate as a separate and distinct trade or business the personal service business formerly operated by X Corporation. Unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of accounting, Y Corporation shall continue to use the accrual method of accounting with respect to the integrated manufacturing business and shall continue to use the cash receipts and disbursements method of accounting with respect to the personal service business.

(4) *General rules.* In any case where the method of accounting employed on the date of distribution or transfer is continued, it will be unnecessary for the acquiring corporation to renew any election previously made by it or by any distributor or transferor corporation with respect to such method of accounting. Also, the acquiring corporation is bound by the elections previously made by it or by any distributor or transferor corporation with respect to such method of accounting which are in effect on the date of distribution or transfer to the same extent as though the distribution or transfer had not occurred. If, on the date of distribution or transfer, any party to a section 381(a) transaction had no established method of accounting for any item, or came into existence as a result of the transaction, such party shall not be considered to be using a method of accounting for such item or having an over-all method of accounting different from that used by the other parties to the transaction.

(c) *Change of method of accounting without consent of Commissioner*—(1) *General rule.* If the acquiring corporation may not continue to use, under the provisions of paragraph (b) of this section, the method of accounting used by it or the distributor or transferor corporation or corporations on the date of distribution or transfer, the acquiring corporation shall use the principal method of accounting of such corporations (as defined in subparagraph (2) of this paragraph), unless the acquiring corporation has obtained the consent of the Commissioner in accordance with paragraph (d) of this section to use a different method of accounting. The principal method of accounting shall be used provided that: (i) such method of accounting clearly reflects the income of the acquiring corporation, and (ii) the Commissioner could have granted permission to the acquiring or distributor or transferor corporations to change to the principal method of accounting. If, pursuant to this paragraph, the principal method of accounting is used by the acquiring corporation all adjustments necessary to reflect the change from the method of accounting previously used by any of the corporations involved shall be taken into account by the acquiring corporation. The amount of such adjustments, the manner in which they are to be taken into account by the acquiring corporation, and the tax attributable thereto, shall be determined and com-

puted in the same manner as if, immediately after the date of distribution or transfer, each of the several corporations that were not using the principal method of accounting on the date of distribution or transfer had initiated a change in accounting method. The change in method of accounting shall be treated as initiated by the taxpayer for purposes of section 481, since the corporations voluntarily entered into the transaction which causes the provisions of section 381 to apply. If the acquiring corporation uses the principal method of accounting, it will be unnecessary for the acquiring corporation to renew any election previously made with respect to such principal method of accounting. Also the acquiring corporation is bound by elections previously made with respect to such principal method of accounting which are in effect on the date of distribution or transfer to the same extent as though the distribution or transfer had not occurred.

(2) *Principal method of accounting.* (i) The determination of the principal method of accounting shall be made with reference to each integrated trade or business operated by the acquiring corporation after the date of distribution or transfer, and with reference to the methods of accounting previously employed by the parties with respect to the trades or businesses of such parties which are integrated after the date of distribution or transfer. The following factors, for a representative period, are among those which shall be considered for each group of trades or businesses with respect to which one type of over-all method of accounting common to all was employed and these factors shall be compared with comparable factors for the group of trades or businesses with respect to which another type of over-all method of accounting common to all was employed: (*a*) total assets, (*b*) gross sales, (*c*) net profit, and (*d*) net worth. Whether or not the same over-all method of accounting was employed with respect to all integrated trades or businesses, if the parties to the transaction applied different methods of accounting with respect to particular items of income or deduction a similar comparison of the amount of the item and of related accounts shall be made with respect to such items. Thus, in the case of the treatment of bad debts, trades or businesses which had been using the reserve method of accounting will be compared with the trades or businesses which had been using the specific charge-off method of accounting. The following factors for a representative period are among those to be compared with respect to each group of trades or businesses using the same accounting treatment with respect to bad debts: sales on account, accounts receivable, and the annual deduction with respect to bad debts.

(ii) If there is no principal method of accounting the acquiring corporation shall use the method of accounting adopted in accordance with paragraph (d) of this section.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M Corporation uses the cash receipts and disbursements method of accounting, while N Corporation uses the accrual method. The principal method of accounting is assumed to be the accrual method. On June 30, 1961, N Corporation acquires all of the assets of M Corporation in a transaction to which section 381(a) applies. N Corporation then integrates its own business with that of M Corporation. N Corporation shall, under such circumstances, use the accrual method of accounting for the integrated business, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of accounting. All adjustments necessary to place the accounts of M Corporation on the accrual method shall be taken into account by N Corporation. Such adjustments shall be determined and computed in the same manner as if M Corporation had initiated a change in method of accounting as of July 1, 1961.

Example (2). Assume the same facts as in example (1) except that N Corporation acquires all the assets of M Corporation with the exception of certain notes receivable on which interest has accrued. In such case, the total adjustment which N must take into account shall not reflect any adjustment attributable to the notes that are not transferred.

Example (3). P and S Corporations use the accrual method of accounting. P Corporation has established a reserve for bad debts and S Corporation uses the specific charge-off method with respect to bad debts. S Corporation acquires all of the assets of P Corporation in a transaction to which section 381 (a) applies. At such time the balance in P Corporation's reserve for bad debt account is $50,000, deductions attributable to which produced a tax benefit. The specific charge-off method with respect to bad debts is assumed to be the principal method of accounting for that item. S Corporation shall carry over into its accounts the balance of $50,000 in P Corporation's reserve for bad debts account. After the date of distribution or transfer S Corporation shall use the accrual method as the over-all method of accounting, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the over-all method of accounting. S Corporation shall use the specific charge-off method with respect to bad debts, and shall include in its income the $50,000 reserve for bad debts of P Corporation, unless consent of the Commissioner has been obtained in accordance with paragraph (d) of this section to use a different method of accounting.

(d) *Change of method of accounting with consent of Commissioner*—(1) *General rule.* (i) If the acquiring corporation may not continue to use, under paragraph (b), the method of accounting used by it or the distributor or transferor corporation or corporations on the date of distribution or transfer, or may not under paragraph (c) use the principal method of accounting, then the acquiring corporation shall request the Commissioner to determine the appropriate method, or combination of methods, of accounting to be used.

(ii) If an acquiring corporation, to which paragraph (c) of this section applies, wishes to use a method, or combination of methods, of accounting other than the principal method of accounting it shall apply to the Commissioner for permission to use such other method, or combination of methods, of accounting. Permission to use such other method, or combination of methods, of accounting will not be granted unless the acquiring corporation and the Commissioner agree to the terms, conditions and adjustments under which the change to such method or combination of methods will be effected.

(iii) The adjustments necessary to reflect the change from the method of accounting previously used by any of the corporations involved shall be taken into account by the acquiring corporation. The amount of such adjustments, the manner in which they are to be taken into account by the acquiring corporation, and the tax attributable thereto shall be determined and computed in the same manner as if, immediately after the date of distribution or transfer, each of the several corporations, that were not on the date of distribution or transfer using the method or combination of methods of accounting adopted pursuant to subdivision (i) or (ii) of this subparagraph, had initiated a change of accounting method.

(2) *Time and manner of making application.* Applications under subparagraph (1) of this paragraph for permission to use a method of accounting, or requests for determination of the method of accounting to be used shall be filed with the Commissioner of Internal Revenue, Attention: T:R, Washington 25, D.C., not later than 90 days after the date of distribution or transfer. The application shall be accompanied by a copy of the statement described in paragraph (b)(3) of § 1.381(b)–1, and by a statement specifying the nature of the transaction which causes section 381 to apply; the differences in accounting methods used by the corporations concerned; the method or methods of accounting proposed to be used by the acquiring corporation; and the various amounts, if any, of items of income or deduction which will be duplicated or omitted in the computation of taxable income under such proposed method or methods. The Commissioner may also require such other information as may be necessary in order to determine the proper method or methods of accounting to be used by the acquiring corporation.

[F.R. Doc. 60–10278; Filed, Dec. 28, 1960; 8:49 a.m.]

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Carryover of Inventories in Certain Corporate Acquisitions

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., with-

in the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

The following regulations are hereby prescribed under section 381(c)(5) of the Internal Revenue Code of 1954, relating to the carryover of inventories in certain corporate acquisitions:

§ 1.381(c)(5) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; inventories.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

* * * * *

(5) *Inventories.* In any case in which inventories are received by the acquiring corporation, such inventories shall be taken by such corporation (in determining its income) on the same basis on which such inventories were taken by the distributor or transferor corporation, unless different methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of taking inventory adopted pursuant to regulations prescribed by the Secretary or his delegate.

§ 1.381(c)(5)–1 Inventories.

(a) *Carryover requirement.*—(1) *In general.* Section 381(c)(5) provides that, in a transaction to which section 381(a) applies and in which inventories are received by the acquiring corporation, such inventories shall be taken by the acquiring corporation (in determining its income) on the same basis on which such inventories were taken by the distributor or transferor corporation, unless different inventory methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of taking inventories adopted pursuant to this section.

(2) *Rules of application.* References in this section to a method or methods of taking inventories are to be construed as referring to both the method or methods of identifying the goods and the method or methods of valuing the goods. The method or methods of taking inventories shall be determined as of the date of distribution or transfer and any corporation, a party to a section 381(a) transaction, whose taxable year does not end on such date shall be considered as using the method or methods of taking inventories that it would have employed had its taxable year ended on such date. This section shall not be construed as preventing the acquiring corporation from adopting an inventory method which, under the provisions of section 471 or 472, and the regulations thereunder, may be adopted without the consent of the Commissioner. For provisions defining the date of distribution or transfer, see paragraph (b) of § 1.381(b)–1.

(b) *Conditions for continuation of methods of taking inventories*—(1) *No differences in methods of taking inventories.* If all the parties to a section 381(a) transaction used the same method of taking inventories on the date of distribution or transfer, the acquiring corporation shall continue to use such method of taking inventories, unless the acquiring corporation has obtained the consent of the Commissioner, in accordance with paragraph (e) of § 1.446–1, to use a different method of taking inventories. This subparagraph may be illustrated by the following examples:

Example (1). Y and Z Corporations are manufacturing concerns which compute their entire inventories on the first-in first-out method of identification and the cost or market, whichever is lower, method of valuation. Z Corporation acquires all the assets of Y Corporation in a transaction to which section 381(a) applies. On and after the date of distribution or transfer Z Corporation must continue, without further election, to use the first-in first-out method of identifying and the cost or market, whichever is lower, method of valuing all its inventories, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of taking inventories.

Example (2). O and P Corporations are manufacturing companies which compute their entire inventories by the use of the last-in first-out method of identification and the cost basis of valuation. In applying the last-in first-out method both corporations use the dollar-value method, use the double-extension method, pool under the natural business unit method, and value annual inventory increases by reference to the actual cost of goods most recently purchased. P Corporation acquires the assets of O Corporation in a transaction to which section 381(a) applies. On and after the date of distribution or transfer P Corporation must continue, without further election, to use the last-in first-out method of identification, the cost basis of valuation, and, in applying the last-in first-out method, must continue to use the dollar-value method, use the double-extension method, pool under the natural business unit method, and value annual inventory increases by reference to the actual cost of goods most recently purchased, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of taking inventories.

(2) *Separate businesses.* If, after the date of distribution or transfer, the trades or businesses of the parties to a transaction described in section 381 (a) are operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then the method or methods of taking inventories employed by the parties to the transaction on the date of distribution or transfer with respect to each trade or business shall be used by the acquiring corporation, unless the acquiring corporation has obtained the consent of the Commissioner, in accordance with paragraph (e) of § 1.446–1, to use a different method of taking inventories. This subparagraph shall not be construed as precluding the Commissioner under section 471 or 472, and the regulations thereunder, from requiring that the method of taking inventories used in a particular trade or business be used in another trade or business with respect to similar types of goods if, in the opinion of the Commissioner, the use of such method of taking inventories is essential to a clear reflection of income. See paragraph (e) of this section for special rules relating to the use of the last-in first-out method. This paragraph may be illustrated by the following example:

Example. R Corporation is engaged in the production of radios and television sets, and S Corporation is engaged in the production of washers and driers. In computing their inventories both corporations use the cost basis of valuation. R Corporation uses the last-in first-out method of identification, whereas S Corporation uses the first-in first-out method. T Corporation acquires the assets of R Corporation and S Corporation in a transaction to which section 381(a) applies. In accordance with paragraph (d) of § 1.446–1, T Corporation operates as a separate and distinct trade or business each of the businesses formerly operated by R Corporation and S Corporation. Unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the methods of taking inventories, on and after the date of transfer, T Corporation is required to continue to use the method of taking inventories previously used by R Corporation and S Corporation respectively, with respect to each trade or business. However, the Commissioner may require T Corporation to use the last-in first-out method with respect to that portion of the goods in the trade or business formerly operated by S Corporation which are similar to goods in the trade or business formerly operated by R Corporation, if, in his opinion, the use of the last-in first-out method with respect to such similar goods is essential to a clear reflection of income.

(3) *Integrated businesses.* (i) If, after the date of distribution or transfer, any of the trades or businesses of the parties to a transaction described in section 381(a) are not operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then, to the extent that the same methods of taking inventories for particular types of goods were employed on the date of distribution or transfer by the parties to the transaction with respect to any trades or businesses which are integrated or are required to be integrated in accordance with section 446(d) and the regulations thereunder, the acquiring corporation shall continue to employ such methods of taking inventories for such types of goods unless the acquiring corporation has obtained the consent of the Commissioner, in accordance with paragraph (e) of § 1.446–1, to use a different method of taking inventories. This subdivision shall not be construed as precluding the Commissioner under section 471 or 472, and the regulations thereunder, from requiring that the

method of taking inventories used in a particular trade or business operated by the acquiring corporation after the date of distribution or transfer with respect to similar types of goods, to be used in another trade or business operated by it after such date if, in the opinion of the Commissioner, the use of such method of taking inventories is essential to a clear reflection of income. However, see paragraph (e) of this section for special rules relating to the use of the last-in first-out method.

(ii) If, after the date of distribution or transfer, any of the trades or businesses of the parties to a transaction described in section 381(a) are not operated as separate and distinct trades or businesses within the meaning of paragraph (d) of § 1.446–1, then, to the extent that different methods of taking inventories for particular types of goods were employed on the date of distribution or transfer by the parties to the transaction with respect to any trades or businesses which are integrated or required to be integrated in accordance with section 446(d) and the regulations thereunder, the acquiring corporation shall adopt the method of taking inventories for such types of goods described in paragraph (c) of this section, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of taking inventories.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). O and P Corporations are manufacturing companies which compute their entire inventories by the use of the last-in first-out method of identification and the cost basis of valuation. In applying the last-in first-out method both corporations use the dollar-value method and both use the double-extension method. However, O Corporation pools under the natural business unit method while P Corporation pools under the multiple pool method and O Corporation has elected to value its annual inventory increase by reference to the actual cost of goods most recently purchased, whereas P Corporation has elected to value such increase by reference to the actual cost of the goods purchased during the taxable year in the order of acquisition. P Corporation acquires the assets of O Corporation in a transaction to which section 381(a) applies and integrates the business formerly operated by O Corporation into the business which was operated by P Corporation before the date of the distribution or transfer. P Corporation shall continue to use the last-in first-out method of identification, the cost basis of valuation, and in applying the last-in first-out method, shall continue to use the dollar-value method and the double-extension method, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of taking inventories. P Corporation shall use the method of taking inventories described in paragraph (c) of this section with respect to the method of pooling and the method of valuing annual inventory increases, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of taking inventories.

Example (2). Y and Z Corporations are engaged in the manufacture of cereal products. Y Corporation uses the first-in first-out method of identifying and the cost or market, whichever is lower, method of valuing its inventories including oats. Z Corporation uses the first-in first-out method of identifying and the cost or market, whichever is lower, method of valuing its inventories, except oats which are valued on the cost method. Y Corporation acquires all of the assets of Z Corporation in a transaction to which section 381(a) applies and integrates the business formerly operated by Z Corporation into the business which was operated by Y Corporation before the date of the distribution or transfer. Y Corporation must continue to use the first-in first-out method with respect to all of its inventories and must continue to use the cost or market, whichever is lower, method of valuing all inventories except oats, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of taking inventories. Y Corporation shall use the method described in paragraph (c) of this section in valuing its inventory of oats, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of taking inventories.

(4) *General rules.* In any case where the method of taking inventories employed on the date of distribution or transfer is continued, it will be unnecessary for the acquiring corporation to renew any election previously made by it or by any distributor or transferor corporation with respect to such method of taking inventories. Also, in such case, the acquiring corporation is bound by the elections previously made by it or by any distributor or transferor corporation with respect to such method of taking inventories which are in effect on the date of distribution or transfer to the same extent as though the distribution or transfer had not occurred. If, on the date of distribution or transfer, any party to a section 381(a) transaction had no inventories of a particular type of goods, or came into existence as a result of the transaction, such party shall not be considered to be using a method of taking inventories for the particular type of goods different from that used by the other parties to the transaction. If, on the date of distribution or transfer, any one of the parties to the transaction is not required to take inventories by reason of the use of the cash receipts and disbursements method of accounting, the determination as to whether this method of accounting is to be continued by the acquiring corporation shall be made in accordance with section 381(c)(4) and the regulations thereunder. The acquiring and the various distributor or transferor corporations shall not be considered to be taking inventories on different methods on the date of distribution or transfer merely because the several corporations use different cost accounting systems in computing the cost of inventories. The provisions of this subparagraph may be illustrated by the following examples:

Example (1). M Corporation is engaged in manufacturing and computes its inventories under the first-in first-out method of identification and the cost or market, whichever is lower, method of valuation. N Corporation is also engaged in manufacturing and computes its inventories under the first-in first-out method of identification and the cost method of valuation. M Corporation acquires the assets of N Corporation in a transaction to which section 381(a) applies and M Corporation integrates the business formerly operated by N Corporation into the business which was operated by M Corporation before the date of distribution or transfer. On the date of distribution or transfer, N Corporation has inventories of sheet steel while M Corporation has no inventories of this particular type of goods. In all other respects the inventories of the two corporations consist of similar types of goods. M Corporation shall use the first-in first-out method of identification and the cost method of valuation of inventories of sheet steel, unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of taking such inventories. For the other goods in its inventories M Corporation shall use the method of taking inventories described in paragraph (c), unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of taking inventories.

Example (2). W Corporation is engaged in the business of raising cattle and uses the cash receipts and disbursements method of computing taxable income under which method inventories are not required to be taken into account. X Corporation is also engaged in the business of raising cattle, and uses the accrual method as an over-all method of accounting under which it has elected to use the "farm-price method" of valuing inventories. The assets of W Corporation are acquired by X Corporation in a transaction to which section 381(a) applies and X Corporation integrates the business formerly operated by W Corporation into the business which was operated by X Corporation before the date of distribution or transfer. Whether X Corporation is required to take inventories will depend upon which over-all method of accounting is used by X Corporation after the date of distribution or transfer in accordance with the provisions of section 381(c)(4) and the regulations thereunder. If the cash receipts and disbursements method is used, X Corporation will not be required to take inventories into account in computing its taxable income. However, if X Corporation uses the accrual method then it shall use the "farm-price method" of taking inventories, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use a different method of taking inventories.

(c) *Change of method of taking inventories without consent of Commissioner*—(1) *General rule.* If the acquiring corporation may not continue to use, under the provisions of paragraph (b) of this section, the method of taking inventories used by it or the distributor or transferor corporation or corporations on the date of distribution or transfer, the acquiring corporation shall use the principal method of taking inventories for particular types of goods of such corporation (as defined in subparagraph (2) of this paragraph), unless the acquiring corporation has obtained the consent of the Commissioner in accordance with paragraph (d) of this section to use a different method of taking inventories for such types of goods. The principal method of taking inventories shall be used provided that, in the opinion of the Commissioner, such method clearly reflects the income of the acquiring corporation. If, pursuant to this paragraph, the principal method of taking inventories is used by the acquiring corporation all adjustments necessary to reflect the change from the method of taking inventories previously used by

any of the corporations involved shall be taken into account by the acquiring corporation. The amount of such adjustments, the manner in which they are to be taken into account by the acquiring corporation, and the tax attributable thereto, shall be determined and computed in the same manner as if, immediately after the date of distribution or transfer, each of the several corporations that were not using the principal method of taking inventories on the date of distribution or transfer had initiated a change in accounting method. The change in method of accounting shall be treated as initiated by the taxpayer for purposes of section 481, since the corporation voluntarily entered into the transaction which causes the provisions of section 381 to apply. If, pursuant to this paragraph, the acquiring corporation uses the principal method of taking inventories, it will be unnecessary for the acquiring corporation to renew any election previously made with respect to such principal method of taking inventories. Also, in such case, the acquiring corporation is bound by elections previously made with respect to such principal method of taking inventories which are in effect on the date of distribution or transfer to the same extent as though the distribution or transfer had not occurred.

(2) *Principal method of taking inventories.* (i) The determination of the principal method of taking inventories shall be made with reference to particular types of goods of each integrated trade or business operated by the acquiring corporation after the date of distribution or transfer, and with reference to the methods of taking inventories previously employed by the parties with respect to such types of goods of the trades or businesses of such parties which are integrated after the date of distribution or transfer. The fair market value of the particular types of goods, for a representative period for each group of trades or businesses with respect to which one method of taking inventories common to all was employed shall be compared with the fair market value of comparable goods for such period for other groups of trades or businesses with respect to which another method of taking inventories common to all was employed. The method of taking inventories with respect to a particular type of goods for the group of trades or businesses having the largest fair market value of such goods for a representative period shall be the principal method of taking inventories for that particular type of goods.

(ii) If there is no principal method of taking inventories, the acquiring corporation shall use the method of taking inventories adopted in accordance with paragraph (d) of this section.

