

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Agricultural Research Service, Department of Agriculture

#### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

#### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), AND NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS): PROHIBITED AND RESTRICTED IMPORTATIONS

##### Imports of Certain Meats From Specified Countries Prohibited

Pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306) and section 2 of the Act of February 2, 1930, as amended (21 U.S.C. 111), the provisions in Part 94 of Title 9, Code of Federal Regulations, as amended, are hereby further amended as follows:

1. Section 94.4(a)(3) is amended to read:

(3) The meat shall have been thoroughly cured and fully dried in such manner that it may be stored and handled without refrigeration, as in the case of salami and other summer sausages, tasajo, xarque, or jerked beef, bouillon cubes, dried beef, and Westphalia, Italian, and similar type hams.

2. Section 94.4(a)(4) is deleted.

3. Section 94.4(b)(3) is amended to read:

(3) When so directed by the Director of the Animal Inspection and Quarantine Division, such meat shall be consigned directly from the port of entry to a meat-processing establishment operating under Federal meat inspection that has been approved by him for the further processing of such meat. Such meat shall be shipped from the port of entry to the approved establishment under Customs seals or seals of the Division and shall be otherwise handled as the said Director of Division may direct. Seals applied under authority of this section shall not be broken except by persons authorized to do so by the said Director of Division.

(Sec. 2, 32 Stat. 792, as amended, sec. 306, 46 Stat. 689, as amended; 19 U.S.C. 1306, 21 U.S.C. 111)

The foregoing amendments will provide additional necessary safeguards against the introduction into the United States of dangerous communicable diseases of livestock, such as foot-and-mouth disease and must be made effective promptly to protect the public. Therefore under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure on the amendments would be impracticable and contrary to the public interest and good cause is found for making the amendments effective less than 30 days after publication in the *FEDERAL REGISTER*.

The amendments shall become effective at midnight, May 15, 1959, except that imports which the Director of the

Animal Inspection and Quarantine Division finds were in transit on said date will be permitted importation in accordance with the provisions in effect immediately prior to said date.

Done at Washington, D.C., this 11th day of May 1959.

M. R. CLARKSON,  
Acting Administrator,  
Agricultural Research Service.

[F.R. Doc. 59-4073; Filed, May 12, 1959; 8:50 a.m.]

## Title 19—CUSTOMS DUTIES

### Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 54848]

#### PART 16—LIQUIDATION OF DUTIES

##### Correction of Certain Errors and Mistakes

The purposes of the amendment of § 16.13 of the Customs Regulations (19 CFR 16.13) set forth below are to broaden and clarify further the authority of collectors of customs to correct errors of the type cognizable under section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)). This is accomplished by authorizing collectors to take appropriate action, pursuant to section 520(c)(1), to correct a clerical error, mistake of fact or other inadvertence in any entry, liquidation, appraisement, or other customs transaction subject, of course, to the statutory restrictions and certain other limitations specified in amended § 16.13.

Existing regulations permit collectors to adjust some, but not all, types of errors in appraisement which are correctable under section 520(c)(1), as amended. This amendment removes that restriction. The law authorizes correction of errors in appraisement and basically the standards for determining the types of errors in appraisement which are correctable are the same as the standards applicable in the case of errors in entries, liquidations, or other customs transactions. A clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law are the types of errors in appraisement which the law expressly authorizes to be corrected.

Other changes in phraseology and arrangement of § 16.13 are also made including a statement which is declaratory of the collector's authority to deal with error situations independent of section 520(c)(1).

The statement to follow is designed to provide general guidelines for collectors and others concerned in considering matters arising under § 16.13. No attempt is made to state all-inclusive definitions or descriptions of terms. The examples of types of situations are given merely for illustration and are not to be taken as covering all types.

Clerical error occurs when a person intends to do one thing but does something else, e.g., he meant to write "par. 231" but wrote "par. 131". It includes mistakes in arithmetic and the failure to as-

sociate all the papers in a record under consideration.

Mistake of fact occurs when a person believes the facts to be other than they really are and takes some action based on that erroneous belief. The reason for the belief may be that a fact exists but is unknown to the person or he may be convinced that something is a fact when in reality it is not. For example, an importer's agent may be convinced that the importer wishes him to make a consumption entry for goods and he does so. The true fact is that the importer desired an in-bond entry to be made in the particular case. If the true facts had been known to the agent, an in-bond entry would have been filed.