(3) The provisions of this paragraph may be illustrated by the following example:

Example. X, Y, and Z Corporations are all engaged in the manufacture of sheet metal. In addition, Y and Z Corporations are engaged in the manufacture of paper containers. X and Y Corporations use the first-in first-out method of identifying goods and the cost method of valuation for all inventories, while Z Corporation uses the first-in first-out method of identifying goods and the cost or market, whichever is lower, method of valuation for all inventories. X, Y, and Z Corporations enter into a transaction to which section 381(a) applies, and the acquiring corporation integrates the sheet metal businesses formerly operated by X, Y, and Z Corporations and also integrates the paper container businesses formerly operated by Y and Z Corporations. The fair market value of the inventories of the sheet metal business for a representative period is $10,000 for X Corporation, $7,000 for Y Corporation, and $15,000 for Z Corporation and each corporation has the same types of goods in the inventories of its sheet metal business. The fair market value of the inventories of the paper container business for a representative period is $6,000 for Y Corporation and $7,000 for Z Corporation and each corporation has the same type of goods in the inventories of its paper container business. The acquiring corporation shall continue to use the first-in first-out method of identifying all goods unless consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446–1 to change the method of accounting. In determining which is the principal method of valuing inventories for the sheet metal business, the total fair market value of inventories in the sheet metal business of X Corporation and Y Corporation is compared with the fair market value of the inventories in the sheet metal business of Z Corporation. Since the total fair market value ($17,000) for the inventories of the sheet metal businesses of X Corporation and Y Corporation exceeds the fair market value ($15,000) of the inventories of the sheet metal business of Z Corporation, the cost method of valuation is the principal method of taking such inventories. Since the fair market value of the paper container inventories of Z Corporation exceeds the fair market value of the paper container inventories of Y Corporation, the cost or market, whichever is lower, method of valuation is the principal method of taking such inventories. The acquiring corporation shall use the cost method of valuation of the inventories of its sheet metal business, and the cost or market, whichever is lower, method of valuation of the inventories of its paper container business, unless consent of the Commissioner is obtained in accordance with paragraph (d) of this section to use different methods of taking inventories.

(d) *Change of method of taking inventories with consent of the Commissioner*—(1) *General rule.* (i) If the acquiring corporation may not continue to use, under paragraph (b) of this section, the method of taking inventories used by it or the distributor or transferor corporation or corporations on the date of distribution or transfer, or may not, under paragraph (c) of this section, use the principal method of taking inventories, then the acquiring corporation shall request the Commissioner to determine the appropriate method of taking inventories.

(ii) If an acquiring corporation, to which paragraph (c) of this section applies, wishes to use a method of taking inventories other than the principal method of taking inventories for a particular type of goods it shall apply to the Commissioner for permission to use such other method of taking inventories. Permission to use such other method of taking inventories will not be granted unless the acquiring corporation and the Commissioner agree to the terms, conditions, and adjustments under which the change to such method will be effected.

(iii) The adjustments necessary to reflect the change from the method of taking inventories previously used by any of the corporations involved shall be taken into account by the acquiring corporation. The amount of such adjustments, the manner in which they are to be taken into account by the acquiring corporation, and the tax attributable thereto shall be determined and computed in the same manner as if, immediately after the date of distribution or transfer, each of the several corporations, that were not on the date of distribution or transfer using the method of taking inventories adopted pursuant to subdivision (i) or (ii) of this subparagraph, had initiated a change of accounting method.

(2) *Time and manner of making application.* Applications under subparagraph (1) of this paragraph for permission to use a method of taking inventories, or request for a determination of the method of taking inventories to be used, shall be filed with the Commissioner of Internal Revenue, Attention: T:R, Washington 25, D.C., not later than 90 days after the date of distribution or transfer. The application shall be accompanied by a copy of the statement described in paragraph (b)(3) of § 1.381(b)–1, and by a statement specifying the nature of the transaction which causes section 381 to apply; the differences in methods of taking inventories used by the corporations concerned; the method of taking inventories proposed to be used by the acquiring corporation; and the amounts of adjustments necessary to prevent duplication or omission in the computation of taxable income under such proposed method. The Commissioner may also require such other information as may be necessary in order to determine the proper method of taking inventories to be used by the acquiring corporation.

(e) *Special rules under last-in first-out method.* (1) *Permission to use last-in first-out method.* Notwithstanding the provisions of paragraph (b) or (c) of this section, in any case where the last-in first-out method has been used with respect to a particular type of goods by any party to a transaction to which section 381(a) applies, the acquiring corporation may elect, without the consent of the Commissioner, to use the last-in first-out method with respect to all goods of the same type without regard to the principal method of taking inventories. In such a case, the acquiring corporation shall not be required to file a new Form 970 electing the last-in first-out method for goods of that type, but shall include these goods under the election made by the party which elected the last-in first-out method with respect to the particular type of goods.

(2) *Carryover of base year inventories and layers of increment.* In any case where the acquiring corporation is required or permitted to use the last-in first-out method the base-year inventories and any layers of increment for such inventories prior to the date of the transaction to which section 381 (a) applies

must be retained, except that all base-year inventories or layers of increment which occur in the same taxable year must be combined.

(3) *Section 1321 election.* For purposes of applying section 1321, and the regulations thereunder, relating to the involuntary liquidation of last-in first-out inventories the acquiring corporation shall be treated as though it were the distributor or transferor corporation.

(f) *Basis of inventories received.* The basis of inventories received by the acquiring corporation from a distributor or transferor corporation shall be determined in accordance with section 334(b)(1) or 362(b), and the regulations thereunder. See also section 1013, and the regulations thereunder.

[F.R. Doc. 60-12095; Filed, Dec. 28, 1960; 8:50 a.m.]

[26 CFR (1954) Part 48]

EXCLUSION OF LOCAL ADVERTISING CHARGES FROM SALE PRICE, FOR PURPOSES OF MANUFACTURERS EXCISE TAXES AND READJUSTMENT OF SALE PRICE FOR PURPOSES OF SUCH TAXES, BY REASON OF ALLOWANCES FOR SUCH ADVERTISING

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954, as amended (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

The following regulations relating to the exclusion of local advertising charges from sale price, for purposes of the manufacturers excise taxes, and the readjustment of sale price, for purposes of such taxes, by reason of allowances for local advertising, are hereby prescribed under sections 4216(f) and 6416(b)(1), respectively, of the Internal Revenue Code of 1954. The regulations are applicable with respect to articles sold on or after January 1, 1961. To the extent of the subject matter within the scope thereof, such regulations supersede the Regulations on Determination of Price and Price Readjustments (26 CFR (1939) Part 330).

Subpart M—Special Provisions Applicable to Manufacturers Taxes

§ 48.4216(f) Statutory provisions; definition of price; exclusion of local advertising charge from sale price.

SEC. 4216. *Definition of price.* * * *

(f) *Exclusion of local advertising charge from sale price*—(1) *Exclusion.* In determining for purposes of this chapter, the price for which an article is sold, there shall be excluded a charge for local advertising (as defined in paragraph (4)) to the extent that such charge—

(A) Does not exceed 5 percent of the price for which the article is sold (as determined under this section by excluding any charge for local advertising),

(B) Is a separate charge made when the article is sold, and

(C) Is intended to be refunded to the purchaser or any subsequent vendee in reimbursement of costs incurred for local advertising.

In the case of any such charge (or portion thereof) which is not so refunded before the first day of the fifth calendar month following the calendar year during which the article was sold, the exclusion provided by the preceding sentence shall cease to apply as of such first day.

(2) *Aggregate amount which may be excluded.* In the case of articles upon the sale of which tax was imposed under the same section of this chapter—

(A) The sum of (i) the aggregate of the charges for local advertising excluded under paragraph (1), plus (ii) the aggregate of the readjustments for local advertising under section 6416(b)(1) (relating to credits or refunds for price readjustments), shall not exceed

(B) 5 percent of the aggregate of the prices (determined under this section by excluding all charges for local advertising) at which such articles were sold in sales on which tax was imposed by such section of this chapter.

The preceding sentence shall be applied to each manufacturer, producer, and importer as of the close of each calendar quarter, taking into account the items specified in subparagraphs (A) and (B) for such calendar quarter and preceding calendar quarters in the same calendar year.

(3) *No adjustment for other advertising charges.* Except to the extent provided by paragraphs (1) and (2), no charge or expenditure for advertising shall serve, for purposes of this section or section 6416(b)(1), as the basis for an exclusion from, or as a readjustment of, the price of any article.

(4) *Local advertising defined.* For purposes of this section and section 6416(b)(1), the term "local advertising" means only advertising which—

(A) Is initiated or obtained by the purchaser or any subsequent vendee,

(B) Names the article for which the price is determinable under this section and states the location at which such article may be purchased at retail, and

(C) Is broadcast over a radio station or television station or appears in a newspaper.

[Sec. 4216(f) as added by sec. 1, Act of Sept. 14, 1960 (Pub. Law 86-781, 74 Stat. 1017)]

§ 48.4216(f)-1 Exclusion of local advertising charges from sale price.

(a) *In general.* Section 4216(f) deals with the treatment to be accorded charges made by a manufacturer for, and reimbursements by a manufacturer of expenditures in connection with, the advertising of certain articles subject to excise tax under chapter 32 of the Code. Section 4216(f) provides an exclusion (which is in addition to the exclusions provided by section 4216(a) and the regulations thereunder) in respect of charges for local advertising, as defined in paragraph (b) of this section, for purposes of determining the price for which an article is sold. See paragraph (c) of this section. The exclusion provided by section 4216(f) and paragraph (c) of this section has application only in respect of articles sold on or after January 1, 1961. Section 4216(f) also provides an over-all limitation in respect of the sum of the amount of the exclusions from price as charges for local advertising and the amount of the readjustments authorized under section 6416(b)(1) (relating to credits or refunds for price readjustments) in respect of reimbursements by a manufacturer of expenditures for local advertising. See § 48.4216(f)-2. For provisions prohibiting exclusion from price or readjustment of price in respect of charges for, and reimbursements of expenditures for, advertising other than local advertising, see § 48.4216(f)-3.

(b) *Definition of local advertising*—(1) *In general.* For purposes of the regulations under sections 4216(f) and 6416(b)(1), the term "local advertising" means advertising which relates to an article with respect to which tax is imposed under chapter 32 of the Code on the price for which sold and which—

(i) Is initiated or obtained by the purchaser or any subsequent vendee,

(ii) Names the article for which the price is determinable under section 4216 and states the location at which such article may be purchased at retail, and

(iii) Is broadcast over a radio station or television station or appears in a newspaper.

(2) *Initiating or obtaining advertising.* For purposes of subparagraph (1) of this paragraph, the advertising must be initiated or obtained by one or more of the persons in the chain of distribution of the article (wholesale distributor, jobber, dealer, etc.) who purchased the article for resale. In general, advertising of an article is considered to be initiated or obtained by one or more persons in the chain of distribution of the article if any such person—

(i) Takes an active part in the actual planning and development, or in the arrangements or negotiations leading to the development, of the form and content of the advertising, or

(ii) Contracts for the placement of the advertising.

The participation by the manufacturer of the article in the planning, development, or placement of the advertising is immaterial provided the advertising is in fact initiated or obtained by one or more

persons in the chain of distribution of the article. Furthermore, it is immaterial whether or not the advertising is subject to the approval of the manufacturer of the article. However, if the manufacturer of the article both initiates and obtains advertising, such advertising does not qualify as "local advertising".

(3) *Identification of article and sales location.* To meet the requirements of subparagraph (1) of this paragraph, the advertising must identify the article for which the price is determinable under section 4216 and give the location at which the article may be purchased at retail. All products taxable at the same rate under the same section of chapter 32 of the Code shall be considered to be an "article" for purposes of the preceding sentence. No specific method or means of identification is prescribed. The identification of the article may be made through the use of the name of the manufacturer or the use of an established trade-mark, such as a seal, picture, letter or letters, etc., or a combination thereof. The advertising must identify the particular retail establishment at which the article may be purchased at retail but need not specify the location of such establishment in terms of the number by which the premises are designated or the name of the street on which the retail premises are situated. However, the location of the retail premises must be described sufficiently, as, for example, by reference to a particular named shopping area or shopping center, to enable consumers to find the retail establishment.

(4) *Determination of costs of local advertising.* Where an advertisement identifies more than one article, and all such articles are not taxable, or are not taxable at the same rate under the same section of chapter 32 of the Code, a reasonable allocation of the cost of the advertisement must be made among (i) articles taxable at the same rate under the same section of the Code and (ii) articles which are not taxable under chapter 32 of the Code. For example, in the case of a single page newspaper advertisement, an allocation of costs reflecting the lineage or space devoted to the specified categories will be considered to reflect a reasonable allocation of the cost of advertising the different articles. As a general rule, only the cost of the "spot" portion identifying the retail establishment is considered "local advertising" in the case of national television or radio programs.

(5) *Meaning of "newspaper".* The term "newspaper", as used in subparagraph (1) of this paragraph, is limited to those publications which are commonly understood to be newspapers and which are printed and distributed periodically at daily, weekly, or other short intervals for the dissemination of news of a general character and of a general interest. The term does not include handbills, circulars, flyers, or the like, unless printed and distributed as a part of a publication which constitutes a newspaper within the meaning of this subparagraph. Neither does the term include any publication which is issued to supply information on certain subjects of interest to particular groups, unless such publication otherwise qualifies as a newspaper within the meaning of this subparagraph. For purposes of this subparagraph, advertising is not considered to be news of a general character and of a general interest.

(c) *Exclusion*—(1) *Conditions and limitations.* A charge for local advertising which is required by a manufacturer to be paid as a condition to his sale on or after January 1, 1961, of an article is not a part of the taxable price of the article, to the extent that such charge meets each of the following conditions and limitations:

(i) Such charge does not exceed 5 percent of the difference between (*a*) an amount which would constitute the taxable price of the article (computed at the time of the sale of the article) if no part of any charge for local advertising were excludable in computing taxable price and (*b*) the amount of any separate charge for local advertising, whatever the amount of such charge may be.

(ii) Such charge is specifically shown as a separate charge for local advertising on the invoice or statement covering the sale of the article.

(iii) Such charge is billed by the manufacturer with the intention on his part of repaying the amount of the charge to the person purchasing the article from him, or to any person who subsequently purchases the article for resale, in reimbursement of costs incurred for local advertising of such article or some other article or articles taxable at the same rate under the same section of the Code. In the absence of evidence to the contrary, the fact of such intention will be assumed in all cases where the manufacturer and his vendees are parties to an advertising plan which calls for such repayments, or the manufacturer can otherwise establish that the vendees to whom he bills such charges understand and expect that such repayments will be made.

(2) *When exclusion ceases to apply.* To the extent that a charge for local advertising meets the conditions and limitations stated in subparagraph (1) of this paragraph, such charge is excludable in computing the taxable price of the article in respect of which the charge was made. However, the exclusion will cease to apply in respect of any part of such charge which the manufacturer fails to repay, before May 1 of the calendar year following the calendar year in which the article was sold, to the person who purchased the article from him, or to some other person who subsequently purchases the article for resale, in reimbursement of costs incurred for local advertising of such article or some other article or articles taxable at the same rate under the same section of the Code. If, on such May 1, any part of the charge so excluded has not been so repaid, the manufacturer becomes liable for tax at that time in the same manner as if an article taxable under such section of the Code had been sold by him on such May 1 at a taxable price equivalent to that part of the charge not so repaid. However, see paragraph (c) (2) of § 48.6416 (b)–1, relating to price readjustments in cases where local advertising charges are not repaid as of such May 1 but are subsequently paid over by the manufacturer to his vendees in reimbursement of costs for local advertising. For provisions relating to the method of determining whether a payment by a manufacturer is or is not attributable to an excluded local advertising charge, see paragraph (b) (3) of § 48.4216(f)–2. In any case where the payment is determined to be attributable to such a charge, the date of the sale in connection with which the charge was made shall be determined on a first-in-first-out basis in respect of the vendee to whom the charge was billed by the manufacturer.

(d) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). During the first calendar quarter of 1961, a manufacturer sold refrigerators to one of his distributors at a total charge of $10,500, exclusive of tax, transportation charges, delivery charges, or other charges which are excludable in computing taxable price pursuant to section 4216(a). This total charge of $10,500 was billed as follows:

Refrigerators	$10,000
Local advertising charge	500
Total charge	10,500

At the time of the manufacturer's sale of the refrigerators, it was his intention, in accordance with the agreement between him and the distributor, to make repayment to the distributor of the local advertising charge, to the extent of expenditures by the distributor for radio, television, or newspaper advertising specifically naming refrigerators or other articles taxable at the same rate under section 4111 which were manufactured by the manufacturer, and giving the location of various retail stores within the distributor's territory where such articles may be purchased. Pursuant to such agreement, the selection of the advertising medium to be employed is to be made by the distributor, who is to plan the advertising subject to approval by the manufacturer, and contract for its placement. In this example, the advertising for which the charge is made qualifies as local advertising, the charge is billed to the manufacturer's vendee as a separate charge, the manufacturer intends to repay the charge to his vendee in reimbursement of costs incurred by the vendee for local advertising, and the charge does not exceed 5 percent of $10,000. Accordingly, the manufacturer's charge of $500 for local advertising is not includible in the taxable price of the refrigerators for purposes of computing and paying the tax imposed by section 4111.

Example (2). Assume the same facts as those stated in Example (1), and assume further that prior to May 1, 1962, the manufacturer has repaid to the distributor, in reimbursement of local advertising expenses incurred by the distributor in connection with refrigerators or other articles taxable at the same rate under section 4111 sold to him by the manufacturer, $400 of the $500 billed as a local advertising charge by the manufacturer in connection with his sale of refrigerators to the distributor in the first quarter of 1961. The manufacturer is liable, as of May 1, 1962, for tax in respect of the $100 which has not been repaid to the distributor. The amount of the tax is determinable at the rate in effect under section 4111 on May 1, 1962, in respect of refrigerators and is includible in the manufacturer's return of tax under such section for the second quarter of 1962.

Example (3). During the first calendar quarter of 1961, a manufacturer sold refrigerators to one of his distributors at a total charge of $11,000, exclusive of tax, transportation charges, delivery charges, or other charges which are excludable in computing taxable price under section 4216(a). This total charge of $11,000 was billed as follows:

Refrigerators	$10,000
Local advertising charge	1,000
Total charge	11,000

At the time of the manufacturer's sale of the refrigerators, it was his intention, in accordance with the terms of a cooperative advertising plan to which the manufacturer and the distributor were parties, to make repayment to the distributor of the local advertising charge. Pursuant to the plan, the repayment would be made to the extent of expenditures by the distributor for radio, television, or newspaper advertising, initiated or obtained by him, specifically naming refrigerators or other articles taxable at the same rate under section 4111 which were manufactured by the manufacturer, and giving the location of various retail stores within the distributor's territory where such articles may be purchased. In this example, only $500 of the manufacturer's charge of $1,000 for local advertising may be excluded in determining the taxable price of the refrigerators for purposes of reporting and paying the tax imposed by section 4111. The remaining $500 may not be excluded in computing the taxable price of the refrigerators since this is the amount by which the $1,000 local advertising charge exceeds 5 percent of $10,000. Thus, the taxable price of the refrigerators in this example is $10,500.

Example (4). Assume the same facts as those stated in Example (1), except that, pursuant to the agreement between the manufacturer and the distributor, the manufacturer is to contract for the placement of the local advertising. Payment of the $500 local advertising charge is to be made by the manufacturer to the person with whom the advertising is placed in satisfaction of the manufacturer's contractual liability to such person. Under these circumstances, the manufacturer's payment of the $500 charge to the person with whom the advertising is placed does not constitute a refund to the purchaser in reimbursement of costs incurred for local advertising.

§ 48.4216(f)–2 Limitation on aggregate of exclusions and price readjustments.

(a) *In general.* The sum of the amount excluded from taxable price in respect of charges for local advertising, as provided in section 4216(f)(1) and § 48.4216(f)–1, plus the amount of the readjustments for which credits or refunds may be claimed in respect of local advertising, as provided in section 6416(b)(1) and paragraph (c) of § 48.6416(b)–1, is subject to an over-all 5 percent limitation. This limitation applies to each manufacturer, as of the close of each calendar quarter, in respect of all articles taxable under the same section of chapter 32 which were sold by such manufacturer in such quarter (and the preceding quarter or quarters, if any, in the calendar year). For example, a manufacturer selling articles taxable under section 4061 (relating to automobiles, trucks, buses, etc.), and also selling articles taxable under section 4111 (relating to refrigerators, quick-freeze units, etc.), who makes separate charges for local advertising in connection with his sales, or who makes reimbursement of local advertising expenses to his vendees out of moneys previously included in taxable price, in respect of any one or more articles in each of the two groups must apply the limitation separately in relation to the articles taxable under section 4061 and in relation to the articles taxable under section 4111. However, in such case, no breakdown of the separate articles taxable under section 4061, or of the separate articles taxable under section 4111, is required.

(b) *Computation of over-all 5 percent limitation*—(1) *In general.* The limitation prescribed by section 4216(f)(2) (the "over-all 5 percent limitation" referred to in paragraph (a) of this section) as to the total of the exclusions from price and readjustments of price which may be claimed for local advertising in respect of all articles taxable under the same section of chapter 32 of the Code shall be computed as of the close of each calendar quarter of the calendar year. The over-all 5 percent limitation is 5 percent of the difference between (i) the amount which would constitute the total taxable price (computed at the time of sale) of all articles taxable under the same section of chapter 32 of the Code sold by the manufacturer during the elapsed calendar quarters of the calendar year, if no part of any charge for local advertising were excludable in computing taxable price, and (ii) the total of all amounts billed as separate charges for local advertising of such articles (whatever the amount of any single charge or the total of all charges). In making the computations under subdivisions (i) and (ii) of this subparagraph, credits or refunds under section 6416(b) of tax paid on the sale of any such articles are to be disregarded and articles sold tax-free by the manufacturer are to be excluded. The amount by which the over-all 5 percent limitation computed as of the close of a particular calendar quarter in respect of articles taxable under the same section of the Code exceeds the sum of the charges for local advertising excluded in computing the taxable price and the amount of reimbursements for local advertising of such articles made during the elapsed calendar quarters of the calendar year, in respect of which credit or refund has been claimed, represents the unused portion of the over-all 5 percent limitation. Such unused portion is the maximum amount of reimbursements for local advertising in respect of which credit or refund may be claimed at the close of the particular calendar quarter, subject to the applicable conditions and limitations governing the right to claim a credit or refund in respect of local advertising (see § 48.6416(b)–1). The unused portion of the over-all 5 percent limitation as of the close of the fourth calendar quarter of a calendar year in respect of which credit or refund may not be claimed as of the close of such quarter must be disregarded in computing the over-all 5 percent limitation for any subsequent calendar quarter. Moreover, the amount of any reimbursements for local advertising made by a manufacturer in a calendar year which is in excess of the amount of such reimbursements in respect of which credit or refund may be claimed, within the over-all limitation, as of the close of the calendar year, may not subsequently serve as the basis for a credit or refund.

(2) *Alternative method of computation in certain cases.* If during the portion of the calendar year ending with the date as of which the over-all 5 percent limitation is being computed the amount of the local advertising charge separately billed by the manufacturer has not, in respect of any sale of any articles taxable under the same section of chapter 32 of the Code, exceeded the amount excludable pursuant to paragraph (c) of § 48.4216(f)–1 in computing taxable price, the over-all 5 percent limitation as of the close of a particular calendar quarter in respect of articles taxable under such section is 5 percent of the total taxable price (computed at the time of the sale) of all such articles sold tax-paid during the calendar year.

(3) *Allocation of amounts paid in reimbursement of expenditures for local advertising.* If a manufacturer makes contributions to a local advertising program in connection with which he makes excludable local advertising charges, it is necessary that reimbursements by the manufacturer for local advertising be attributed to the charges for local advertising, to the manufacturer's contributions, or allocated between them. Whether an amount paid by a manufacturer in reimbursement of expenses for local advertising is or is not a repayment of a local advertising charge which was excluded from taxable price under section 4216(f)(1) and § 48.4216(f)–1, shall be determined on the basis of an allocation made under the agreement between the manufacturer and his vendee (or any subsequent vendee).

(c) *Examples.* The application of paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). During the first and second calendar quarters of 1961, a manufacturer makes sales of articles taxable under section 4111 to his distributors. The total charges for such sales, exclusive of the tax, transportation charges, delivery charges, or other charges which are excludable, pursuant to section 4216(a), in computing taxable price, are as follows:

First Quarter

Articles taxable under section 4111	$100,000
Local advertising charges	3,000
Total charge	103,000

Second Quarter

Articles taxable under section 4111	$150,000
Local advertising charges	4,000
Total charge	154,000

Assume further that the manufacturer contributes to the advertising plan and that the manufacturer pays $5,500 and $1,000 during the first and second calendar quarters of 1961, respectively, to his distributors in reimbursement of expenses incurred by them for local advertising of the articles purchased from the manufacturer.

Computation as of close of first calendar quarter

1. Amount which would constitute total taxable price (computed at time of sale) if no part of any charge for local advertising were excludable in computing taxable price	$103,000
2. Amounts billed as separate charges for local advertising	3,000
3. Difference	100,000
4. Over-all 5 percent limitation (5 percent of item 3)	5,000
5. Amount excluded in computing taxable price	3,000
6. Unused portion of limitation	2,000
7. Allocation, pursuant to agreement, of $5,500 paid to distributors:	
Charges for local advertising	3,000
Contributions by manufacturer	2,500

Readjustment may be claimed in respect of that portion of the total amount repaid to the distributors which is allocated to the manufacturer's contribution ($2,500) to the extent that such portion does not exceed the unused portion of the over-all 5 percent limitation ($2,000). Accordingly, as of the close of the first calendar quarter the manufacturer may claim credit or refund in respect of a readjustment or price in the amount of $2,000.

Computation as of close of second calendar quarter

1. Amount which would constitute total taxable price (computed at time of sale) if no part of any charge for local advertising were excludable in computing taxable price ($103,000+$154,000)	$257,000
2. Amounts billed as separate charges for local advertising ($3,000+$4,000)	7,000
3. Difference	250,000
4. Over-all 5 percent limitation (5 percent of item 3)	12,500
5. Amount excluded in computing taxable price ($3,000+$4,000) plus readjustment claimed at end of first calendar quarter ($2,000)	9,000
6. Unused portion of limitation	3,500
7. Allocation, pursuant to agreement, of $6,500 ($5,500+$1,000) paid to distributors:	
Charges for local advertising	3,500
Contributions by manufacturer	3,000

Although the total reimbursements for local advertising expenses attributable to contributions by the manufacturer ($3,000) does not exceed the unused portion of the over-all 5 percent limitation ($3,500), the manufacturer having taken, at the close of the first calendar quarter, a price readjustment in the amount of $2,000 in respect of his contributions is entitled at the close of the second calendar quarter to claim credit or refund in respect of a price readjustment in the amount of $1,000 ($3,000−$2,000).

Example (2). During the first calendar quarter of 1961, a manufacturer sold articles taxable under section 4111 to his distributors at a total charge of $106,000, exclusive of the tax, transportation charges, delivery charges, or other charges which are excludable, pursuant to section 4216(a), in computing taxable price. This total charge of $106,000 was billed as follows:

Articles taxable under section 4111	$100,000
Local advertising charges	6,000
Total charge	106,000

Assume further that the manufacturer contributes to the advertising plan and that the manufacturer pays $3,000 during the first calendar quarter of 1961 to his distributors in reimbursement of expenses incurred by them for local advertising of the articles purchased from the manufacturer.

Computation as of close of first calendar quarter

1. Amount which would constitute total taxable price (computed at time of sale) if no part of any charge for local advertising were excludable in computing taxable price	$106,000
2. Amounts billed as separate charges for local advertising	6,000
3. Difference	100,000
4. Over-all 5 percent limitation (5 percent of item 3)	5,000
5. Amount excluded in computing taxable price (see paragraph (c) of § 48.4216(f)–1)	5,000
6. Unused portion of limitation	0
7. Allocation, pursuant to agreement, of $3,000 paid to distributors:	
Charges for local advertising	2,000
Contributions by manufacturer	1,000

Credit or refund may not be claimed in respect of that portion of the total amount repaid to the distributors ($3,000) which is allocated to the manufacturer's contribution ($1,000) since the amount excluded in computing taxable price is equal to the over-all 5 percent limitation.

§ 48.4216(f)–3 No exclusion or readjustment for other advertising charges or reimbursements.

(a) *Exclusions from price.* No exclusion in computing the taxable price of any article sold by the manufacturer on or after January 1, 1961, may be allowed in respect of any charge for advertising if, and to the extent that, such charge—

(1) Is for advertising which does not qualify as local advertising within the meaning of section 4216(f)(4) and paragraph (b) of § 48.4216(f)–1, or

(2) Does not satisfy all of the conditions and limitations stated in section 4216(f)(1) and paragraph (c) of § 48.4216(f)–1.

(b) *Readjustments of price.* No credit or refund under section 6416(b)(1) may be allowed in respect of any amount which was included in the taxable price of an article sold by the manufacturer on or after January 1, 1961, and which was later paid by him to his vendee in reimbursement of costs incurred for advertising, if, and to the extent that, the amount so paid—

(1) Is for advertising which does not qualify as local advertising within the meaning of section 4216(f)(4) and paragraph (b) of § 48.4216(f)–1, or

(2) Is not within the limitation provided in section 4216(f)(2), as computed in accordance with § 48.4216(f)–2, as of the close of the calendar quarter in which the amount is so paid over or as of the close of any subsequent calendar quarter in the same calendar year. See, however, paragraph (c)(2)(ii) of § 48.6416(b)–1, relating to redetermination of price readjustments in cases where local advertising charges excluded from taxable price in one calendar year become taxable as of May 1 of the following calendar year.

Subpart O—Refunds and Other Administrative Provisions of Special Application to Retailers and Manufacturers Taxes

§ 48.6416(b) Statutory provisions; special cases in which tax payments considered overpayments.

SEC. 6416. *Certain taxes on sales and services.* * * *

(b) *Special cases in which tax payments considered overpayments.* Under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) *Price readjustments.* If the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including (in the case of a tax imposed by chapter 32) a readjustment for local advertising (but only to the extent provided in section 4216(f)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment. The preceding sentence shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(2) *Specified uses and resales.* The tax paid under chapter 32 (or under section 4041(a)(1) or (b)(1)) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) Exported (except in any case to which subsection (g) applies);

(B) Used or sold for use as supplies for vessels or aircraft;

(C) Sold to a State or local government for the exclusive use of a State or local government;

(D) Sold to a nonprofit educational organization for its exclusive use;

(E) Resold to a manufacturer or producer for use by him as provided in subparagraph (A), (B), or (E) of paragraph (3);

(F) In the case of a tire, inner tube, or receiving set, resold for use as provided in subparagraph (C) or (D) of paragraph (3) and the other article referred to in such subparagraph is by any person exported or sold as provided in such subparagraph;

(G) In the case of a liquid taxable under section 4041, sold for use as fuel in a diesel-powered highway vehicle or as fuel for the propulsion of a motor vehicle, motorboat, or airplane, if (i) the vendee used such liquid otherwise than as fuel in such a vehicle, motorboat, or airplane or resold such liquid, or (ii) such liquid was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes;

(H) In the case of a liquid in respect of which tax was paid under section 4041 at the rate of 3 cents or 4 cents a gallon, used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes; except that (i) this subparagraph shall apply only if the 60 percent passenger fare revenue test set forth in section 6421(b)(2) is met with respect to such quarter, and (ii) the amount of such overpayment for such quarter shall

be an amount determined by multiplying 1 cent (where tax was paid at the 3-cent rate) or 2 cents (where tax was paid at the 4-cent rate) for each gallon of liquid so used by the percentage which such person's tax-exempt passenger fare revenue (as defined in section 6421(d)(2)) derived from such scheduled service during such quarter was of his total passenger fare revenue (not including the tax imposed by section 4261, relating to the tax on transportation of persons) derived from such scheduled service during such quarter;

(I) In the case of a liquid in respect of which tax was paid under section 4041(a)(1) at the rate of 3 cents or 4 cents a gallon, used or resold for use as a fuel in a diesel-powered highway vehicle (i) which (at the time of such use or resale) is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country, or (ii) which, in the case of a diesel-powered highway vehicle owned by the United States, is not used on the highway; except that the amount of any overpayment by reason of this subparagraph shall not exceed an amount computed at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate;

(J) In the case of a liquid in respect of which tax was paid under section 4041(b)(1) at the rate of 3 cents or 4 cents a gallon, used or resold for use otherwise than as a fuel for the propulsion of a highway vehicle (i) which (at the time of such use or resale) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (ii) which, in the case of a highway vehicle owned by the United States, is used on the highway; except that the amount of any overpayment by reason of this subparagraph shall not exceed an amount computed at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate;

(K) In the case of any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under section 4061(a));

(L) In the case of tread rubber in respect of which tax was paid under section 4071(a)(4), used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)), unless credit or refund of such tax is allowable under subsection (b)(3);

(M) In the case of gasoline, used or sold for use in production of special motor fuels referred to in section 4041(b).

(N) In the case of lubricating oil, used or sold for nonlubricating purposes;

(O) In the case of lubricating oil in respect of which tax was paid at the rate of 6 cents a gallon, used or sold for use as cutting oils (within the meaning of section 4092(b)); except that the amount of such overpayment shall not exceed an amount computed at the rate of 3 cents a gallon;

(P) In the case of any musical instrument taxable under section 4151, sold to a religious institution for exclusively religious purposes;

(Q) In the case of unexposed motion picture film, used or sold for use in the making of newsreel motion picture film.

(3) *Tax-paid articles used for further manufacture, etc.* If the tax imposed by chapter 32 has been paid with respect to the sale of any article by the manufacturer, producer, or importer thereof to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if—

(A) In the case of any article other than an article to which subparagraph (B), (C), (D), or (E) applies, such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, another article taxable under chapter 32 manufactured or produced by him;

(B) In the case of—

(i) A part or accessory taxable under section 4061(b),

(ii) A radio or television component taxable under section 4141, or

(iii) A camera lens taxable under section 4171,

such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, any other article manufactured or produced by him;

(C) In the case of—

(i) A tire or inner tube taxable under section 4071, or

(ii) An automobile radio or television receiving set taxable under section 4141,

such article is sold by the second manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft;

(D) In the case of a radio receiving set or an automobile radio receiving set—

(i) Such set is used by the second manufacturer or producer as a component part of any other article manufactured or produced by him, and

(ii) Such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft; or

(E) In the case of—

(i) A bicycle tire (as defined in section 4221(e)(4)(B)), or

(ii) An inner tube for such a tire,

such article is used by the second manufacturer or producer as material in the manufacture or production of, or as a component part of, a bicycle (other than a rebuilt or reconditioned bicycle).

For purposes of subparagraphs (A) and (B), an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

(4) *Tires, inner tubes, and automobile radio and television receiving sets.* If—

(A)(i) A tire or inner tube taxable under section 4071, or automobile radio or television receiving set taxable under section 4141, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him, or

(ii) A radio receiving set or an automobile radio receiving set is used by the manufacturer thereof as a component part of any other article manufactured or produced by him; and

(B) Such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, any tax imposed by chapter 32 in respect of such tire, inner tube, or receiving set which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

(5) *Return of certain installment accounts.* If—

(A) Tax was paid under section 4053(b)(1) or 4216(e)(1) in respect of any installment account,

(B) Such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) The consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4053(b)(1) or 4216(e)(1) proportionate to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

[Sec. 6416(b) as amended and in effect Jan. 1, 1959, and as further amended by sec. 201(d), Federal-Aid Highway Act 1959 (73 Stat. 613); sec. 3, Act of Apr. 8, 1960 (Pub. Law 86-418, 74 Stat. 38); sec. 2, Act of Sept. 14, 1960 (Pub. Law 86-781, 74 Stat. 1018)]

§ 48.6416(b)-1 Readjustments of price on which manufacturers or retailers excise tax is based.

* * * * *

(c) *Reimbursements in respect of local advertising*—(1) *In general.* In any case in which a manufacturer has paid tax under chapter 32 based on the price of any article sold by him after 1960, and a portion of the price is thereafter paid by the manufacturer to his vendee in reimbursement of expenses for local advertising of such article or any other article taxable at the same rate under the same section of chapter 32 which was sold by such manufacturer, such reimbursement will constitute a price readjustment with respect to which the manufacturer may claim credit or refund, if and to the extent that such reimbursement is within the limitation provided in section 4216(f)(2), as computed in accordance with the provisions of § 48.4216(f)-2 as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year.

(2) *Local advertising charges excluded from taxable price in one calendar year but repaid on or after May 1 of following calendar year*—(i) *Determination of price readjustments for year in which charge is repaid.* In any case where local advertising charges which were excluded in computing the taxable price of an article sold in any calendar year after 1960 are not repaid to the manufacturer's vendee or any subsequent vendee before May 1 of the following calendar year and tax is paid with respect to such charges (see section 4216(f)(1) and § 48.4216(f)-1), any subsequent repayment of such charges to the manufacturer's vendee in reimbursement of expenses incurred for local advertising will constitute a price readjustment with respect to which the manufacturer may claim credit or refund, if and to the ex-

tent that such reimbursement is within the limitation provided in section 4216 (f) (2), as computed in accordance with the provisions of § 48.4216(f)–2 as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year.

(ii) *Redetermination of price readjustments for year in which charge was made.* In any case where local advertising charges which were excluded in computing the taxable price of an article sold in any calendar year after 1960 are not repaid to the manufacturer's vendee or any subsequent vendee before May 1 of the following calendar year and tax is paid with respect to such charges (see section 4216(f) (1) and § 48.4216(f)–1), the manufacturer may make a redetermination, in respect of the calendar year in which the charge was made, of the price readjustments with respect to which he may claim credit or refund, excluding from such redetermination the local advertising charges made in such calendar year which became taxable as of May 1 of the following calendar year.

[F.R. Doc. 60–12081; Filed, Dec. 28, 1960; 8:49 a.m.]

[26 CFR (1954) Part 179]

MACHINE GUNS AND CERTAIN OTHER FIREARMS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under 68A Stat. 917, 26 U.S.C. 7805, and implement Chapter 53 of the Internal Revenue Code of 1954 (68A Stat. 721).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to implement the provisions of the Internal Revenue Code of 1954, as amended by Public Law 86–478 (74 Stat. 149), and to make certain conforming and clarifying changes, regulations in 26 CFR Part 179 are amended as follows:

1. The statement of authority under which this Part is issued is amended to read as follows:

AUTHORITY: § 179.1 through 179.195 are issued under 68A Stat. 917, 26 U.S.C. 7805, and implement Chapter 53 of the Internal Revenue Code of 1954 (68A Stat. 721). Related statutes which are interpreted or applied are cited in the text of the section interpreting or applying such a statute or in parentheses at the conclusion of the section.

§ 179.1 [Amendment]

2. Section 179.1 is amended by inserting "(occupational)" between the words "special" and "taxes" in paragraph (a).

§ 179.14 [Deletion]

3. Section 179.14 is deleted.

4. Section 179.20 is amended to read as follows:

§ 179.20 Firearm.

"Firearm" shall mean (a) a shotgun having a barrel or barrels of less than 18 inches in length, or (b) a rifle having a barrel or barrels of less than 16 inches in length, or (c) any weapon made from a rifle or shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches, or (d) any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or (e) a machine gun, and includes (f) a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition.

§ 179.22 [Amendment]

5. Section 179.22 is amended by adding a second sentence to read as follows: "Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to the I.R.C. and this Part, shall not be deemed importation."

§ 179.29 [Amendment]

6. Section 179.29 is amended by striking the words "or creation" and "other weapon" and inserting in lieu of the latter two words, the word "firearm".

7. A new § 179.29a to read as follows is inserted immediately after § 179.29:

§ 179.29a Manual reloading.

Manual reloading shall mean the inserting of a cartridge or shell into the chamber of a firearm either with the hands or by means of a mechanical device controlled and energized by the hands.

§§ 179.32 and 179.33 [Deletions]

8. Sections 179.32 and 179.33 are deleted.

9. Section 179.35 is amended to read as follows:

§ 179.35 Pistol.

"Pistol" shall mean a weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s). The term shall not include any gadget device, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun such as: Nazi belt buckle pistol, glove pistol, or a one-hand stock gun designed to fire fixed shotgun ammunition.

§ 179.43 [Amendment]

10. Section 179.43 is amended by striking, ", the Territories of Alaska and Hawaii,".

11. A new § 179.45 to read as follows is inserted immediately after § 179.44:

§ 179.45 Unserviceable firearm.

"Unserviceable firearm" shall mean a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

12. Section 179.50 is amended to read as follows:

§ 179.50 Liability for tax.

Every person who engages in the business of importing, manufacturing or dealing in (including pawnbrokers) firearms in the United States is required to pay a special (occupational) tax for each place where such business is conducted.

13. Section 179.51 is amended to read as follows:

§ 179.51 Special (occupational) tax rates.

(a) The special (occupational) taxes are as follows:

	Per year or fraction thereof
Class 1: Importers of firearms	$500
Manufacturers of firearms, except manufacturers in Class 2	500
Class 2: Manufacturers of firearms whose production is limited to guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, or guns classified as "any other weapon" under section 5848 (5), I.R.C., or guns of both types	25
Class 3: Pawnbrokers	300
Class 4: Dealers, other than pawnbrokers, except those in Class 5	200
Class 5: Dealers whose dealing in firearms is limited to guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, or guns classified as "any other weapon" under section 5848 (5), I.R.C., or guns of both types	10

(b) The tax year begins July 1 and ends June 30. Special (occupational) taxes are due and payable on first engaging in business, and thereafter on or before the first day of July each year. Special (occupational) taxes may not be prorated. Persons commencing business

at any time after the first day of July in any year are liable for the special (occupational) tax for the complete tax year.

14. Section 179.52 is amended to read as follows:

§ 179.52 Registration, return, and payment of special (occupational) taxes.

Every person, prior to commencing any business taxable under section 5801, I.R.C., must, for each place of business operated by such person, register, file a return (Form 11) with, and pay the proper tax to, the District Director of the collection district in which each such place of business is located. Thereafter, such person must, for each place of business, register, file a return (Form 11), and pay the proper tax on or before the 1st day of July each year during which he continues such business. If a person has paid special (occupational) taxes for a taxable year, the District Director will furnish him a return (Form 11), which must be filled out and executed under penalty of perjury, for registration and tax payment for the succeeding taxable year if that person intends to continue in business. Properly completing, executing, and timely filing of a return (Form 11) will constitute compliance with section 5802, I.R.C. A person doing business under a style or trade name must give his own name, followed by his style or trade name. In the case of a partnership, unincorporated association, firm, or company, other than a corporation, its style or trade name must be given, also the name of each member and his place of residence. The class of business, as described in § 179.51, and the period for which special (occupational) tax is due, must also be stated.

15. Section 179.53 is amended to read as follows:

§ 179.53 The special tax stamp, receipt for special (occupational) taxes.

Upon receipt of a properly completed and executed return (Form 11) accompanied by remittance of the full amount due, the District Director will issue a special tax stamp as evidence of payment of the special (occupational) tax.

16. Section 179.56 is amended to read as follows:

§ 179.56 Engaging in business at more than one location.

A person must pay the special (occupational) tax for each location where he engages in any business taxable under section 5801, I.R.C. However, a person paying a special (occupational) tax covering his principal place of business may utilize other locations solely for storage of firearms without incurring special (occupational) tax liability at such locations. A manufacturer, upon the single payment of the appropriate special (occupational) tax, may sell firearms of the type(s) covered by such tax, if such firearms are of his own manufacture, at the place of manufacture and at his principal office or place of business if no such firearms, except samples, are kept at such office or place of business. When a person changes the location of a business for which he has paid the special (occupational) tax, he will be liable for another such tax unless the change is properly registered with the District Director, as provided in § 179.64.

17. Section 179.57 is amended to read as follows:

§ 179.57 Engaging in more than one business at the same location.

If more than one business taxable under section 5801, I.R.C., is carried on at the same location during a taxable year, the special (occupational) tax imposed on each such business must be paid.

§ 179.58 [Amendment]

18. Section 179.58 is amended by striking "copartnership" and inserting "partnership" in lieu thereof, and by inserting "(occupational)" between the words "special" and "tax".