Inadvertence connotes inattention, oversight, negligence, or lack of care. For example, an article might be classified properly under a paragraph providing for it by name but through oversight is given a rate different from any rate provided under that paragraph.

It should be noted that "clerical error, mistake of fact, or other inadvertence" are not necessarily mutually exclusive terms. In other words some "mistakes of facts" also might be clerical errors or other inadvertence; or some "clerical errors" also might be mistakes of fact or other inadvertence, and so on.

Error in the construction of a law occurs when a person knows the true facts of a case but has a mistaken belief of the legal consequences of those facts and acts on that mistaken belief. For example, the exact physical properties of certain merchandise and all other pertinent facts for classification of that merchandise are known. In applying the law the merchandise is classified as an entirety but it should have been classified as separate articles. Or the claim is made that an appraiser acted on incomplete information but the appraiser concludes he would have acted in the same way even if the missing information had been before him. If the appraiser errs in such a case, he commits error of law.

Section 16.13 of the Customs Regulations is amended to read as follows:

##### § 16.13 Errors, mistakes and inadvertencies, correction of.

(a) Collectors of customs have broad responsibility and authority, independent of section 520(c)(1), Tariff Act of 1930, as amended, to take appropriate action to insure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with law. Such action may be taken in connection with (1) the liquidation of an entry, (2) a voluntary reliquidation completed within 60 days after liquidation, (3) a voluntary correction of an exaction within 60 days after the exaction was made, (4) a reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change or adjustment is in order, or (5) the adjustment, pursuant to valid protest, of a transaction or decision which is neither a liquidation nor a reliquidation. The authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer. In exercising that authority collectors cannot



consider errors in appraisement. The extent of the collector's authority with respect to appraisement errors is set forth in paragraphs (b) and (c) of this section.

(b) Pursuant to section 520(c)(1), Tariff Act of 1930, as amended, notwithstanding a valid protest was not filed, the collector may correct by reliquidation or other appropriate action a clerical error, mistake of fact, or other inadvertence in any entry, liquidation, appraisement (subject to paragraph (c) of this section), or other customs transaction if the error, mistake of fact, or other inadvertence:

(1) Does not amount to an error in the construction of a law;

(2) Is adverse to the importer;

(3) Is manifest from the record or established by documentary evidence; and

(4) Is brought to the attention of the Customs Service:

(i) Within 1 year after the date of entry, appraisement, or other transaction (including a liquidation, reliquidation, or exaction) if the error, mistake of fact or other inadvertence is in the entry, appraisement, or other transaction (including a liquidation, reliquidation, or exaction), or

(ii) Except in cases where the error is in liquidation, reliquidation, or exaction in which case subdivision (i) of this subparagraph shall apply, within 60 days after liquidation or exaction when the liquidation or exaction is made more than ten months after the date of entry, appraisement or other transaction.

(c) If the alleged error, mistake of fact or other inadvertence to be considered under paragraph (b) of this section is in an appraisement, the appraiser shall submit a report and recommendation to the collector. If the collector believes that action different from that recommended by the appraiser should be taken and the difference cannot be resolved locally, the matter shall be submitted to the Bureau for decision.

(Secs. 514, 520, 46 Stat. 734, 739, as amended; 19 U.S.C. 1514, 1520)

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

[SEAL]

RALPH KELLY,  
Commissioner of Customs.

Approved: May 6, 1959.

A. GILMORE FLUES,

Acting Secretary of the Treasury.

[F.R. Doc. 59-4033; Filed, May 12, 1959;  
8:49 a.m.]

## Title 49—TRANSPORTATION

### Chapter I—Interstate Commerce Commission

#### PART 54—GUARANTY OF LOANS TO CARRIERS BY RAILROAD

##### Prescription of Guaranty Fees in Connection With Loans Guaranteed Under Part V of the Interstate Commerce Act

At a general session of the Interstate Commerce Commission, held at its office

in Washington, D.C., on the 4th day of May A.D. 1959.

It appearing, that, under part V of the Interstate Commerce Act, as amended, (72 Stat. 568), rules and regulations were adopted on August 14, 1958, by the Interstate Commerce Commission governing applications under said part V for the guaranty of loans to common carriers by railroad (49 CFR Part 54, 23 F.R. 6503);

It further appearing, that § 54.3 of said rules and regulations provide that guaranty fees to be paid to the Commission on or before the date of closing of any such guaranteed loan shall be in such amount as the Commission may thereafter determine and prescribe as necessary to cover the administrative costs of carrying out the provisions of said part V; and due consideration having been given to the foregoing;

It is ordered, That, effective as of the date of this order, such guaranty fee, payable on or before the closing date of any guaranteed loan, shall be in an amount equal to three-eighths of one percent of the total principal amount of the loan guaranteed.

It is further ordered, That notice of this order be given to the general public by posting copies in the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by filing with the Director, Office of the Federal Register, Washington, D.C.

(Part V, sec. 12, 24 Stat. 383, as amended by 72 Stat. 568)

By the Commission.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-4013; Filed, May 12, 1959;  
8:46 a.m.]

## Title 21—FOOD AND DRUGS

### Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

#### SUBCHAPTER A—GENERAL

#### PART 9—COLOR CERTIFICATION

##### Order Acting on Proposals To Amend Color-Certification Regulations With Respect to Lakes

In the matter of amending the color-certification regulations with respect to lakes:

A notice of proposed rule making was published in the FEDERAL REGISTER of February 6, 1959 (24 F.R. 909), setting forth proposals that provisions in the color-certification regulations applying to lakes of FD&C colors (currently not certified for food usage other than for external application to shell eggs) be amended to permit additional uses, and that provisions applying to lakes of D&C and EXT D&C colors be amended by adding calcium carbonate to the lists of permitted substrata. The notice invited all interested persons to submit written comments.

After consideration of the information furnished by the petitioners and that submitted in response to the invitation

for comments, together with other relevant information, it is concluded that adoption of the proposed amendments to the color-certification regulations will provide for the certification of batches of coal-tar colors that are harmless and suitable for use. Accordingly, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 406, 504, 604, 701; 52 Stat. 1049, 1052, 1055, as amended 70 Stat. 919; 21 U.S.C. 346, 354, 364, 371), and delegated to the Commissioner of Food and Drugs (22 F.R. 1045, 23 F.R. 9500): It is ordered, That the color-certification regulations (21 CFR 9.3, 9.4, 9.5, 9.6, 9.10, 9.11 (24 F.R. 2873, 2945)) be amended as set forth below:

1. Section 9.3 *List of straight colors and specifications for their certification for use in food, drugs, and cosmetics* is amended in the following respects:

a. Paragraph (a) is amended by deleting the parenthetical phrase "(subject to the restrictions prescribed by paragraph (c) of this section)" from the introduction to the paragraph.

b. Paragraph (a) is further amended by inserting the word "certified" preceding the words "water-soluble straight colors", under the caption "Lakes". As amended, this sentence reads as follows:

Any lake made by extending on a substratum of alumina, a salt prepared from one of the certified water-soluble straight colors listed in this paragraph by combining such color with the basic radical aluminum or calcium.

c. Paragraph (a) is further amended by deleting the text under the caption "Lakes \* \* \* Specifications" and inserting the following:

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Prepared from previously certified colors listed in this paragraph.

Soluble chlorides and sulfates (as sodium salts), not more than 2.0 percent.

Inorganic matter, insoluble in CHL, not more than 0.5 percent.

d. Section 9.3 is further amended by deleting paragraph (c).

2. In § 9.4 *List of straight colors and specifications for use in drugs and cosmetics*, paragraph (a) is amended by adding the words "calcium carbonate" to the list of substrata under the caption "Lakes", so that as amended the list reads as follows:

Any lake, other than those listed in § 9.3, made by extending on a substratum of alumina, blanc fixe, gloss white, clay, titanium dioxide, zinc oxide, talc, rosin, aluminum benzoate, calcium carbonate, or any combination of two or more of these \* \* \*.