§ 179.60 [Amendment]

19. Section 179.60 is amended by inserting "(occupational)" between the words "special" and "tax" in the first sentence and striking the expression "Form 11A (Firearms)" in the second sentence and substituting the expression "return, Form 11" in lieu thereof.

§ 179.61 [Amendment]

20. Section 179.61 is amended by inserting "(occupational)" between the words "special" and "tax" preceding the word "liability" in the second sentence.

21. Section 179.62 is amended to read as follows:

§ 179.62 Change in partnership or unincorporated association.

When one or more members withdraw from a partnership or an unincorporated association, the remaining member, or members, may, without incurring additional special (occupational) tax liability, carry on the same business at the same location for the balance of the taxable period for which special (occupational) tax was paid, provided any such change shall be registered in the same manner as required by § 179.60. Where new member(s) are taken into a partnership or an unincorporated association, the new firm so constituted may not carry on business under the special tax stamp of the old firm. The new firm must file a return, pay the special (occupational) tax and register in the same manner as a person who first engages in business is required to do under § 179.52, even though the name of the new firm may be the same as that of the old. Where the members of a partnership or an unincorporated association, which has paid special (occupational) tax, form a corporation to continue the business, a new special tax stamp must be taken out in the name of the corporation.

§ 179.63 [Amendment]

22. Section 179.63 is amended by inserting "(occupational)" between the words "special" and "tax" in the first sentence and inserting "(occupational)" between the words "special" and "tax" in the second sentence.

23. Section 179.64 is amended to read as follows:

§ 179.64 Notice by taxpayer.

Whenever a taxpayer removes his business to a location other than specified in his last special (occupational) tax return (see § 179.52), he shall, within 30 days after the date of removal, file another return (Form 11). Such return shall be designated as "removal registry", set forth the time of removal, and the address of the new location. The taxpayer's special tax stamp must accompany the return for notation by the District Director of the change of location. As to liability in case of failure to register a change of location within 30 days, see § 179.66.

24. Section 179.65 is amended to read as follows:

§ 179.65 Failure to pay special (occupational) tax.

Any person who engages in a business taxable under section 5801, I.R.C., without timely payment of the tax imposed with respect to such business (see § 179.52) shall be liable for such tax, plus the interest and penalties thereon. In addition, such person may be liable for criminal penalties under section 5861, I.R.C.

§ 179.66 [Amendment]

25. Section 179.66 is amended by inserting "(occupational)" between the words "special" and "tax" at the three places where these two words appear together in the section.

26. Section 179.67 is amended to read as follows:

§ 179.67 Delinquency.

Any person liable for special (occupational) tax under section 5801, I.R.C., who fails to file a return (Form 11), as prescribed, will be liable for a delinquency penalty computed on the amount of tax due unless a return (Form 11) is later filed and failure to file the return timely is shown to the satisfaction of the District Director to be due to reasonable cause. The delinquincy penalty to be added to the tax is 5 percent if the failure is for not more than one month, with an additional 5 percent for each additional month or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate (section 6651, I.R.C.). However, no delinquency penalty is assessed where the 50 percent addition to tax is assessed for fraud (see § 179.68).

§ 179.69 [Amendment]

27. Section 179.69 is amended by inserting ", possession" between "manufacture" and "or" in the third sentence, and inserting "(occupational)" between the words "special" and "tax" in the last sentence.

§ 179.70 [Amendment]

28. Section 179.70 is amended by inserting "(occupational)" between the words "special" and "taxes" in the first sentence and the second sentence, and by inserting "District" before the word "Director" in the second sentence.

29. Section 179.75 is amended to read as follows:

§ 179.75 Rate of tax.

Except as provided in §§ 179.82, 179.83, and 179.84, a tax of $200 is imposed on the making of any firearm in the United States (whether by manufacture, putting together, alteration, any combination thereof, or otherwise). Such tax shall be paid in advance of the making of the firearm by the person making the firearm. Payment of the tax on the making of a firearm shall be represented by a $200 adhesive stamp bearing the words "National Firearms Act".

§ 179.76 [Deletion]

30. Section 179.76 is deleted.

§ 179.77 [Amendment]

31. Section 179.77 is amended by striking "of the proper denomination (see § 179.76)" in the third sentence and inserting in lieu thereof "(see § 179.75)."

§ 179.78 [Amendment]

32. Section 179.78 is amended by striking "90 days" in the first sentence and inserting "one year" in lieu thereof.

§ 179.82 [Amendment]

33. Section 179.82 is amended by inserting "(occupational)" between the words "special" and "tax" in the first sentence.

34. Section 179.83 is amended to read as follows:

§ 179.83 Altering a firearm, the making of which has previously been taxed.

No tax will be imposed on the making of a firearm from another firearm with respect to which a making tax has been paid under section 5821(a), I.R.C., prior to such making. However, the person so altering or converting such firearm shall notify the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., in writing immediately thereafter, giving a complete description of the firearm so altered or converted and indicating the changes made.

§ 179.84 [Amendment]

35. Section 179.84 is amended by striking the heading and inserting in lieu thereof "Making a firearm for use of Government agencies or peace officers." and by striking the words "or any Federal officer" in the first sentence.

§ 179.95 [Amendment]

36. Section 179.95 is amended by inserting the words "of the proper denomination" between the words "stamp" and "bearing".

37. Section 179.96 is amended to read as follows:

§ 179.96 Rate of tax.

The transfer tax imposed with respect to firearms transferred within the United States is at the rate of $200 for the transfer of each firearm, except that, the transfer tax imposed with respect to any gun with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and on any gun classified as "any other weapon" under section 5848(5), I.R.C., is at the rate of $5 for the transfer of each such weapon.

38. A new § 179.96a to read as follows is inserted immediately after § 179.96.

§ 179.96a Liability for tax.

The tax imposed on the transfer of a firearm shall be paid by the transferor, except that, if a firearm is transferred without payment of the proper tax, the transferor and transferee shall be jointly and severally liable for such tax.

39. Section 179.98 is amended to read as follows:

§ 179.98 Written application and order required for transfer of firearm.

Except as otherwise provided, no firearm may be transferred in the United States unless a Form 4 (Firearms) covering the transfer of the firearm has been approved by the Director, Alcohol and Tobacco Tax Division, Washington 25, D.C. The person seeking to obtain a firearm must complete the items in Form 4 (Firearms), in duplicate, relating to the applicant, execute said form as the applicant, and then submit the form, in duplicate, to the person transferring the firearm. The person desiring to transfer the firearm will complete the items in the Form 4 (Firearms), in duplicate, relating to such a person, affix to the original a "National Firearms Act" stamp of the proper denomination in the space provided (§ 179.96), properly cancel such stamp (§ 179.101), execute the said form, and submit the said form, in duplicate, to the Director for approval. Upon approval, the original of the Form 4 (Firearms) will be returned to the transferor, who may then deliver the firearm and the approved original Form 4 (Firearms) to the applicant.

§ 179.99 [Amendment]

40. Section 179.99 is amended by striking "90 days" in the first sentence and inserting "one year" in lieu thereof.

41. Section 179.103 is amended to read as follows:

§ 179.103 Special (occupational) tax payers.

The transfer tax and the requirements as to the use of Form 4 (Firearms) (§ 179.98) are not applicable where importers or manufacturers in Class 1, pawnbrokers in Class 3 and dealers in Class 4, who have registered and paid special (occupational) tax, transfer any type of firearm to other like manufacturers, like importers, or like dealers (including pawnbrokers), who have registered and paid special (occupational) tax. Manufacturers in Class 2 and dealers in Class 5 may transfer only the types of firearms which they are authorized to produce or deal in to any other properly registered special (occupational) tax payer without payment of transfer tax and without complying with the requirements as to the use of Form 4 (Firearms). Similarly, importers, manufacturers in Class 1, pawnbrokers in Class 3 and dealers in Class 4 may transfer only guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and firearms classified as "any other weapon" to manufacturers in Class 2 or dealers in Class 5 without payment of transfer tax and without complying with the requirements relating to the use of Form 4 (Firearms). The class of a special (occupational) tax payer (Class 1 through Class 5) referred to in this section shall be determined by the rate of special (occupational) tax paid by the manufacturer, importer or dealer, as provided in § 179.51. Before a tax-free transfer is made, the transferor must satisfy himself that the transferee is a registered special (occupational) tax payer.

42. Section 179.104 is amended to read as follows:

§ 179.104 Peace officers.

Pursuant to section 5812, I.R.C., the following persons are hereby designated as peace officers entitled to receive firearms without payment of transfer tax or the use of Form 4 (Firearms): Sheriffs, chiefs of police, commissioners of police, superintendents or other chief officers of State police units, including State highway patrols, directors of public safety, and bona fide subordinate officers under the command of the aforementioned persons upon appropriate recommendation of the officials designated. However, when any firearm is transferred tax-exempt under this section, §§ 179.105 and 179.106 must be complied with.

43. A new § 179.104a to read as follows is inserted immediately after § 179.104:

§ 179.104a Government Agencies.

Firearms may be transferred to the United States Government, any State, Territory, or possession of the United States, or to any political subdivision thereof, or to the District of Columbia, without payment of transfer tax or the use of Form 4 (Firearms). However, when any firearm is transferred tax-exempt under this section, §§ 179.105 and 179.106 must be complied with.

44. A new § 179.104b to read as follows is inserted immediately after § 179.104a:

§ 179.104b Unserviceable firearms.

An unserviceable firearm may be transferred as a curiosity or ornament without payment of transfer tax or the use of Form 4 (Firearms). However, when any unserviceable firearm is transferred tax-exempt under this section, § 179.105 must be complied with.

§ 179.105 [Amendment]

45. Section 179.105 is amended by striking the period from the heading and adding "and transfer." and by striking "of the Internal Revenue Code of 1954," in the first sentence and inserting "I.R.C., as implemented by §§ 179.104, 179.104a, and 179.104b," in lieu thereof.

§ 179.106 [Amendment]

46. Section 179.106 is amended by striking "of the Internal Revenue Code of 1954" from the first sentence and inserting "I.R.C., as implemented by §§ 179.104 and 179.104a," in lieu thereof.

§ 179.120 [Amendment]

47. Section 179.120 is amended by striking "already registered," in the first sentence and inserting "registered to him," in lieu thereof.

§ 179.130 [Amendment]

48. Section 179.130 is amended by striking the word "duplicate" in the first sentence and inserting the word "triplicate" in lieu thereof and by deleting the last sentence and inserting the following sentences in lieu thereof: "The approval of an application to import a firearm shall be automatically terminated at the expiration of 6 months, unless upon request, it is further extended by the Director. If a firearm described in the approved application is not imported, prior to the expiration of the permit, the Director should be so notified. Collectors of customs will not permit release of the firearm from customs custody, except for exportation, unless covered by an application which has been approved by the Director and such approval is currently effective."

§ 179.132 [Amendment]

49. Section 179.132 is amended by inserting "(occupational)" between the words "special" and "tax" in the first part of the proviso, and is further amended by striking "special-tax payer" from the latter part of the proviso and inserting "special (occupational) tax payer of a type qualified to import, manufacture, or deal in the firearm transferred" in lieu thereof.

50. Section 179.137 is amended to read as follows:

§ 179.137 Proof of exportation.

Within a six-month's period from date of issuance of the permit to export firearms, the exporter shall furnish or cause to be furnished to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., (a) the certificate of exportation (Part 3 of Form 9 (Firearms)) executed by the U.S. Collector of Customs as provided in § 179.136, or (b) the certificate of mailing by parcel post (Part 4 of Form 9 (Firearms)) executed by the postmaster of the post office receiving the parcel containing the firearm, or (c) a certificate of landing executed by a Customs officer of the foreign country to which the firearm is exported, or (d) a sworn statement of the foreign consignee covering the receipt of the firearm, or (e) the return receipt, or a photostat thereof, signed by the addressee or his agent, where the shipment of a firearm was made by insured or registered parcel post. Issuance of a permit to export a firearm and furnishing of evidence establishing such exportation under this section will relieve the actual exporter and the person selling to the exporter for exportation from transfer tax liability. Where satisfactory evidence of exportation of a firearm is not furnished within the stated period the transfer tax will be assessed.

§ 179.139 [Amendment]

51. Section 179.139 is amended by striking "(other than Hawaii)" in the first sentence.

§ 179.151 [Amendment]

52. Section 179.151 is amended by striking the period at the end of the first sentence and inserting in lieu thereof a colon and adding "except that if a manufacturer, importer, or dealer has filed a Form 5 (Firearms) giving notice that a firearm has been transferred, a Form 3 (Firearms) need not be filed with respect to that firearm".

§ 179.171 [Amendment]

53. Section 179.171 is amended by striking "$1" and inserting "$5" in lieu thereof.

§ 179.181 [Amendment]

54. Section 179.181 is amended by inserting "(occupational)" between the words "special" and "taxes" in the first sentence.

§ 179.190 [Amendment]

55. Section 179.190 is amended by inserting "and the provisions of this Part," between "1954," and "shall".

[F.R. Doc. 60–12080; Filed, Dec. 28, 1960; 8:49 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Notice of Proposed Rule Making

On October 5, 1960 there was published in the FEDERAL REGISTER (25 F.R. 9568) a notice to amend the definition of small business for the purpose of sales of Government-owned timber. The proposed amendment resulted in numerous comments with suggested changes thereto. As a result of the consideration of relevant matters presented by interested parties, the aforementioned notice is to be disregarded in view of the following.

Notice is hereby given that pursuant to the authority contained in section 5(b)(6) of the Small Business Act, Pub. Law 85–536, 72 Stat. 386, it is proposed to revise § 121.3–9(b) of the Small Business Size Standards Regulation relating to the definition of small business for the sales of Government-owned timber as set forth below.

Prior to final adoption of such revision consideration will be given to any comments submitted in writing, in duplicate, to the Director, Office of Small Business Size Standards, Small Business Administration, Washington 25, D.C., within the period of thirty days from the date of publication of this notice in the FEDERAL REGISTER.

Information. The major amendments under consideration provide for new requirements that when Government-owned timber is purchased for resale, saw logs to be manufactured into lumber or timber shall be resold only to small business concerns and when such timber is not to be resold it will be manufactured into lumber and timber only by the small business concern. The present restriction that a bidder shall not have been financed by any large concern for one year prior to such purchase has been removed. The proposed revision is as follows:

The Small Business Size Standards Regulation (Revision 1) (24 F.R. 3491), as amended (24 F.R. 7458, 7943, 9329; 25 F.R. 4577, 4711, 4985, 10087) is hereby further amended by deleting § 121.3–9 (b) and substituting in lieu thereof revised § 121.3–9(b) as follows:

(b) *Sales of Government-owned timber.* (1) In connection with the sale of Government-owned timber a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates employs not more than 250 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold in the form of logs, bolts, pulpwood, or similar products, a concern is a small business when:

(i) It is a small business within the meaning of subparagraph (1) of this paragraph, and

(ii) It agrees that, in the event it sells any saw logs of suitable size for sawing into lumber or timbers, which in fact will be manufactured into lumber or timbers, it will sell only to a concern which qualifies under subparagraph (1) of this paragraph as a small business, unless exemptions are granted for sales of mixed stumpage of hardwood and softwood species or to cover a fair exchange of species and grades.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of saw logs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in subparagraph (1) of this paragraph, and

(ii) It agrees that in manufacturing lumber or timbers from such saw logs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under subparagraph (1) of this paragraph as a small business.

PHILIP MCCALLUM,
Administrator.

DECEMBER 7, 1960.

[F.R. Doc. 60–12050; Filed, Dec. 28, 1960; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[643.3–0]

RAYON STAPLE FIBER FROM FRANCE

Notice That There Is Reason To Believe or Suspect Purchase Is Less or Likely To Be Less Than Foreign Market Value

DECEMBER 22, 1960.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of rayon staple fiber imported from France is less or likely to be less than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of rayon staple fiber from France pursuant to section 14.9 of the Customs Regulations (19 CFR 14.9).

[SEAL] LAWTON M. KING,
Acting Commissioner of Customs.

[F.R. Doc. 60–12076; Filed, Dec. 28, 1960; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

SHAW, SAVILL & ALBION CO., LTD., ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8535, between Shaw, Savill & Albion Company, Ltd., Blue Star Line, Ltd., and the carriers comprising the Federal New Zealand Lines and the Port and Associated Lines joint services, provides for the establishment and maintenance of a joint cargo service primarily for the carriage of refrigerated cargo, and with limited passenger accommodations, in the trade from ports in the Dominion of New Zealand to ports on the East Coast of the United States of America and ports in the Gulf of Mexico and the Panama Canal Zone.

Agreement No. 8552, between Shaw, Savill & Albion Company, Ltd., Blue Star Line, Ltd., and the carriers comprising the Federal New Zealand Lines and the Port and Associate Lines joint services (parties to joint service Agreement No. 8535), constituting parties of the first part, and the carriers comprising the M.A.N.Z. Line joint service (parties to Agreement No. 7814, as amended), party of the second part, covers an arrangement with respect to the trade from ports in the Dominion of New Zealand to ports on the East Coast of the United States of America and ports in the Gulf of Mexico and the Panama Canal Zone, whereby (1) the party of the second part agrees to observe the rates, charges and practices with respect to refrigerated cargo, which may be established and maintained under joint service Agreement No. 8535; and (2) the party of the first part agrees to observe the rates, charges and practices with respect to general cargo, which may be established and maintained under Agreement No. 7814.

Agreement No. 8565, between the Board of Port Commissioners of the City of Oakland and West Coast Checkerboard Elevator Company, provides for an exclusive franchise for a term of twenty years to West Coast Checkerboard Elevator Company for the operation of a public utility wharfinger business on certain property in the Port of Oakland for the shipping, receipt and storage of agricultural commodities in bulk only, and the taking of dockage, tolls or wharfage and other terminal charges thereon, and including the performance of accessorial services in connection therewith.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: December 22, 1960.

By order of the Federal Maritime Board.

THOMAS LISI,
Secretary.

[F.R. Doc. 60–12052; Filed, Dec. 28, 1960; 8:46 a.m.]

MEMBER LINES OF THE FAR EAST CONFERENCE ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 17–28, between the member lines of the Far East Conference, modifies the basic agreement of that conference (No. 17, as amended), in the trade from Atlantic and Gulf ports of the United States to ports in Japan, Korea, Taiwan (Formosa), Siberia, Manchuria, China, Hong Kong, Indo-China, and the Republic of the Philippines. The purpose of this modification is to provide that carriers operating under an approved joint service agreement may be admitted to conference membership as a single member, with one vote, and the requirement of furnishing a single deposit, in the same manner as now required for the admission of individual carriers under the conference agreement.

Agreement No. 7997–2, between Lykes Bros. Steamship Co., Inc., and Garcia S.A., Compania Naviera, modifies the West Gulf-Havana Pool Agreement (No. 7997, as amended), in the trade from U.S. Gulf ports, west of but not including New Orleans, to Havana, Cuba. The purpose of the modification is to provide (1) for the removal of Cia. Naviera Cubamar, S.A., as a party to the agreement, (2) preparation of statement of cargo pooled under the agreement as of September 30, 1960, and the settlement of the results of the pool as between the remaining parties as of that date under the terms of the agreement, (3) that on and after October 1, 1960, the tonnage participation of the parties shall be on the basis of 42 percent to Garcia, and 58 percent to Lykes Bros., and (4) that the operation of the agreement shall be suspended as of October 1, 1960, until the first day of the month in which Lykes Bros. shall have resumed its service in the trade covered.

Agreement No. 8433–1, between Kawasaki Kisen Kaisha, Ltd., Osaka Shosen Kaisha, Ltd., and Yamashita Steamship Co., Ltd., modifies approved Agreement No. 8433 of the parties covering a pooling and sailing arrangement in the trade from Japan to U.S. Atlantic Coast ports. The purpose of the modification is to record the understanding of the parties as to the number of sailings to be maintained by each during the year ending September, 1961.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: December 22, 1960.

By order of the Federal Maritime Board.

THOMAS LISI,
Secretary.

[F.R. Doc. 60–12053; Filed, Dec. 28, 1960; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 12003; Order No. E–16172]

ALLEGHENY AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23d day of December 1960.

In the matter of certain Hartford/Springfield and Providence fares proposed by Allegheny Airlines, Inc., Docket 12003.

Allegheny Airlines, Inc. (Allegheny) by tariff revision to become effective December 29, 1060, proposes to reduce passenger fares between Providence, on the one hand, and Baltimore, Salisbury, and Washington, on the other hand, to $23.50, the level of the present Hartford/Springfield-Washington fare, and to permit application of this fare between the latter points on routings via Providence. In addition, by tariff revision to become effective January 12, 1961, Allegheny proposes an increase to $23.90 in the Hartford/Springfield-Washington fare, with corresponding increases in the above-mentioned fares to/from Providence. The above-noted routing provision remains unchanged by this latter filing.

Eastern Air Lines, Inc. (Eastern) and American Airlines, Inc. (American) have filed timely complaints (Dockets 11977 and 11980, respectively), requesting investigation and suspension of the first-noted tariff revision. In substance, the carriers allege (1) that nothing is apparent in the present airline cost picture which would indicate that substantial reductions in short-haul fares are warranted or reasonable, particularly on the part of a subsidized carrier, (2) that the commonrating of Hartford and Providence conflicts with the geographical location of the cities since the distance to Providence from Washington exceeds that to Hartford by 43 miles, and (3) that the common fares would prejudice the direct Hartford passenger while granting an undue preference to the passenger traveling to Providence and to Hartford via the indirect routing. American further alleges that the reduced Providence-Washington fare would necessitate reductions of through fares to points south of Washington.

The Board concludes that the questions of lawfulness raised by the complainants warrant an investigation into the instant tariff revisions. The proposals would commonrate two points, one of which is 13.7 percent more distant from Washington than the other, and would entail a reduction of some 11 percent in the fare between Washington and the farther point, Providence. Further, whereas Hartford lies on a reasonably direct route between Washington and Providence, travel to and from this point via Providence involves a 66-mile back-haul segment, resulting in a total circuity of 109 miles, or approximately 35 percent. In view of the appreciable variation in the distances to which the same fare would apply and the magnitude of the proposed reduction in the Washington-Providence fare, we further conclude that suspension is warranted pending investigation.

The Board finds that its action herein is necessary and appropriate in order to carry out the provisions and objectives of the Federal Aviation Act of 1958, particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, *It is ordered that:* 1. An investigation be and hereby is instituted to determine whether the fares and routings between Baltimore and Providence, R.I. on 14th and 15th Revised Pages 25; the routing between Hartford and Washington on 15th Revised Page 26; the fares and routings between Hartford and Washington on 16th Revised Page 26; the fares and routings between Providence, R.I., on the one hand, and Salisbury and Washington on the other, on 12th and 13th Revised Pages 27; of Agent C. C. Squire's C.A.B. No. 44, are, or will be, unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, and if found to be unlawful, to determine and prescribe the lawful fares.

2. Pending investigation, hearing, and decision by the Board, the fares and routings described in Ordering Paragraph 1 be and hereby are suspended and their use deferred to and including March 28, 1961 unless otherwise ordered by the Board and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

4. The complaints of Eastern Air Lines, Inc. and American Airlines, Inc. in Dockets 11977 and 11980, respectively, are consolidated herein.

5. Copies of this order be served upon Allegheny Airlines, Inc., Eastern Air Lines, Inc., and American Airlines, Inc. which are hereby made parties to this proceeding.

This order shall also be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] ROBERT C. LESTER, *Secretary.*

[F.R. Doc. 60–12096; Filed, Dec. 28, 1960; 8:50 a.m.]

[Docket 11925]

AERONAVES DE MEXICO, S.A.

Notice of Postponement of Hearing

In the matter of the application of Aeronaves de Mexico, S.A., under section 402 of the Federal Aviation Act of 1958 for a foreign air carrier permit.

Notice is hereby given that the hearing in the above-entitled proceeding heretofore assigned to be held on December 29, 1960, has been postponed until January 5, 1961, at 10:00 a.m., e.s.t., Room 911 of the Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Merritt Ruhlen.

Dated at Washington, D.C., December 23, 1960.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 60–12097; Filed, Dec. 28, 1960; 8:50 a.m.]

[(1954) Docket 1706–A]

REOPENED PAN AMERICAN MAIL RATE CASE

Notice of Postponement of Hearing

In the matter of the determination of the fair and reasonable rates of compensation for the transportation of mail by Pan American World Airways System during the year 1954.

At the request of Bureau Counsel and Pan American World Airways, Inc., the hearing in the above-entitled proceeding previously assigned to be held on January 9, 1961 at 10:00 a.m., e.s.t., in Room 725 of the Universal Building, 1825 Connecticut Avenue, Washington 25, D.C., is hereby postponed until January 31, 1961, at the same time and in the same room.

Dated at Washington, D.C., December 22, 1960.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 60–12098; Filed, Dec. 28, 1960; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13605–13607; FCC 60M–2167]

ABILENE RADIO AND TELEVISION CO. ET AL.

Order Scheduling Hearing

In re applications of Abilene Radio and Television Company, San Angelo, Texas, Docket No. 13605, File No. BPCT–2639; E. C. Gunter, San Angelo, Texas, Docket No. 13606, File No. BPCT–2663; Dornita Investment Corp., San Angelo, Texas, Docket No. 13607, File No. BPCT–2714; for construction permits.

Pursuant to agreement of counsel arrived at during the further prehearing conference held on this date: *It is ordered,* This 21st day of December 1960, that the hearing in the above-styled proceeding will commence at 10 o'clock

a.m., on February 28, 1961, in Washington, D.C.

Released: December 22, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60–12090; Filed, Dec. 28, 1960; 8:49 a.m.]

[Docket Nos. 13871, 13899; FCC 60M–2172]

ATLANTA OK BROADCASTING CO., INC. AND WRMA BROADCASTING CO., INC.

Order Scheduling Hearing

In the matter of Atlanta OK Broadcasting Company, Inc., licensee of standard broadcast Station WAOK, Atlanta, Georgia, Docket No. 13871; WRMA Broadcasting Company, Inc., licensee of standard broadcast Station WRMA, Montgomery, Alabama, Docket No. 13899; order to show cause why a Cease and Desist Order should not be issued.

It is ordered, This 21st day of December 1960, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on March 7, 1961, in Washington, D.C.

Released: December 22, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60–12091; Filed, Dec. 28, 1960; 8:49 a.m.]

[Docket Nos. 12787, 12790; FCC 60M–2166]

WALTER L. FOLLMER AND INTERSTATE BROADCASTING CO., INC. (WQXR)

Order Scheduling Hearing

In re applications of Walter L. Follmer, Hamilton, Ohio, Docket No. 12787, File No. BP–11323; Interstate Broadcasting Company, Inc. (WQXR), New York, New York, Docket No. 12790, File No. BP–11707; for construction permits.

The Hearing Examiner having under consideration the designation of a date for further hearing in the above-entitled proceeding;

It is ordered, This 21st day of December 1960, that further hearing will convene on January 25, 1961.

Released: December 22, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60–12092; Filed, Dec. 28, 1960; 8:49 a.m.]

[Docket Nos. 12839–12840; FCC 60M–2175]

NEWPORT BROADCASTING CO. AND CRITTENDEN COUNTY BROADCASTING CO.

Order Scheduling Hearing

In re applications of Newport Broadcasting Company, West Memphis, Arkansas, Docket No. 12839, File No. BP–12113; Crittenden County Broadcasting Company, West Memphis, Arkansas, Docket No. 12840, File No. BP–12405; for construction permits.

It is ordered, This 22d day of December 1960 that a hearing conference will be held in the above-entitled proceeding on December 29, 1960 commencing at 10:00 a.m., in the offices of the Commission at Washington, D.C.; the purpose of said conference being to determine what action shall be taken relative to the depositions taken herein on the dates of October 26, 27 and 28, 1960, transcripts of which have not been received in the offices of the Commission.

Released: December 23, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60–12093; Filed, Dec. 28, 1960; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 21, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36795: *Substituted service—C&O for McLean Trucking Company, Et Al.* Filed by Central States Motor Freight Bureau, Inc., Agent (No. 53), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Chicago, Ill., on the one hand, and Buffalo, N.Y., Charleston, W. Va., Cincinnati, Ohio and Detroit, Mich., on the other, also between Detroit, Mich., and Buffalo, N.Y.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau tariff MF–I.C.C. 963.

FSA No. 36796: *Substituted service—IC for Jones Truck Lines, Inc.* Filed by Central States Motor Freight Bureau, Inc., Agent (No. 55), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Chicago, Ill., on the one hand, and Dubuque, Iowa and East St. Louis, Ill., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau, Inc., tariff MF–I.C.C. 963.

FSA No. 36797: *Substituted service—Wabash for Gateway Transportation Co.* Filed by Central States Motor Freight Bureau, Inc., Agent (No. 59), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Detroit, Mich., and Buffalo, N.Y., also between East St. Louis, Ill., and Toledo, Ohio, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau, Inc., tariff MF–I.C.C. 963.

FSA No. 36798: *Joint rail-motor rates from and to western trunk line territory.* Filed by Middlewest Motor Freight Bureau, Agent (No. 290), for interested carriers. Rates on various commodities, moving on class or commodity rates, loaded in highway trailers of the motor carriers over the highways, thence transported on railroad flat cars of the rail carriers, between points in western trunk-line territory; between points in western trunk-line territory, and points in central territory, also between points in central, southwestern and western trunk line territories.

Grounds for relief: Rail-truck competition.

FSA No. 36799: *Newsprint from Alabama to Virginia points.* Filed by O. W. South, Jr., Agent (No. A4051), for interested rail carriers. Rates on newsprint paper, in carloads, from Coosa Pines and Childersburg, Ala., to Norfolk, Newport News and Richmond, Va.

Grounds for relief: Market competition.

Tariff: Supplement 56 to Southern Freight Association tariff I.C.C. S–46.

FSA No. 36800: *Saturant solvent from Montana to Minnesota points.* Filed by Great Northern Railway Company (No. 1071), jointly with Northern Pacific Railway Company (No. 114), for themselves and interested rail carriers. Rates on saturant solvent, petroleum, timber-treating, in tank-car loads, from Billings, East Billings, Laurel and Great Falls, Montana, to Minneapolis, Minnesota Transfer and St. Paul, Minn.

Grounds for relief: Cross-country competition.

Tariffs: Supplement 29 to Northern Pacific Railway Company tariff I.C.C. 9906, and supplement 26 to Great Northern Railway Company tariff I.C.C. A–8854.

FSA No. 36801: *Substituted service—C&NW for Riss & Company, Inc.* Filed by Central States Motor Freight Bureau, Inc., Agent (No. 54), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Chicago, Ill., and East St. Louis, Ill., on traffic originating or destined such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau tariff MF–I.C.C. 963.

FSA No. 36802: *Substituted service—L&N for A. & H. Truck Lines, Inc.* Filed by Central States Motor Freight Bureau, Inc., Agent (No. 56), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between East St. Louis, Ill., on the one hand, and Evansville, Ind., and Louisville, Ky., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau tariff MF–I.C.C. 963.

FSA No. 36803: *Substituted service—PRR for Cooper-Jarrett, Inc.* Filed by Central States Motor Freight Bureau, Inc., Agent (No. 57), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars, between Chicago, Ill., and Buffalo, N.Y., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau tariff MF–I.C.C. 963.

FSA No. 36804: *Substituted service—TP&W and PRR for Great American Transportation, Inc.* Filed by General States Motor Freight Bureau, Inc., Agent (No. 58), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Peoria, Ill., on the one hand, and Buffalo, N.Y., and Detroit, Mich., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 1 to Central States Motor Freight Bureau tariff MF–I.C.C. 963.

FSA No. 36805: *Lumber from southern territory to Points in Michigan.* Filed by O. W. South, Jr., Agent (No. A4049), for interested rail carriers. Rates on lumber and related articles, in carloads, from points in southern territory to points in Michigan.

Grounds for relief: Short-line distance formula, grouping and motor-truck competition.

Tariffs: Supplement 100 to Southern Freight Association tariff I.C.C. 1443, and other schedules listed in the application.

FSA No. 36806: *Substituted service—C&NW for Riss & Company, Inc. (A Delaware Corp.).* Filed by Middlewest Motor Freight Bureau, Agent (No. 291), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Chicago, Ill., and East St. Louis, Ill., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 149 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 36807: *Substituted service—C&NW for Buckingham Express, Inc., et al.* Filed by Middlewest Motor Freight Bureau, Agent (No. 292), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Chicago, Ill., on the one hand, and Sioux Falls, S. Dak., and Marshalltown, Iowa, on the other, also between East St. Louis, Ill., and St. Paul, Minn., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 149 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 36808: *Substituted service—Wabash for Strickland Transportation Co., Inc., et al.* Filed by Middlewest Motor Freight Bureau, Agent (No. 293), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Chicago, Ill., and East St. Louis, Ill., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 149 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 36809: *Substituted service—CRI&P for Healzer Cartage Co., et al.* Filed by Middlewest Motor Freight Bureau, Agent (No. 294), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Chicago (Burr Oak), Ill., and St. Louis, Mo., on the one hand, and Dallas, Ft. Worth and Houston, Tex., on the other; between St. Louis, Mo., on the one hand, and Dallas and Ft. Worth, Tex., and Oklahoma City, Okla., on the other; also between Kansas City (Armourdale), Kans., and St. Louis, Mo.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 149 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 36810: *Substituted service—CRI&P for Riss & Company, Inc. (A Delaware Corp.).* Filed by Middlewest Motor Freight Bureau, Agent (No. 295), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Denver, Colo., on the one hand, and Chicago (Burr Oak), Ill., and St. Louis, Mo., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 149 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

AGGREGATE-OF-INTERMEDIATES

FSA No. 36811: *Superphosphate from Florida to New England points.* Filed by O. W. South, Jr., Agent (No. A4050), for interested rail carriers. Rates on superphosphate, not defluorinated superphosphate nor feed grade superphosphate, in bulk, in carloads, from Florida producing points to specified points in Connecticut, Massachusetts and Rhode Island.

Grounds for relief: Maintenance of depressed rates established to meet rail-water-truck competition without having to use such rate as factors in constructing combination rates.

Tariff: Supplement 14 to Southern Freight Association tariff I.C.C. S–128.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–11926; Filed, Dec. 23, 1960; 8:46 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 23, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36812: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 395), for interested rail carriers. Rates on brick, insecticides, fertilizer compounds, window frames, etc., in carloads and less-than-carloads, as described in the application, between points in Texas, over interstate routes through adjoining states.

Grounds for relief: Intrastate competition and maintenance of rates from and to points in other states not subject to the same competition.

Tariff: Supplement 114 to Texas-Louisiana Freight Bureau tariff I.C.C. 865.

FSA No. 36814: *Precipitated phosphate dust—Tennessee points to Illinois and WTL territories.* Filed by O. W. South,

Jr., Agent (No. A4052), for interested rail carriers. Rates on precipitated phosphate dust, in carloads from L & N RR producing points in Tennessee, to points in Illinois and western trunk-line territories.

Grounds for relief: Short-line distance formula and grouping.

Tariffs: Supplements 64 and 1 to Southern Freight Association tariffs I.C.C. 1386 and S–171, respectively.

AGGREGATE OF INTERMEDIATES

FSA No. 36813: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 396), for interested rail carriers. Rates on motor fuel anti-knock compound, spelter and zinc anodes, iron or steel tanks, etc., in carloads or less-than-carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining states.

Grounds for relief: Maintenance of depressed rates established to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff: Supplement 114 to Texas-Louisiana Freight Bureau tariff I.C.C. 865.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–12066; Filed, Dec. 28, 1960; 8:48 a.m.]

[Notice 429]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 23, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 63839. By order of December 22, 1960, The Transfer Board approved the transfer to Lee Way Motor Freight of Indiana, Inc., Indianapolis, Ind., of Certificates Nos. MC 68715 Sub 1, MC 68715 Sub 7, MC 68715 Sub 8, MC 68715 Sub 9, and MC 68715 Sub 12, issued January 8, 1944, April 29, 1947, August 11, 1949, November 21, 1950, and December 8, 1960, to Summit Fast Freight, Inc., Akron, Ohio, authorizing the transportation of general commodities, excluding household goods, commodities, in bulk, and various specified commodities, over regular routes, between Ft. Wayne, Ind. and Chicago, Ill.; between specified points in Ohio; between Lima, Ohio and St. Louis, Mo.; between junction Indiana Highway 152 and U.S. Highway 6 and Akron, Ohio; between Chicago, Ill. and Pittsburgh, Pa.; and over irregular routes, from points in Chicago, Ill., commercial zone, to specified points in Ohio, West Virginia, Pennsylvania and New York; from North Canton, Massillon and Youngstown, Ohio, to points in West Virginia and Pennsylvania; from Canton, Ohio to points in West Virginia and Pennsylvania; from points in Allegheny County, Pa., and above points to points in Lake County, Ind., and Cook, DuPage, Kane and Will Counties, Ill.; between points in Ohio; between points in the Chicago, Ill., Commercial Zone and between points in the St. Louis, Mo., Commercial Zone; general commodities, excluding household goods, and various specified commodities, between Canton, Ohio, and points in Ohio, Pennsylvania and West Virginia; general commodities, excluding household goods, commodities in bulk, and various specified commodities, authorized to and from points in Cuyahoga County, Ohio as off-route points in connection with said carrier's authorized regular route between Cleveland and Canton; to and from Hampshire, Ill., and points in Kane County, Ill.; from Illinois points to points in Allegheny County, Pa.; between St. Louis, Mo., on the one hand, and, on the other, points in Illinois; between points in St. Louis County, Mo., other than Valley Park, Mo., on the one hand, and, on the other, points in Ill., and St. Louis, Mo.; between specified Illinois points; and, serving site of B. F. Goodrich Company, plant, approximately 13 miles east of Fort Wayne, Ind., in Milan Township, Allen County, Ind., as an off-route point in connection with carrier's regular route operations to and from Fort Wayne, Ind. Sidney P. Upsher, 3000 West Reno, Oklahoma City, Okla., for applicants.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–12067; Filed, Dec. 28, 1960; 8:48 a.m.]

Bureau of Operating Rights

[Notice 356]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 23, 1960.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209 and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and pre-hearing conferences will be called at 9:30 o'clock a.m., United States standard time, unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Sub No. 122) (REPUBLICATION), filed August 15, 1960, published in the FEDERAL REGISTER, issue of August 31, 1960. Applicant: GARRETT FREIGHTLINES, INC., 2055 Pole Line Road, Pocatello, Idaho. Applicant's attorney: Maurice H. Greene, Boise, Idaho. The subject application, as originally filed sought authority to transport: Ferrophosphorus slag, in bulk, from Don, Idaho over U.S. Highway 30N to Pocatello, Idaho, thence over U.S. Highway 191 to Brigham City, Utah, thence over U.S. Highway 91 to Salt Lake City, Utah, thence over U.S. Highway 40 to Garfield, Utah. At the hearing held November 7, 1960, at Salt Lake City, Utah, before Hearing Examiner Lawrence A. Van Dyke, Jr., the application was amended to include service to Salt Lake City, as an intermediate point. In a Report and Order, served December 9, 1960, the Examiner finds that public convenience and necessity require operation by applicant as a *common carrier,* by motor vehicle, in interstate or foreign commerce, of *ferrophosphorus slag,* in bulk, over a regular route, from Don, Idaho, to Garfield and Salt Lake City, Utah, from Don over U.S. Highway 30N to Pocatello, Idaho, thence over U.S. Highway 191 to Brigham City, Utah, thence over U.S. Highway 91 to Salt Lake City, and thence over U.S. Highway 40 to Garfield, Utah, serving Salt Lake City as an intermediate point for delivery only. The purpose of this republication is to advise that any person or persons who may have been prejudiced by the allowance of the amendment, may, within 30 days from the date of this republication in the FEDERAL REGISTER, file an appropriate pleading.

No. MC 704 (Sub No. 23), filed December 15, 1960. Applicant: J. O. (RED) WILLETT PIPE LINE STRINGING CORPORATION, P.O. Box 2836, Monroe, La. Applicant's attorney: Tom B. Kretsinger, Suite 1014–18 Temple Building, Kansas City, Mo. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment or special handling, and *related machinery parts* and *related contractors' materials* and *supplies,* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment or special handling, between points in California, Washington, Oregon, Arizona, Nevada, Idaho, Utah, Montana, Wyoming and Colorado.

HEARING: January 23, 1961, at the New Customs House, Denver, Colo., before Examiner Leo W. Cunningham.

No. MC 3252 (Sub No. 27), filed October 3, 1960. Applicant: PAUL E. MERRILL, doing business as MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, Maine. Applicant's attorney: Francis E. Barrett, Jr. Professional Building, 25 Bryant Avenue, East Milton 86 (Boston), Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aviation fuel*, in bulk, in tank vehicles; from Waltham, Mass., to Houlton, Maine, and *refused or rejected shipments*, on return.

NOTE: Common control may be involved.

HEARING: February 2, 1961, at the New Post Office and Court House Building, Boston, Mass., before Joint Board No. 69, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 13250 (Sub No. 71), filed August 23, 1960. Applicant: J. H. ROSE TRUCK LINE, INC., 3804 Jensen Drive, P.O. Box 16037, Houston 22, Tex. Applicant's attorney: Charles D. Mathews, Brown Building, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment or handling, *parts thereof, machinery parts*, and *contractors' materials and supplies*, between points in Kansas, Oklahoma, Texas, Louisiana, and New Mexico, on the one hand, and, on the other, points in Oregon and Washington.

NOTE: Applicant is presently authorized to conduct operations in the states of Arizona, Arkansas, California, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah and Wyoming, under Certificate No. MC 13250 and subs thereunder. No duplication of present authority is sought by the instant application.

HEARING: January 23, 1961, at the New Customs House, Denver, Colo., before Examiner Leo W. Cunningham.

No. MC 13250 (Sub No. 72), filed August 23, 1960. Applicant: J. H. ROSE TRUCK LINE, INC., 3804 Jensen Drive, P.O. Box 16037, Houston 22, Tex. Applicant's attorney: Charles D. Mathews, Brown Building, P.O. Box 858, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment or handling, *parts thereof, machinery parts*, and *contractors' materials and supplies*, between points in Nevada, on the one hand, and, on the other, points in Texas, Louisiana, Oklahoma, Arkansas, Kansas, and Missouri.

NOTE: Applicant states that no duplication of present authority is sought by the instant application.

HEARING: January 23, 1961, at the New Customs House, Denver, Colo., before Examiner Leo W. Cunningham.

No. MC 17778 (Sub No. 32) (AMENDMENT), filed October 12, 1960, published in the FEDERAL REGISTER issue of November 23, 1960. Applicant: YALE TRANSPORT CORP., 460 12th Avenue, New York, N.Y. Applicant's attorney: Herbert Burstein, 160 Broadway, New York 38, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment; (A) Between Washington, D.C., Baltimore, Md., Philadelphia and Marcus Hook, Pa., and Trenton, N.J., on the one hand, and, on the other, points in Hudson, Essex, Union, Morris, Middlesex, Passaic and Bergen Counties, N.J. (B) Between New York, N.Y., New Rochelle, N.Y., and points in Westchester County, N.Y., within 15 miles of New Rochelle, on the one hand, and, on the other, points in Massachusetts, and points in Connecticut, except that no transportation is authorized for shipments originating in that part of Connecticut east of U.S. Highway 5. (C) Between points in Connecticut and Massachusetts, except that no transportation is authorized for shipments originating in that part of Connecticut east of U.S. Highway 5. (D) Between Providence, R.I., on the one hand, and, on the other, points in Massachusetts and Connecticut, except that no transportation is authorized for shipments originating in that part of Connecticut east of U.S. Highway 5. (E) Between Concord, N.H. and the Massachusetts-New Hampshire Boundary line, including all off-route and intermediate points in New Hampshire, as more particularly set forth in Certificates of Public Convenience and Necessity No. MC–10367 and Sub No. 1 thereunder, formerly owned by Chelsea Contracting and Trucking Co., which Yale Transport Corp. was authorized by the Interstate Commerce Commission to acquire in Docket No. MC–F–7246, on the one hand, and, on the other, points in Connecticut and Massachusetts, except that no transportation is authorized for shipments originating in that part of Connecticut east of U.S. Highway 5. (F) *General commodities*, except used household goods, and except Classes A and B explosives, and commodities requiring dump truck service; between Amsterdam, Hudson, Albany, Schenectady, Cohoes, Troy, Johnstown, Gloversville, Voorheesville, Middleville, Colonie, Menands, Saratoga Springs, N.Y., on the one hand, and, on the other, points in Connecticut and Massachusetts, except that no transportation is authorized for shipments originating in that part of Connecticut east of U.S. Highway 5.

NOTE: Applicant states that this application is filed for the purpose of eliminating the gateway points of Secaucus, N.J., New Haven, Conn. and New Rochelle, N.Y., and the gateway territory of points in Westchester County, N.Y., within 15 miles of New Rochelle.

HEARING: Remains as assigned, January 20, 1961, at 346 Broadway, New York, N.Y., before Examiner Reece Harrison.

No. MC 19553 (Sub No. 24), filed November 17, 1960. Applicant: KNOX MOTOR SERVICE, INC., P.O. Box 359, Rockford, Ill. Applicant's representative: Robert M. Kaske (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, including bulk liquids, assembled automobiles, and heavy machinery requiring special equipment for handling; serving Pekin, Ill., as an off-route point in connection with carriers authorized regular-route operations to and from Peoria, Ill.

NOTE: Applicant states that corporate officers of Knox Motor Service, Inc. are affiliated with Exonomy Express and Cartage, Milwaukee, Wis., therefore, common control may be involved.

HEARING: February 16, 1961, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Richard H. Roberts.

No. MC 30175 (Sub No. 11), filed November 9, 1960. Applicant: GAY'S EXPRESS, INC., Route 5, South, Bellows Falls, Vt. Applicant's attorney: Kenneth B. Williams, 111 State Street, Boston 9, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives*, between Burlington, Vt., on the one hand, and, on the other, points in New Hampshire, Massachusetts, Connecticut, New York and New Jersey located on applicant's regular routes, including off-route points, as described in applicant's present authority, in Certificates of Public Convenience and Necessity, No. MC 30175 and No. MC 30175 (Sub No. 10).

HEARING: February 15, 1961, at the Washington County Court House, Montpelier, Vt., before Examiner Alton R. Smith.

No. MC 31466 (Sub No. 24), filed March 28, 1960. Applicant: L. C. L. TRANSIT COMPANY, a corporation, 520 North Roosevelt Street, P.O. Box 667, Green Bay, Wis. Applicant's attorney: Edward A. Solie, 1 South Pinckney Street, Madison 3, Wis. Authority sought to operate as a *common or contract* carrier, by motor vehicle, over irregular routes, transporting: *Fresh meats*, including *carcasses* and *fresh cuts*, between St. Louis, Mo., Barron, Rice Lake, Superior, and Ashland, Wis., and Duluth, Minn., points in that part of Wisconsin on and south of Wisconsin Highway 64 from Marinette to Merrill, Wis., on and east of U.S. Highway 51 from Merrill to Wausau, Wis., on and south of Wisconsin Highway 29 from Wausau, Wis., to junction U.S. Highway 12, near Elk Mound, Wis., and on and south of U.S. Highway 12 from said junction to the Wisconsin-Minnesota State line, including points in Kewaunee and Door Counties, Wis., points in that part of Minnesota on and east of U.S. Highway 169 and on and south of U.S. Highway 12, Ottumwa, Burlington,

and Keokuk, Iowa, and points in that part of Iowa on and south of U.S. Highway 18 from Marquette to Garner, Iowa, on and east of U.S. Highway 69 from Garner to Des Moines, Iowa, and on and north of U.S. Highway 6 from Des Moines to Davenport, Iowa, points in that part of Illinois on and north of U.S. Highway 36, points in Indiana, and points in Michigan except those in that part of the Lower Peninsula of Michigan north of the northern boundary of Muskegon, Kent, Montcalm, Gratiot, Midland, Gladwin, Arenac, and Iosco Counties, Mich.

NOTE: A proceeding has been instituted under section 212(c) in No. MC 31466 (Sub No. 22) to determine whether applicant's status is that of a common or contract carrier. Applicant requests that duplication with present authority be eliminated.

HEARING: February 20, 1961, at the Wisconsin Public Service Commission, Madison, Wis., before Examiner Charles B. Heineman.

No. MC 31600 (Sub No. 486), filed November 7, 1960. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Low sulphur No. 6 oil*, in bulk, in tank vehicles, from Rensselaer, N.Y., to Quincy, Mass., and *refused and rejected shipments*, on return.

HEARING: February 6, 1961, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alton R. Smith.

No. MC 34227 (Sub No. 4) filed November 23, 1960. Applicant: E. L. NORTHCUTT (GERALD D. NORTHCUTT, Administrator), 523 Candelaria Avenue NW., Albuquerque, N. Mex. Applicant's attorney: William J. Torrington, 1003 Maryland Trust Building, Baltimore 2, Md. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies*, used in the conduct of such businesses, from Los Angeles, Calif., and Phoenix, Ariz., to Albuquerque, N. Mex.

NOTE: Applicant states it now holds authority under Permit No. MC 34227 as a regular route carrier, and seeks herein to delete such regular route operations from said Permit upon the grounds that due to changes in highways and routing since 1940–1943 the above stated route is no longer possible or practical and applicant's operations are now in fact irregular route operations rather than regular route operations. Applicant also states it proposes to transport exempt commodities, on return. Common control may be involved.

HEARING: January 24, 1961, at the New Mexico State Corporation Commission, Santa Fe, N. Mex., before Joint Board No. 167.

No. MC 43475 (Sub No. 46), filed December 19, 1960. Applicant: GLENDENNING MOTORWAYS, INC., 820 Hampden Avenue, St. Paul, Minn. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, serving Portage, Ind., as an off-route point in connection with applicant's presently authorized regular route operations to and from Chicago, Ill.

HEARING: January 11, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local Daylight Saving Time, if that time is observed), in the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72, or, if the Joint Board waives its right to participate, before Examiner John L. York.

No. MC 48388 (Sub No. 41), filed December 9, 1960. Applicant: J. E. FALTIN MOTOR TRANSPORTATION, INC., 515 South Willow Street, Manchester, N.H. Applicant's attorney: Clarence D. Todd, 1825 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Printed matter (books, catalogues, magazines, periodicals, printed sheets, and printing paper)*; between Westbury, L.I., N.Y., on the one hand, and, on the other, Concord, N.H.

HEARING: February 10, 1961, at the New Hampshire Public Service Commission, Concord, N.H., before Examiner Alton R. Smith.

No. MC 50201 (Sub No. 19), Filed December 9, 1960. Applicant: DOUGLAS TRUCKING LINES, INC., 1011 Main Street, Owosso, Mich. Applicant's attorney: David Axelrod, 39 South LaSalle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading; between Chicago, Ill., on the one hand, and, on the other, LaGrange, Ind.

HEARING: January 26, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), in the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 21.

No. MC 52751 (Sub No. 24), filed October 24, 1960. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials;* from Minneapolis and St. Paul, Minn., to points in Nebraska (except Omaha).

HEARING: February 20, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Richard H. Roberts.

No. MC 59681 (Sub No. 46), filed December 19, 1960. Applicant: DAKOTA TRANSFER & STORAGE COMPANY, 11 Oak Street SE., Minneapolis, Minn. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Portage, Ind., as an off-route point in connection with applicant's presently authorized regular route operations to and from Chicago, Ill.

HEARING: January 11, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), in the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72, or, if the Joint Board waives its right to participate, before Examiner John L. York.

No. MC 59852 (Sub-No. 14), filed December 12, 1960. Applicant: ALL STATES FREIGHT, INCORPORATED, 1250 Kelly Avenue, Akron, Ohio. Applicant's practitioner: Walter M. F. Neugebauer, 1250 Kelly Avenue, Akron 6, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, liquid commodities in bulk, and those requiring special equipment, serving points in Indiana bounded on the West by the Lake and Porter County lines, on the South by U.S. Highway 20, on the East by Indiana Highway 49, and on the North by Lake Michigan, and the site of the new Midwest Steel Corporation plant, located on U.S. Highway 12, approximately two miles East of the Lake-Porter County Line and at or near Portage, Ind., as off-route points in connection with applicant's operations to and from Chicago, Ill.

HEARING: January 11, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), in the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72, or, if the Joint Board waives its right to participate, before Examiner John L. York.

No. MC 61396 (Sub No. 77), filed December 9, 1960. Applicant: HERMAN BROS., INC., 229 W.O.W. Building, Omaha, Nebr. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles; from Pipeline Terminal of Standard Oil Company (Indiana), located or to be located in Andrew County, Mo., to points in Missouri, Iowa, Kansas and Nebraska, and *rejected or damaged shipments*, on return.

HEARING: January 24, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner C. Evans Brooks.

No. MC 61403 (Sub No. 58), filed December 12, 1960. Applicant: THE MASON AND DIXON TANK LINES, INC., Wilcox Drive, Kingsport, Tenn. Au-

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, coal tar products, chemicals* and *insecticides*, in bulk, in tank vehicles, from Marshall, Ill. and points within five (5) miles thereof, to points in the United States on and east of U.S. Highway 85.

NOTE: Common control may be involved.

HEARING: January 18, 1961, at the U.S. Custom House, Room 852, 610 South Canal Street, Chicago, Ill., before Examiner John L. York.

No. MC 64932 (Sub No. 286), filed December 19, 1960. Applicant: ROGERS CARTAGE CO., a corporation, 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South LaSalle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids*, and *chemicals*, and *dry commodities*, in bulk, in tank or hopper vehicles, from Marseilles, Ill. and points within five miles thereof, to points in Arkansas, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Tennessee, and Wisconsin.

HEARING: January 10, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), in the U.S. Court Rooms, Indianapolis, Ind., before Examiner John L. York.

No. MC 70451 (Sub No. 223), filed December 12, 1960. Applicant: WATSON BROS. TRANSPORTATION CO., INC., 1910 Harney Street, Omaha, Nebr. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, including Classes A and B explosives*, and except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment, serving the site of the Four Corners Electric Generating Plant and Dam, located on an unnamed and unnumbered highway approximately six and one-half (6½) miles southwest of Fruitland, N. Mex., as an off-route point in connection with applicant's presently authorized regular route operations to and from Farmington, N. Mex.

HEARING: January 25, 1961, at the New Mexico State Corporation Commission, Santa Fe, N. Mex., before Joint Board No. 87.

No. MC 79577 (Sub No. 30), filed November 29, 1960. Applicant: OILFIELDS TRUCKING COMPANY, a corporation, P.O. Box 751, Bakersfield, Calif. Applicant's attorney: Phil Jacobson, 510 West Sixth Street, Suite 723, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, from points in Clark County, Nev. to points in Arizona, New Mexico, Utah, California, and Nevada, and (2) *contaminated or rejected petroleum or petroleum products*, in bulk, from Clark County, Nev. to points in Los Angeles and Kern Counties, Calif.

HEARING: January 18, 1961, at the Federal Building, Los Angeles, Calif., before Examiner F. Roy Linn.

No. MC 82101 (Sub No. 3), filed November 17, 1960. Applicant: WESTWOOD CARTAGE, INC., Route 1, near Everett Street, Westwood, Mass. Applicant's attorney: Francis E. Barrett, Jr., Professional Building, 25 Bryant Street, East Milton 86 (Boston), Mass. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith *equipment, materials and supplies* used in the conduct of such business (except commodities in bulk, in tank vehicles) between Springfield, Mass. and North Haven, Conn., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and Westchester County, N.Y.

NOTE: Applicant states duplication with existing authority to be eliminated. Applicant also states the proposed service shall be performed under a continuing contract or contracts with Stop and Shop, Inc.

HEARING: February 7, 1961, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alton R. Smith.

No. MC 87523 (Sub No. 82), filed March 14, 1960. Applicant: FRANK COSGROVE TRANSPORTATION COMPANY, INC., 393 Mystic Avenue, Medford, Mass. Applicant's attorney: Mary E. Kelley, 84 State Street, Boston 9, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk commodities*, in tank vehicle (except gasoline, fuel oil, tar and asphalt), between points in Massachusetts, Rhode Island and Connecticut; and between points in Massachusetts, Rhode Island and Connecticut, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, and the New York, New York Commercial Zone, as defined by the Commission in MCC 665.

HEARING: January 31, 1961, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alton R. Smith.

No. MC 98610 (Sub No. 2), filed November 14, 1960. Applicant: THE KANSAS TRANSPORT COMPANY, INC., 1060 West Kansas, McPherson, Kans. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, Kans. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and nitrogen fertilizer solution* (except anhydrous ammonia) in bulk, in tank vehicles, between points in Kansas, on the one hand, and, on the other, points in Nebraska and Iowa.

HEARING: February 7, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner Charles B. Heineman.

No. MC 102616 (Sub No. 696), filed December 9, 1960. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper type vehicles, from Trenton, Mich., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island.

HEARING: January 16, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner David Waters.

No. MC 107403 (Sub No. 322), filed December 10, 1960. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorney: Shertz, Barnes and Shertz, Suite 601, 226 South 16th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Alma, Mich. to points in Indiana.

HEARING: February 10, 1961, in Room 215, Federal Building, Lansing, Mich., before Joint Board No. 23.

No. MC 107403 (Sub No. 325), filed December 19, 1960. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorney: Shertz, Barnes and Shertz, Suite 601, 226 South 16th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Mosherville, Mich. and points within five miles thereof to points in Ohio.

HEARING: February 7, 1961, in Room 215, Federal Building, Lansing, Mich., before Joint Board No. 57.

No. MC 107515 (Sub No. 358), filed November 16, 1960. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* including *frozen meats;* from points in Texas, to points in Mississippi and Louisiana. RESTRICTION: Shipments to points in Louisiana and Mississippi shall be restricted to those for partial unloading and subsequent delivery at destinations in Alabama, Tennessee, Georgia, Florida, North Carolina and South Carolina.

NOTE: Dual operations may be involved.

HEARING: February 6, 1961, at the Baker Hotel, Dallas, Tex., before Examiner Armin G. Clement.

No. MC 108158 (Sub No. 50), filed December 19, 1960. Applicant: MID-CONTINENT FREIGHT LINES, INC., 11 Oak Street SE., Minneapolis, Minn. Applicant's attorney: Edward G. Bazelon, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; serving Portage, Indiana, as an off-route point in connec-

tion with applicant's presently authorized regular route operations to and from Chicago, Ill.

HEARING: January 11, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), at the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72, or, if the Joint Board waives its right to participate, before Examiner John L. York.

No. MC 109346 (Sub No. 7), filed December 15, 1960. Applicant: J. L. COX & SON, INC., P.O. Box 9476, Raytown, Mo. Applicant's attorney: Tom B. Kretsinger, Suite 1014–18 Temple Building, Kansas City, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment or special handling, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment or special handling, between points in California, Washington, Oregon, Arizona, Nevada, Idaho, Utah, Montana, Wyoming, and Colorado.

HEARING: January 23, 1961, at the New Customs House, Denver, Colo., before Examiner Leo W. Cunningham.

No. MC 109637 (Sub No. 171), filed December 5, 1960. Applicant: SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville 11, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except petroleum naptha) and (except asphalt and asphaltic derivatives from Columbia Park, Ohio), in bulk, in tank vehicles, from points in Hamilton County, Ohio to points in Kentucky west of U.S. Highway 31–W (except points in Jefferson County, Ky.).

NOTE: Common control may be involved.

HEARING: January 24, 1961, at the Kentucky Hotel, Louisville, Ky., before Joint Board No. 37, or, if the Joint Board waives its right to participate, before Examiner A. Lane Cricher.

No. MC 111557 (Sub No. 27), filed November 2, 1960. Applicant: KARL E. MOMSEN, doing business as MOMSEN TRUCKING CO., Highway 71 and 18 N, Spencer, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, dairy products, and articles distributed by meat packing houses* as defined in Sub Divisions A, B, and C of Appendix I of *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fremont, Nebr. to Austin, Minn. and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified above, on return.

HEARING: February 23, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Richard H. Roberts.

No. MC 112020 (Sub No. 102), filed August 22, 1960. Applicant: COMMERCIAL OIL TRANSPORT, INC., 1030 Stayton Street, Fort Worth, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wax*, in bulk, in tank vehicles, from points in Harris and Jefferson Counties, Tex., to points in Alabama, Oklahoma, Tennessee, and North Carolina.

HEARING: January 31, 1961, at the Baker Hotel, Dallas, Tex., before Examiner Armin G. Clement.

No. MC 112020 (Sub No. 105), filed October 4, 1960. Applicant: COMMERCIAL OIL TRANSPORT, INC., 1030 Stayton Street, Fort Worth, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives*, in bulk, in tank vehicles, from St. Joseph, Mo., to points in Texas, Oklahoma, Kansas, Colorado, Nebraska, Louisiana, Arkansas, Illinois, Iowa, Wisconsin, Minnesota, Indiana, Kentucky, Tennessee, Ohio, and Michigan.

HEARING: February 1, 1961, at the Baker Hotel, Dallas, Tex., before Examiner Armin G. Clement.

No. MC 112148 (Sub No. 17), filed November 29, 1960. Applicant: JAMES H. POWERS, INC., Melbourne, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and products used in or produced by the food processing industry*, between Decatur and Lawton, Mich., on the one hand, and, on the other, Erie and North East, Pa., and points in New York on and west to U.S. Highway 11.

HEARING: February 7, 1961, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Richard H. Roberts.

No. MC 113267 (Sub No. 32), filed October 24, 1960. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris, Caseyville, Ill. Applicant's representative: Frederick H. Figge, 410 O'Farrell Street, Collinsville, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from Lachoochee, Fla., and points within ten (10) miles thereof, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, Ohio, Tennessee and Wisconsin.

NOTE: Applicant has pending applications in No. MC 50132 and subs thereunder for contract carrier authority; therefore, dual operations under Section 210 may be involved.

HEARING: February 15, 1961, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Richard H. Roberts.

No. MC 113349 (Sub No. 2), filed December 14, 1960. Applicant: IURATO TRUCKING CO., a corporation, Rifle Camp Road, West Paterson, N.J. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N.J. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: *Noodles*, in tote bins, from Fairlawn, N.J. to Albion, N.Y., and *empty tote bins*, on return.

NOTE: Under a continuing contract or contracts with A. Zerega & Son, Fairlawn, N.J.

HEARING: January 30, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Leo M. Pellerzi.

No. MC 113779 (Sub No. 133), filed August 10, 1960. Applicant: YORK INTERSTATE TRUCKING, INC., 9020 LaPorte Expressway, P.O. Box 12385, Houston 17, Tex. Applicant's attorney: Dale Woodall (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in specialized equipment; from the plant site of Sun Oil Company at Smiths Bluff, Tex., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, and Tennessee.

HEARING: February 13, 1961, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner Armin G. Clement.

No. MC 113779 (Sub No. 134), filed TERSTATE TRUCKING, INC., 9020 October 5, 1960. Applicant: YORK INTERSTATE TRUCKING, INC., 9020 LaPorte Expressway, P.O. Box 12385, Houston 17, Tex. Applicant's attorney: Dale Woodall (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids* and *chemicals*, and *paint materials*, in bulk, in specialized equipment, from points in the Kansas City, Kans.-Kansas City, Mo., Commercial Zone, as defined by the Commission, to points in Texas.

HEARING: February 6, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner Charles B. Heineman.

No. MC 114045 (Sub No. 63), filed October 27, 1960. Applicant: TRANS-COLD EXPRESS, INC., P.O. BOX 5842, Dallas, Tex. Applicant's attorney: Leroy Hallman, First National Bank Building, Dallas 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, from Philadelphia, Pa., to points in Texas, Oklahoma, Arkansas, and Louisiana.

HEARING: February 3, 1961, at the Baker Hotel, Dallas, Tex., before Examiner Armin G. Clement.

No. MC 114211 (Sub No. 21), filed October 17, 1960. Applicant: DONALDSON TRANSFER COMPANY, a corporation, P.O. Box 215, Waterloo, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Heating* and *air conditioning equipment* and *assemblies* and *parts thereof*, from Waterloo, Iowa, to points in the United States except Alaska and Hawaii, and *rejected shipments* of the above-described commodities, on return. (b) *Heating* and *air conditioning equipment* and *assemblies and parts thereof*, and *rejected shipments*, between Hialeah, Fla., Houston and Terrell, Tex., and Waterloo, Iowa.

HEARING: February 13, 1961, in Room 852, U.S. Custom House, 610 South

Canal Street, Chicago, Ill., before Examiner Richard H. Roberts.

No. MC 114211 (Sub No. 22), filed October 24, 1960. Applicant: DONALDSON TRANSFER COMPANY, a corporation, 213 Witry Street, Waterloo, Iowa. Applicant's attorney: Charles W. Singer, 33 North La Salle Street, Chicago 2, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and farm machinery*, and *parts thereof;* (1) from Blair, Nebr., to points in Iowa, Minnesota, Wisconsin and Illinois, and (2) from Corpus Christie and Dallas, Tex. and Hesston, Kans., to points in the United States except Alaska and Hawaii, and *rejected shipments*, on return, in connection with (1) and (2) above.

HEARING: February 14, 1961, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Richard H. Roberts.

No. MC 114670 (Sub No. 2), filed November 16, 1960. Applicant: GEORGE R. T. ROBERTS, Sabetha, Kans. Applicant's attorney: J. F. Miller, 500 Board of Trade Building, Kansas City 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa hay pellets* (dehydrated and not dehydrated), from Sabetha, Kans., to points in Kansas, Nebraska, Missouri (except Joplin, Mo. and points within the Commercial Zone thereof), Oklahoma, New Mexico, Texas, Arkansas, Louisiana, Tennessee, Mississippi, Alabama, Georgia and Florida, and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, and *exempt commodities*, on return.

HEARING: February 8, 1961, at the Park East Hotel, Kansas City, Mo., before Examiner Charles B. Heineman.

No. MC 114699 (Sub No. 14), filed December 12, 1960. Applicant: TANK LINES, INCORPORATED, P.O. Box 6415, North Dabney Road, Richmond, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, excluding cement, in bulk, (1) Between Hopewell, Va. and points within 15 miles thereof, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia. (2) Between Atlas Point, Del. and Reynolds, Pa. and points within 10 miles of each, and points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

HEARING: January 11, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner A. Lane Cricher.

No. MC 116077 (Sub No. 92), filed September 6, 1960. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, P.O. Box 9218, Houston, Tex. Applicant's attorney: Charles D. Mathews, Brown Building, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in specialized equipment, from Smith's Bluff, Tex., to points in Alabama, Arkansas, Florida, Georgia, Mississippi, and Tennessee.

HEARING: February 13, 1961, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner Armin G. Clement.

No. MC 116893 (Sub No. 5), filed October 12, 1960. Applicant: MARTEL EXPRESS, LTD., 499 Main Street, Farnham, Quebec, Canada. Applicant's attorney: Gelsie J. Monti, 107 North Main Street, Barre, Vt. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wrapped packages or containers of unlabeled frozen vegetables;* from Seabrook, N.J. and Marlboro, N.Y., to the port of entry on the International Boundary between the United States and Canada at Rouses Point, N.Y.

HEARING: February 14, 1961, at the Washington County Court House, Montpelier, Vt., before Examiner Alton R. Smith.

No. MC 117039 (Sub No. 1), filed October 24, 1960. Applicant: HAROLD R. RODI, doing business as RODI AUTO TOWING COMPANY, 2315 South Ashland Avenue, Chicago, Ill. Applicant's attorney: Joseph M. Scanlan, 111 West Washington Street, Chicago 2, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles*, between Chicago, Ill., Iowa and Michigan.

HEARING: February 16, 1961, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Richard H. Roberts.

No. MC 117349 (Sub No. 5), filed November 21, 1960. Applicant: VINCENT J. BRAIO, doing business as J. BRAIO TRANS., 5 High Street, Worcester, Mass. Applicant's practitioner: Arthur A. Wentzell, 539 Hartford Turnpike Shrewsbury, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish Meal*, in bags, or in bulk, in dump trucks, from Amagansett, N.Y., to Franklin, Conn., and Manchester, N.H.

HEARING: February 7, 1961, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alton R. Smith.

No. MC 117644 (Sub No. 6), filed October 21, 1960. Applicant: D & T TRUCKING CO., INC., 3242 Highway 8, New Brighton, Minn. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul 14, Minn. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mink feed*, in bulk, in special compartment type vehicles equipped with auger and blower type unloader; from Minneapolis, Minn., to points in Illinois, Iowa, Michigan (upper peninsula), South Dakota, and Wisconsin.

NOTE: Applicant indicates that the destination points will be mink ranches or farms, located in other than incorporated cities or villages.

HEARING: February 21, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Richard H. Roberts.

No. MC 117865 (Sub No. 1), filed November 23, 1960. Applicant: ERIC LORENTZEN, 5 Beacon Road, Hull, Mass. Applicant's attorney: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, (1) from Baltimore, Md. to Worcester and Brockton, Mass. and Manchester, N.H., and (2) from Weehaukin, N.J., and New York, N.Y., to Manchester, N.H., and *exempt commodities* of (1) and (2) above, on return.

HEARING: February 8, 1961, at the New Post Office and Court House Building, Boston, Mass., before Examiner Alton R. Smith.

No. MC 119280 (Sub No. 1), filed November 7, 1960. Applicant: WHITE FREIGHT SERVICE, INC., 1402 Palmer Street, Houston, Tex. Applicant's attorney: Harry W. Patterson, San Jacinto Building, Houston 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having a prior or subsequent movement by air; between Houston International Airport, on Airport Boulevard, Andrau Park, Westheimer Road, Alief, Tex. (both in Houston, Tex. Commercial Zone), and the Jefferson County Airport, located between Beaumont and Port Arthur, Tex., on U.S. Highway 287, on the one hand, and, on the other, points in Matagorda, Wharton, Lavaca, Fayette, Colorado, Brazoria, Fort Bend, Austin, Washington, Burleson, Brazos, Leon, Madison, Grimes, Walker, Montgomery, Harris, Galveston, Chambers, Polk, Liberty, San Jacinto, Trinity, Houston, Tyler, Hardin, Jefferson, Orange, Jasper, Calhoun, Victoria, Jackson, Angelina, and Newton Counties, Tex.

NOTE: Common control may be involved.

HEARING: February 14, 1961, at the Federal Office Building, Franklin and Fannin Street, Houston, Tex., before Joint Board No. 77, or, if the Joint Board waives its rights to participate, before Examiner Armin G. Clement.

No. MC 119317 (Sub No. 5) (CORRECTION), filed October 12, 1960, published FEDERAL REGISTER issue of November 30, 1960. Applicant: GROSS AND SONS TRANSPORT COMPANY, a corporation, 1706 Arlington Street, Independence, Mo. Applicant's attorney: William Taylor, 1012 Baltimore Building, Kansas City 5, Mo. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid milk*, in temperature controlled vehicles, including *Grade A, homogenized, pasteurized, chocolate* and *butter-milk, packaged butter, cream*, including *coffee cream, sour cream, heavy or whipping cream*, and *half and half cream, cottage cheese, liquid beverages*, including *Kraft orange juice, grape juice and orangeade*, all in glass or in paper containers, in packages and grouped in metal or other suitable carrying cases for easy handling, also *miscellaneous related items*, including *bulk milk* and *cream* in five gallon metal containers, from the processing and storage facilities of the National Dairy Products Cor-

poration, Sealtest Central Division, at Kansas City, Mo., to Atchison, Leavenworth, Lawrence, Topeka, Manhattan, Emporia, Ottawa, Fort Scott, Chanute, Parsons, Pittsburg, Garnett, and Iola, Kans., and *empty cases, bottles, containers* and *spoiled, rejected* or *returned items,* on return.

NOTE: The purpose of this republication is to show applicant's correct address as shown above. Previous publication incorrectly showed the street address as 1076.

HEARING: Remains as assigned January 20, 1961, at the Park East Hotel, Kansas City, Mo., before Joint Board No. 36, or, if the Joint Board waives its right to participate, before Examiner C. Evans Brooks.

No. MC 119564, filed March 7, 1960. Applicant: TRUX, INC., 1200 Builders Exchange, Minneapolis, Minn. Authority sought to operate as a *common carrier,* by motor vehicle, over regular route, transporting: *Glassware* and *bottles,* from Washington, Pa., to Minneapolis, Minn., from Washington over U.S. Highway 40 to Columbus, Ohio, thence over U.S. Highway 33 to Marysville, Ohio, thence over Ohio Highway 31 to Kenton, Ohio, thence over U.S. Highway 30–S to junction U.S. Highway 30, thence over U.S. Highway 30 to Van Wert, Ohio, thence continuing over U.S. Highway 30 to junction U.S. Highway 41 (South of Chicago, Ill.), thence over U.S. Highway 41 to Interstate Highway 90 Tollroad, thence over Interstate Highway 90 to junction U.S. Highway 14, thence over U.S. Highway 14 to Madison, Wis., thence over U.S. Highway 12 to Minneapolis, and return over the same route, serving no intermediate points.

NOTE: Applicant states it proposes to transport agricultural products only on return. This application is accompanied by a Petition to Dismiss.

HEARING: February 21, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Richard H. Roberts.

No. MC 119637 (Sub No. 1), filed November 15, 1960. Applicant: SILVER BROS. CO., INC., 177 Granite Street, Manchester, N.H. Applicant's attorney: G. Marshall Abbey, Forty Stark Street, Manchester, N.H. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Syrups and nonalcoholic carbonated beverages,* in bottles and cans, *ingredients* used in the manufacture thereof, in containers, and *miscellaneous materials and supplies, consisting of containers, partitions, caps, labels, bottling machine parts and advertising materials and displays,* between Manchester, N.H., and points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, and New Jersey.

NOTE: Applicant states the proposed service shall be performed under a continuing contract or contracts with Cott Bottling Co. of Somerville, Mass., Inc., Cott Bottling Co., of New Jersey, Inc., and American Dry Beverage Corporation, all of Manchester, N.H.

HEARING: February 9, 1961, at the New Hampshire Public Service Commission, Concord, N.H., before Examiner Alton R. Smith.

No. MC 123028, filed August 25, 1960. Applicant: MERRILL G. JARVIS AND WILLIAM C. DOW, doing business as GREEN MOUNTAIN FILM TRANSPORTATION, 64 Marble Avenue, Burlington, Vt. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commercial motion picture film,* between Boston, Mass., and points in New Hampshire, including Lebanon, Claremont, and Keene, and points in Vermont.

HEARING: February 14, 1961, at the Washington County Court House, Montpelier, Vt., before Joint Board No. 189, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 123093, filed September 26, 1960. Applicant: ENNIS TRANSPORTATION CO., INC., 106 Knight Hurst, Ennis, Tex. Applicant's attorney: Albert G. Walker, 202 Capital National Bank Building, Austin 16, Tex. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe* and *fiber pipe,* and *building materials,* including but not limited to (1) prepared insulated siding, asbestos siding and felt, and materials used in installation of such siding, (2) prepared roofing, asbestos shingles, asbestos roofing and felt and materials used in installation of such roofing, (3) aluminum siding and materials used in installation of such siding, (4) mineral wool insulation (rock or slag wool), and (5) liquid emulsion in containers, from Ennis, Tex., and points within five (5) miles of Ennis, to points in Oklahoma and Kansas, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities, on return.

NOTE: Applicant states the operations applied for under the instant application are limited to a transportation service to be performed under the contract or contracts with only The Flintkote Company, Ennis, Tex.

HEARING: February 2, 1961, at the Baker Hotel, Dallas, Tex., before Joint Board No. 170, or, if the Joint Board waives its right to participate, before Examiner Armin G. Clement.

No. MC 123123 (Sub No. 1), filed November 9, 1960. Applicant: JOHN F. NOONS, County Road, North Truro, Mass. Authority sought to operate as a *common carrier,* by motor vehicle, over a regular route, transporting: *Industrial sand,* in bulk, in dump vehicles, between Provincetown, Mass., and North Eastham, Mass., over U.S. Highway 6, serving no intermediate points.

HEARING: February 6, 1961, at the New Post Office and Court House Building, Boston, Mass., before Joint Board No. 231, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 123152, filed October 20, 1960. Applicant: CHARLES FREDERICK, doing business as FREDERICK'S TRUCKING, Village of Merlin, Province of Ontario, Canada. Applicant's attorney: S. Harrison Kahn, 1110–14 Investment Building, Washington, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Seed, soya beans, feeds* and *feed concentrate,* from the port of entry on the International Boundary line between the United States and Canada at Detroit, Mich. to points in Michigan, Indiana, Ohio, and Illinois, and (2) *seed corn* and *soya bean meal,* in bags, in bulk, *seed* and *corn,* in bulk, from points in Michigan, Indiana, Ohio and Illinois to the port of entry on the International Boundary line between the United States and Canada at Detroit, Mich. RESTRICTION: Applicant states the transportation herein is restricted to foreign commerce of movements of property between points in the Dominion of Canada, on the one hand, and, on the other, points in the United States.

HEARING: February 10, 1961, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Richard H. Roberts.

No. MC 123172, filed October 28, 1960. Applicant: FLOYD H. PULVER, doing business as PULVER'S MOTOR SERVICE, 972 Fourteenth Avenue Southwest, Rochester, Minn. Applicant's attorney: Richard E. White, South Broadway at Third, Rochester, Minn. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Disabled motor vehicles,* between points in Minnesota, Iowa, Illinois and Wisconsin.

NOTE: Applicant tows motor vehicles of all types which have become damaged or incapacitated at request of persons in control of disabled vehicles.

HEARING: February 23, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Richard H. Roberts.

No. MC 123182, filed November 1, 1960. Applicant: ALBERT J. HOPE, Branch Road, Keene, N.H. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sand, gravel and road paving materials,* between points in New Hampshire, Vermont, and Massachusetts.

HEARING: February 13, 1961, at the New Hampshire Public Service Commission, Concord, N.H., before Joint Board No. 189, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 123192, filed November 7, 1960. Applicant: HAROLD SCHAK, Tyler, Minn. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul 14, Minn. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed,* in bags, from Sioux City, Iowa, and Lincoln, Nebr., to Tyler and Arco, Minn. (2) *Farm machinery and parts* thereof, from Sioux Falls, S. Dak., to Tyler and Arco, Minn. (3) *Emigrant movables,* from points in Lincoln and Lyon Counties, Minn., to points in Iowa and South Dakota.

HEARING: February 24, 1961, in Room 926, Metropolitan Building, Second Avenue, South and Third, Minneapolis, Minn., before Examiner Richard H. Roberts.

No. MC 123193, filed November 7, 1960. Applicant: ALAN TRANSPORT CORP., 43 Martin Road, Amesbury, Mass. Applicant's representative: Arthur A. Wentzell, 539 Hartford Turnpike, Shrewsbury, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, fresh fruits* and *fresh vegetables*, in mixed shipments, in the same vehicles; from Boston, Mass., to Canadian Ports of entry on the International Boundary Line between the United States and Canada located in the State of Maine, and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, on return.

HEARING: February 2, 1961, at the New Post Office and Court House Building, Boston, Mass., before Joint Board No. 69, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 123210, filed November 14, 1960. Applicant: LLEWELLYN R. BROWN, Sandwich Road, Holderness, N.H. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Log debarkers, live decks associated therewith*, and *components thereof*, between Contoocook, N.H. and points in the United States excluding Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Nebraska, Kansas, Oklahoma, and Ports of Entry on the International Boundary line between the United States and Canada.

HEARING: February 9, 1961, at the New Hampshire Public Service Commission, Concord, N.H., before Examiner Alton R. Smith.

No. MC 123213, filed November 15, 1960. Applicant: JAMES L. MILLER, 414 Euclid Street, Peoria Heights, Ill. Applicant's attorney: Don B. Pioletti, Nickel Building, Eureka, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed dairy products*, from Peoria, Ill. to Kentland, Logansport, Kokomo, Lafayette, West Lafayette and Peru, Ind., and *empty containers or other such incidental facilities* used in transporting the above-specified commodities, on return.

HEARING: January 24, 1961, at the U.S. Court Rooms and Federal Building, Springfield, Ill., before Joint Board No. 21.

No. MC 123251 (REPUBLICATION), filed November 30, 1960, published in the FEDERAL REGISTER, issue of December 21, 1960. Applicant: EAST-WEST TRANSPORT, LTD., 570 Nairn Avenue, Winnipeg, Manitoba, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those contaminating to other lading, between points on the International Boundary line between the United States and Canada and the ports of entry at Blaine and Oroville, Wash., Eastport, Idaho, Sweet Grass and Raymond, Mont., Portal and Pembina, N. Dak., Noyes, Minn., Sault Ste. Marie, Port Huron, and Detroit, Mich.

NOTE: Applicant advises that the proposed operations will be restricted as follows: "No pick up in the United States or delivery in the United States."

HEARING: Remains as assigned February 9, 1961, at the Federal Office Building, Seattle, Wash., before Examiner Charles J. Murphy.

No. MC 123257, filed December 5, 1960. Applicant: DONALD W. DAVIS, Arlington, Vt. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material, products made from plastic material*, and *raw materials used in the manufacture of plastic material*, between Arlington, Vt. and points in Massachusetts, Rhode Island, and New York.

HEARING: February 15, 1961, at the Washington County Court House, Montpelier, Vt., before Examiner Alton R. Smith.

No. MC 123277, filed December 12, 1960. Applicant: ALL STATES FREIGHT, INC., 1250 Kelly Avenue, Akron, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, and Classes A and B explosives, household goods as defined by the Commission, commodities, in bulk, and those requiring special equipment, serving points in that part of Indiana bounded on the West by the Lake Porter county line, on the South by the U.S. Highway 20, on the East by Indiana Highway 49, and on the North by Lake Michigan, and the site of the new Midwest Steel Corporation plant, located on U.S. Highway 12, approximately two miles East of Lake Porter County line and at or near Portage, Ind., as off-route points in connection with applicant's authorized regular route operations to and from Chicago, Ill.

HEARING: January 11, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), in the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 72, or, if the Joint Board waives its right to participate, before Examiner John L. York.

No. MC 123287, filed December 14, 1960. Applicant: CAROLINA DRESS CARRIERS, INC., 466 Tenth Avenue, New York, N.Y. Applicant's attorney: Morris Honig, 150 Broadway, New York, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, materials, supplies and equipment*, used in or incidental to the manufacture of wearing apparel, between New York, N.Y., on the one hand, and, on the other, Lynchburg, Bedford and Appomattox, Va.

HEARING: January 31, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Frank R. Saltzman.

No. MC 123287 (Sub No. 1), filed December 14, 1960. Applicant: CAROLINA DRESS CARRIERS, INC., 466 Tenth Avenue, New York, N.Y. Applicant's attorney: Morris Honig, 150 Broadway, New York 38, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, materials, supplies and equipment*, used in and incidental to the manufacture of wearing apparel, between New York, N.Y., on the one hand, and, on the other, points in North Carolina.

HEARING: January 31, 1961, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Frank R. Saltzman.

No. MC 123301, filed December 19, 1960. Applicant: JOHN COULES, doing business as COULES CARTAGE, 1106 East Chicago Avenue, East Chicago, Ind. Applicant's attorney: Howell Ellis, Suite 1210–12 Fidelity Building, 111 Monument Circle, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between points in the Chicago, Ill. Commercial Zone, as defined by the Commission, and points in Indiana bounded on the West by the Lake-Porter County line; on the South by U.S. Highway 20; on the East by Indiana Highway 49, and on the North by Lake Michigan, including the town or city of Portage, Ind.

HEARING: January 11, 1961, at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), at the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 21, or, if the Joint Board waives its right to participate, before Examiner John L. York.

MOTOR CARRIERS OF PASSENGERS

No. MC 123126 (CORRECTION), filed October 12, 1960, published in the FEDERAL REGISTER issue of December 7, 1960. Applicant: GURNIE L. BLUNT, doing business as BLUNT'S BUS LINE, 309 Roosevelt Street, Franklin, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, beginning and ending at points in Greensville, Nansemond, Sussex, Isle of Wight and Southampton Counties, Va. and extending to points in Maryland and North Carolina, and Washington, D.C., Philadelphia, Pa., and New York, N.Y.

NOTE: The purpose of this republication is to correct the spelling of origin point of *Greensville County*, Va., erroneously shown as Greenville County, Va.

HEARING: Remains as assigned January 31, 1961, at the U.S. Court Rooms, Richmond, Va., before Examiner Garland E. Taylor.

No. MC 123153, filed October 20, 1960. Applicant: SKINNER SCHOOL BUS LINES LIMITED, Rural Route No. 9, London, Ontario, Canada. Applicant's attorney: S. Harrison Kahn, 1110–14 Investment Building, Washington, D.C. Authority sought to operate as a *com-*

mon carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round trip charter operations, beginning and ending at ports of entry on the International Boundary line between the United States and Canada at Detroit and Port Huron, Mich., Buffalo and Niagara Falls, N.Y., and extending to points in Michigan, Indiana, Ohio, Pennsylvania, New York, Maryland, Virginia, and the District of Columbia. RESTRICTION: Applicant states the transportation requested herein shall be restricted to foreign commerce only.

HEARING: February 9, 1961, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Richard H. Roberts.

No. MC 123154, filed October 20, 1960. Applicant: WILLIAM C. BROWN AND ROY NORTON, a partnership, doing business as SPRINGBANK BUS LINES, 270 Springbank Drive, London, Ontario, Canada. Applicant's attorney: S. Harrison Kahn, 1110–14 Investment Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round trip charter operations, beginning and ending at ports of entry on the International Boundary line between the United States and Canada at Detroit and Port Huron, Mich., Buffalo and Niagara Falls, N.Y., and extending to points in Michigan, Indiana, Ohio, Pennsylvania, New York, Maryland, Virginia, and the District of Columbia. RESTRICTION: Applicant states the transportation requested herein shall be restricted to foreign commerce only.

HEARING: February 8, 1961, at the Detroit-Leland Hotel, Detroit, Mich., before Examiner Richard H. Roberts.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 1034 (Sub No. 10), filed December 12, 1960. Applicant: TIDEWATER EXPRESS LINES, INC., West and Warner Streets, Baltimore 30, Md. Applicant's attorney: William J. Torrington, 1003 Maryland Trust Building, Baltimore 2, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, commodities in bulk, and those requiring special equipment, between Waynesboro, Pa., and Hagerstown, Md.: from Waynesboro, Pa., over Pennsylvania Highway 316 to the Pennsylvania-Maryland State line, thence over Maryland Highway 60 to Hagerstown, Md., and return over the same route, serving no intermediate points.

NOTE: Common control may be involved.

No. MC 1783 (Sub No. 7), filed December 16, 1960. Applicant: BLUE LINE EXPRESS, INC., Lowell Road, Nashua, N.H. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, printing, other than newsprint or carbonized print, from Bennington, N.H. to Poughkeepsie, N.Y., and *empty containers or other such incidental facilities* (not specified) used in transporting the above-described commodities and *rejected, returned or refused shipments*, on return.

NOTE: Common control may be involved. Applicant states the authority sought will not be tacked to present authority.

No. MC 30887 (Sub No. 103), filed December 15, 1960. Applicant: SHIPLEY TRANSFER, INC., 534 Main Street, Reistertown, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime sulphur solution*, in bulk, in tank vehicles; from Winchester, Va., to Hanover, Pa.

No. MC 42487 (Sub No. 492), filed December 19, 1960. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous hydrazine and unsymmetrical dimethylydrazine mix*, in bulk, in tank vehicles, moving on government bills of lading, from Rocky Mountain Arsenal, Colo., to the site of Martin Aircraft plant near Waterton, Colo.

No. MC 44290 (Sub No. 14), filed December 15, 1960. Applicant: HUSMANN & ROPER FREIGHT LINES, INC., 1717 North Broadway, St. Louis 6, Mo. Applicant's attorney: G. M. Rebman, Suite 1230, Boatmen's Bank Building, St. Louis 2, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading; between Louisville, Ky., and junction of U.S. Highways 421 and 50, near Versailles, Ind., from Louisville over U.S. Highway 31E to junction U.S. Highway 31E and Indiana Highway 62, thence over Indiana Highway 62 to junction Indiana Highways 62 and 107, thence over Indiana Highway 107 to junction Indiana Highway 107 and U.S. Highway 421, thence over U.S. Highway 421 to junction U.S. Highways 421 and 50, with joinder at the said junction of U.S. Highways 421 and 50, serving no intermediate points, for operating convenience only, as an alternate route in connection with applicant's present operations between St. Louis, Mo., on the one hand, and, on the other, Cincinnati, Ohio.

NOTE: Applicant states that by the instant application it does not seek authority to transport commodities moving between Louisville, Ky., or the commercial zone of Louisville, Ky., on the one hand, and, on the other, Cincinnati, Ohio and the commercial zone of Cincinnati, Ohio.

No. MC 61403 (Sub No. 59), filed December 19, 1960. Applicant: THE MASON AND DIXON TANK LINES, INC., Wilcox Drive, Kingsport, Tenn. Applicant's attorney: S. S. Eisen, 140 Cedar Street, New York 6, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, dry and liquid*, in bulk, in tank and hopper type vehicles, between Kingsport, Tenn., on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho Iowa (except Davenport), Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

No. MC 66562 (Sub No. 1762), filed December 14, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service; between Grand Rapids, Mich. and Cadillac, Mich., from Grand Rapids over U.S. Highway 131 to Cadillac, and return over the same route, serving the intermediate points of Morley, Big Rapids and Howard City, Mich. RESTRICTIONS: (1) The service to be performed by applicant shall be limited to service which is auxiliary to or supplemental of express service of applicant. (2) Shipments transported by applicant shall be limited to those moving on a through bill of lading or express receipt.

No. MC 68183 (Sub No. 15), filed December 15, 1960. Applicant: YANKEE LINES, INC., 1400 East Archwood Avenue, Akron 6, Ohio. Applicant's representative: W. R. Hubbard, 1032 Standard Building, Cleveland 13, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; between Cleveland, Ohio and Barberton, Ohio, from Cleveland over U.S. Highway 21 to Barberton, serving Richfield, Ohio as an intermediate point, and West Richfield, Ohio, as an off-route point, and serving Cleveland and Barberton for joinder only.

NOTE: Applicant states it presently holds authority to operate between Cleveland and Barberton (Akron) over the described route. The purpose of this application is to secure authority to effect the interchange of traffic (otherwise authorized to be effected at Cleveland and Akron, Ohio) at the terminals of connecting line carriers which are now located at Richfield and West Richfield. No other service to be performed.

No. MC 107403 (Sub No. 323), filed December 19, 1960. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorneys: Shertz, Barnes and Shertz, Suite 601, 226 South 16th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk commodities*, excluding cement, in bulk; between Baltimore, Md., Bound Brook, N.J., Buffalo, N.Y., Claymont, Del., Edgewater, Elizabeth, Haledon, N.J., Hopewell, Va., Johnsonburg, Pa., Newell, Pa., Passaic, N.J., Sunbury, Pa., and Whippany, N.J., on the one hand, and, on the other, points in Dela-

ware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia.

NOTE: Applicant holds contract authority in MC-117637 and Subs, therefore dual operations may be involved.

No. MC 107403 (Sub No. 324), filed December 19, 1960. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Philadelphia 4, Pa. Applicant's attorney: Shertz, Barnes and Shertz, Suite 601, 226 South 16th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk commodities*, excluding cement, in bulk, between Atlas Point, Del. and Reynolds, Pa. and points within ten miles of each, and points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

No. MC 110525 (Sub No. 431), filed December 13, 1960. Applicant: CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorney: Leonard A. Jaskiewicz, Munsey Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, excluding cement, in bulk, between Baltimore, Md., Bound Brook, Edgewater, Elizabeth, Haledon, Passaic and Whippany, N.J., Buffalo and Syracuse, N.Y., Claymont, Del., Johnsonburg, Newell, Philadelphia and Sunbury, Pa., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia.

NOTE: Section 210, dual operations may be involved. Applicant holds contract carrier authority in Permit MC 117507 and Subs thereunder.

No. MC 114724 (Sub No. 2), filed December 16, 1960. Applicant: NORMAN KOBRIGER, R.R. No. 2, Postville, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Postville, Iowa to Fennimore, Wis., and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodity, on return.

No. MC 115821 (Sub No. 2), filed December 15, 1960. Applicant: FRANK BEELMAN, JR., St. Libory, Ill. Applicant's attorney: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis 1, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed Rock* and *stone*, from points in Monroe and St. Clair Counties, Ill., to St. Louis, and points in St. Louis County, Mo.

MOTOR CARRIERS OF PASSENGERS

No. MC 45626 (Sub-No. 43), filed December 13, 1960. Applicant: VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, Vt. Applicant's attorney: L. C. Major, Jr., 2001 Massachusetts Avenue NW., Wash. 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in same vehicle with passengers, in special operations over the routes shown below in (1) thru (5) in connection with special operations over applicant's presently authorized routes and with right of joinder as required with applicant's presently existing routes, serving all intermediate points. (1) between Waterbury, Vt. and Morrisville, Vt.; from Waterbury over Vermont Highway 100 to Morrisville and return over the same route; (2) from a point about 3 miles south of Iresville, Vt. on Vermont Highway 100, over unnumbered highway to Sugarbush Valley Ski Areas, and return over the same route; (3) from Mad River Glen (Fayston, Vt.) over unnumbered highway designated as McCullough Turnpike to its junction with unnumbered Vermont Highway; (4) from junction U.S. Highway 2 and above unnumbered Vermont Highway, over unnumbered Vermont highway to its junction with Vermont Highway 116, thence over Vermont Highway 116 to its junction with Vermont Highway 125, and return over the same route and (5) from junction U.S. Highway 7, and Vermont Highway 125, over Vermont Highway 125 to its junction with Vermont Highway 100.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 7467. (TRANSCONTINENTAL BUS SYSTEM, INC.—CONTROL—DENVER-COLORADO SPRINGS-PUEBLO MOTOR WAY, INC., AND DENVER-SALT LAKE-PACIFIC STAGES, INC.), published in the March 9, 1960, issue of the FEDERAL REGISTER on page 2036. Order dated December 13, 1960. Transaction herein authorized was consummated on May 16, 1960. By order of December 13, 1960, by the Commission, Division 4, the proceeding was reopened and the prior findings were to authorize the acquisition of control by TRANSCONTINENTAL BUS SYSTEM, INC., of DENVER-SALT LAKE-PACIFIC STAGES, INC., through direct ownership of two-thirds of its outstanding common capital stock, pursuant to a petition received July 25, 1960. The order of December 13, 1960 is to become effective 30 days from the date of this publication, unless otherwise ordered.

MC-F 7742. Authority sought for merger into JOHNSON FREIGHT LINES COMPANY, INC., 420 Sixth Ave., South, Nashville, Tenn., of the operating rights and property of DURRETT TRANSFER, INC., U.S. Highway 41, Springfield, Tenn., and for acquisition by A. E. GREENE, JR., 775 Greeley Drive, Nashville, Tenn., H. F. WULF, 976 Bay Esplanade, Clearwater Beach, Fla., HELEN M. WULF, 976 Bay Esplanade, Clearwater, Fla., and HOMEPORT COMPANY, 976 Bay Esplanade, Clearwater Beach, Fla., of control of such rights and property through the transaction. Applicants' attorney: A. O. Buck, 434 Stahlman Building, Nashville, Tenn. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes serving the site of the plant of the Aluminum Company of America near Newburgh, Ind., as an off-route point, restricted against the interchange with other carriers at either Owensboro, Ky., or Evansville, Ind., of traffic moving to or from said plant site, between Nashville, Tenn., and Adairville, Ky., serving all intermediate points; between Russellville, Ky., and Owensboro, Ky., serving all intermediate points; between South Carrollton, Ky., and Owensboro, Ky., serving all intermediate points with the restriction that the two regular routes described herein next above are not to be used for the transportation of any shipments moving between Owensboro, Ky., and Nashville, Tenn.; between Nashville, Tenn., and Owensboro, Ky., serving no intermediate points; between Adairville, Ky., and Russellville, Ky., serving no intermediate points; over several alternate routes for operating convenience only: *general commodities*, excepting, among others, commodities in bulk, but not excepting household goods, between Sacramento, Ky., and Evansville, Ind., serving certain intermediate and off-route points, between Stanley, Ky., and Evansville, Ind., serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Georgia, Ohio, Tennessee, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-7743. Authority sought for control by HAROLD E. WILLIAMS, 204 Franklin, Mansfield, Ohio, REID C. BLACK, Overlook, Mansfield, Ohio, and THOMAS A. KEEFE, 234 Berkshire Road, Avon Lake, Ohio, of WARNER STORAGE, INCORPORATED, 3208 Broadview Road, Cleveland 9, Ohio. Applicants' attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Operating rights sought to be controlled: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, as a common carrier over irregular routes, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and West Virginia. HAROLD E. WILLIAMS, REID C. BLACK and THOMAS A. KEEFE, holds no authority from this Commission. However, HAROLD E. WILLIAMS is affiliated with FRANK WILLIAMS TRANSFER & STORAGE CO., 204 North Franklin St., Mansfield, Ohio, and NORTH AMERICAN VAN LINES, INC., Lincoln Highway East, P.O. Box 988, Fort Wayne, Ind.; and THOMAS A. KEEFE is also affiliated with NORTH AMERICAN VAN LINES, INC., which are authorized to operate as *common carriers* in Ohio, Illinois, Indiana, Michigan, Missouri, New York, Pennsylvania, Ken-

tucky, Maryland, New Jersey, Virginia, West Virginia, Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, New Hampshire, North Carolina, Rhode Island, South Carolina, Tennessee, Vermont, Wisconsin, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–7744. Authority sought for purchase by MIDWEST COAST TRANSPORT, INC., P.O. Box 747, Wilson Terminal Building, Sioux Falls, South Dakota, of the operating rights of SIDNEY L. MAGNUSON, doing business as MAGNUSON TRUCK SERVICE, P.O. Box 533, Sioux Falls, South Dakota, and for acquisition by H. LAUREN LEWIS, P.O. Box 747, Sioux Falls, South Dakota, of control of such rights through the purchase. Applicants' attorney: Donald L. Stern, 924 City National Bank Bldg., Omaha, Nebr. Operating rights sought to be transferred: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier* over irregular routes, between Council Bluffs, Iowa, and Omaha, Nebr.; *newspapers,* from Omaha, Nebr., to Denison, Carroll, Glidden, Ralston, Scranton, and Jefferson, Iowa, the authority granted herein covers the substitution of motor service for rail service between the points named and is restricted to traffic moving by rail in joint rail-motor service to or from points beyond the above-named points; *fresh meats, packing house products, dairy products, eggs, and poultry,* between Beatrice, Nebr., Sioux City, Iowa, and points in Kansas, except Kansas City, Kans. Vendee is authorized to operate as a *common carrier* in South Dakota, Washington, Oregon, Minnesota, Iowa, California, Nebraska, Nevada, Idaho, Illinois, Missouri, Utah, North Dakota, Montana, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, New York, Pennsylvania, Delaware, Maryland, Michigan, Ohio, Virginia, West Virginia, Indiana, Kentucky, Wisconsin, Missouri, Arizona, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7745. Authority sought for control and merger by R. E. SHORT, INC., 2785 Fairview Avenue North, St. Paul 13, Minn., of the operating rights and property of MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul, Minn., and for acquisition by MUELLER TRANSPORTATION COMPANY, 2785 Fairview Avenue North, St. Paul 13, Minn., and, in turn, by R. E. SHORT, 2785 Fairview Avenue North, St. Paul 13, Minn., of control of such rights and property through the transaction. Applicants' attorney: John R. Turney, 2001 Massachusetts Ave. NW., Washington 6, D.C. Operating rights sought to be controlled and merged: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Hopkins, Minn., and Des Moines, Iowa, and Moline, Ill., between Des Moines, Iowa and Omaha, Nebr., between Des Moines, Iowa, and St. Louis, Mo., between Des Moines, Iowa, and Moline, Ill., between Des Moines, Iowa, and Kansas City, Mo., serving all intermediate and off-route points on the above-specified routes, restricted to certain points and places in Minnesota, Colorado, Iowa and Missouri; between St. Louis, Mo., and Kansas City, Mo., between Rock Island, Ill., and St. Louis, Mo., between Bettendorf, Iowa, and East Moline, Ill., serving no intermediate points, between Omaha, Nebr., and Ottumwa, Iowa serving certain intermediate points, between Radio Center and Farmington, Minn., and Waterloo, Iowa, serving no intermediate points, between Bloomfield, Iowa, and junction U.S. Highway 61 and Missouri Highway 4, serving no intermediate points, between Mount Pleasant, Iowa, and Cedar Rapids, Iowa, serving certain intermediate points, between Waverly, Iowa, and Independence, Iowa, serving no intermediate points, between DeWitt, Iowa, and Clinton, Iowa, between Stanwood, Iowa, and Davenport, Iowa, between Austin, Minn., and Albert Lea, Minn., between Albert Lea, Minn., and Ames, Iowa, between Mason City, Iowa and junction U.S. Highways 18 and 218, serving no intermediate points, between Colo, Iowa, and Des Moines, Iowa: *general commodities,* except uncrated household goods, and office furnishings, from Rock Island and Moline, Ill., to Des Moines, Iowa, between Rock Island and Moline, Ill., and Homestead, Iowa, serving all intermediate points; *general commodities,* excepting, among others, household goods and commodities in bulk, between St. Joseph, Mo., and Omaha, Nebr., serving certain intermediate points, between Chicago, Ill., and Davenport, Iowa, serving certain intermediate and off-route points, between Chicago, Ill., and Minneapolis, Minn., serving all intermediate and certain off-route points, between Ottawa, Ill., and Joliet, Ill., serving no intermediate points, to and from points and places in the Davenport-Rock Island and Moline Commercial Zone, as defined by the Commission as intermediate and off-route points, between Denver, Colo., and Omaha, Nebr., serving certain off-route points, between Kearney, Nebr., and Omaha, Nebr., between Grand Island, Nebr., and Omaha, Nebr., between Grand Island, Nebr., and Lincoln, Nebr., between Sidney, Nebr., and Scottsbluff, Nebr., serving certain off-route points, between Denver, Colo., and Ault, Colo., restricted to traffic moving to or from points in Nebraska and Iowa, between Omaha, Nebr., and Sioux City, Iowa, between Columbus, Nebr., and Sioux City, Iowa, serving certain intermediate and off-route points: *The commodities* classified as (a) meats, meat products, and meat by-products in appendix to the report in *Modification of Permits—Packing House Products,* from Cedar Rapids, Iowa, to Madison, Wis., serving no intermediate points, restricted against the transportation of traffic which originates at Omaha, Nebr., between Chicago, Ill., and the junction of Tri-State Expressway, U.S. Highway 2, and Indiana Highway 20, serving all intermediate points, between Onarga, Ill., and Gary, Ind., serving all intermediate points, between St. Louis, Mo., and Effingham, Ill., serving all intermediate points, between Elkhart, Ind., and Cleveland, Ohio serving certain intermediate points, between Elkhart, Ind. and Gary, Ind., serving certain intermediate and off-route points, between points in Ohio, serving no intermediate points, between Perrysburg, Ohio, and Toledo, Ohio, serving certain intermediate points, between Fremont, Ohio and certain specified points and places; between junction U.S. Highway 14 and Illinois Highway 83 and junction U.S. Highway 20 and Indiana Highway 51, serving all intermediate points; serving several alternate routes for operating convenience only; *general commodities,* excepting, among others, household goods and commodities in bulk, over irregular routes, between Minneapolis, Minn., and Anoka, and Stillwater, Minn., between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, the site of the Twin City Ordnance Plant in Mounds View Township, Ramsey County, Minn. R. E. SHORT, INC., holds no authority from this Commission. However, MUELLER TRANSPORTATION COMPANY, is affiliated with ADMIRAL TRANSIT, INC., 2785 Fairview Ave., North, St. Paul 13, Minn., which is authorized to operate as a *common carrier* in Illinois, Wisconsin, Minnesota, and Iowa. Application has been filed for temporary authority under section 210a(b).

No. MC–F–7746. Authority sought for purchase by DAILY EXPRESS, INC., P.O. Box 311, R.D. No. 1, Carlisle, Pa., of the operating rights of J. OTTO ECK, WALTER A. ECK and JAMES W. ECK, a partnership, doing business as ECK BROTHERS, 820 Broad St., Montoursville, Pa., and for acquisition by D. E. LUTZ, 330 Washington Lane, Carlisle, Pa., of control of such rights through the purchase. Applicants' attorneys: James E. Wilson, Wilson, Woods & Villalon, 716 Perpetual Bldg., 1111 E. St. NW., Washington 4, D.C., and Christian V. Graf, 407 North Front St., Harrisburg, Pa. Operating rights sought to be transferred: *Such commodities as by reason of their size or weight require the use of special equipment,* as a *common carrier* over irregular routes, between those points in a Pennsylvania area bounded on the north by the New York-Pennsylvania State line, thence by highways beginning at junction of said State line with U.S. Highway 11 over U.S. Highway 11 to junction U.S. Highway 522, thence over U.S. Highway 522 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction U.S. Highway 219, and thence over U.S. Highway 219 to Pennsylvania-New York State line, including points on the indicated Highways, on the one hand, and, on the other, points in New York, New Jersey, Maryland, Virginia, Ohio, Delaware, West Virginia, and the District of Columbia; *commodities which, by reason of size or weight, require the use of special equipment,* except machinery, equipment, materials, and supplies, used

in, or in conection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, between points in that part of Pennsylvania on and east of U.S. Highway 219, from the New York-Pennsylvania State line to Grampian, on and north of a line beginning at Grampian, Pa., and extending along U.S. Highway 322 through Clearfield and State College, Pa., to Lewistown, Pa., thence along U.S. Highway 522 to Selinsgrove, Pa., and on and west of U.S. Highway 11, from Selinsgrove, Pa., to the New York-Pennsylvania State line except the site of the Curtis Wright Corporation plant near Clearfield, on the one hand, and, on the other, points in Kentucky, North Carolina, South Carolina, Georgia, Florida, Maine, New Hampshire, Vermont, Indiana, Illinois, Michigan, Wisconsin, and Minnesota; *commodities described above*, with the further exception of boilers, heaters, and castings, between points in Pennsylvania territory described immediately above, on the one hand, and, on the other, points in Connecticut and Massachusetts. Vendee is authorized to operate as a *common carrier* in all 48 States and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7747. Authority sought for control by REDWING CARRIERS, INC., a Florida corporation, P.O. Box 426, Tampa 1, Fla., of REDWING CARRIERS, INC., a Alabama corporation, Wilson Road-Powderly Station, P.O. Box 34, Birmingham, Ala., and for acquisition by CHARLES E. MENDEZ, P.O. Box 426, Tampa, Fla., of control of REDWING CARRIERS, INC., a Alabama corporation, through the acquisition by REDWING CARRIERS, INC., a Florida corporation. Applicants' attorneys: James E. Wilson and Edward G. Villalon, 716 Perpetual Bldg., Washington 4, D.C. Operating rights sought to be controlled: Authority applied for covering the transportation of *lime*, in bulk, and *cement*, in bulk, as a *common carrier* over irregular routes, from points in Alabama to points in Mississippi, Tennessee, Florida, and Georgia. REDWING CARRIERS, INC., a Florida corporation, is authorized to operate as a *common carrier* in Florida, Alabama, Georgia, South Carolina, North Carolina, Mississippi, and Tennessee. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–7748. Authority sought for purchase by KAW TRANSPORT COMPANY, 701 North Sterling Ave., Kansas City 21, Mo., of a portion of the operating rights of COMMERCIAL TRANSPORT, INC., P.O. Box 297, South 20th St., Belleville, Ill., and for acquisition by FRED R. SUDDARTH, also of Kansas City, Mo., of control of such rights through the purchase. Applicants' attorney: James E. Wilson, 1111 E St. N.W., Washington 4, D.C. Operating rights sought to be transferred: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, as a common carrier over irregular routes, from Coffeyville, Kans., to Ava, Mo., and from Kansas City, Coffeyville, Neodesha, and Chanute, Kans., to points in that part of Missouri bounded by a line beginning at the Missouri-Kansas State line and extending along U.S. Highway 36 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Oklahoma State line, thence along the Missouri-Oklahoma and the Missouri-Kansas State lines to point of beginning, including points on the indicated portions of the highways specified. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Arkansas, Oklahoma, Iowa, and Nebraska. Application has not been filed for temporary authority under section 210a(b).

No. MC–F 7749. Authority sought for purchase by FRANK C. KLEIN & CO., INC., 3600 East 46th Avenue, Denver 16, Colo., of a portion of the operating rights of JIM CHELF, INC., 5226 Brighton Blvd., Denver 16, Colo., and for acquisition by FRANK C. KLEIN, 3600 East 46th Ave., Denver 16, Colo., of control of such rights through the purchase. Applicant's attorney: Michael T. Corcoran, 1360 Locust St., Denver 20, Colo. Operating rights sought to be transferred: *Petroleum products*, in bulk, as a *common carrier* over regular routes, from Sinclair (formerly Parco), Wyo., to specified places in Nebraska and Colorado, and from Sinclair to construction projects in Colorado, and to transport *"Refined petroleum products,"* from refining and distributing points in Kansas to Denver, Keenesburg, Longmont, and Roggen, Colorado. Vendee is authorized to operate as a *common carrier* in Colorado, Wyoming, Arkansas, Kansas. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–12085; Filed, Dec. 28 1960; 8:49 a.m.]

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