3. In § 9.5 *List of straight colors and specifications for their certification for use in externally applied drugs and cosmetics*, paragraph (a) is amended by adding the words "calcium carbonate" to the list of substrata under the caption "Lakes", so that as amended the list reads as follows:

Any lake made by extending on a substratum of alumina, blanc fixe, gloss white, clay, titanium dioxide, zinc oxide, talc, rosin, aluminum benzoate, calcium carbonate, or any combination of two or more of these \* \* \*.



4. Section 9.6 *Mixtures which may be certified* is amended in the following respects:

a. Paragraph (a) is amended by deleting the parenthetical phrase "(subject to the restrictions prescribed in paragraph (d) of this section)".

b. Section 9.6 is further amended by deleting paragraph (d).

5. Section 9.10 *Limitations of certificates* is amended by deleting paragraph (i).

6. In § 9.11 *Labeling*, paragraph (a) (4) is amended by deleting the phrase "any lake listed in § 9.3 or".

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

**Effective date.** This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provision that may be stayed by the filing of objections thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 72 Stat. 1055, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371. Interprets or applies secs. 406(b), 504, 604, 52 Stat. 1046, 1052; 21 U.S.C. 346(b), 354, 364)

Dated: May 7, 1959.

[SEAL] GEO. P. LARRICK,  
*Commissioner of Food and Drugs.*

[F.R. Doc. 59-4026; Filed, May 12, 1959; 8:48 a.m.]

**SUBCHAPTER B—FOOD AND FOOD PRODUCTS**  
**PART 27—CANNED FRUITS AND CANNED FRUIT JUICES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER**

**Effective Date of Order Establishing Standards of Identity for Certain Artificially Sweetened Canned Fruits**

In the matter of establishing definitions and standards of identity for artificially sweetened peaches, artificially sweetened apricots, artificially sweetened pears, artificially sweetened cherries, artificially sweetened fruit cocktail, and artificially sweetened figs:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended 70 Stat. 919; 21 U.S.C. 371) and delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045, 23 F.R. 9500), notice

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is hereby given that no objections were filed to the order published in the FEDERAL REGISTER of March 25, 1959 (24 F.R. 2304). Accordingly, the regulations promulgated by that order are effective on and after June 23, 1959.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: May 7, 1959.

[SEAL] GEO. P. LARRICK,  
*Commissioner of Food and Drugs.*

[F.R. Doc. 59-4021; Filed, May 12, 1959; 8:47 a.m.]

**Title 26—INTERNAL REVENUE**

**Chapter I—Internal Revenue Service, Department of the Treasury**

**SUBCHAPTER A—INCOME AND EXCESS PROFITS TAXES**

[T.D. 6378; T.D. 4914]

**PART 9—INCOME TAX UNDER THE REVENUE ACT OF 1938**

**Corporation Returns To Be Given Particular Attention**

Treasury Decision 4914, relating to corporation returns to be given particular attention to determine the applicability of section 102 of the Internal Revenue Code of 1939, and the corresponding section of the Revenue Act of 1938, amended to limit its application to taxable years to which the Internal Revenue Code of 1939 and the Revenue Act of 1938 are applicable.

In order to make the provisions of Treasury Decision 4914, approved July 26, 1939 (4 F.R. 3443, published in part as a note following 26 CFR, 1939 Supp., 9.102-2), as amended by Treasury Decision 5398, approved August 12, 1944 (9 F.R. 9944), applicable only to taxable years to which the Internal Revenue Code of 1939 and the Revenue Act of 1938 are applicable, Treasury Decision 4914 is further amended by adding at the end thereof the following new section:

The rules provided in this Treasury Decision shall not be applied with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

Because this Treasury decision merely prevents the application of Treasury Decision 4914, as amended, to taxable years to which the Internal Revenue Code of 1954 applies, 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.

(53 Stat. 32, 467; 26 U.S.C. 62, 3791)

[SEAL] DANA LATHAM,  
*Commissioner of Internal Revenue.*

Approved: May 8, 1959.

FRED C. SCRIBNER, Jr.,  
*Acting Secretary of the Treasury.*

[F.R. Doc. 59-4037; Filed, May 12, 1959; 8:50 a.m.]

**Title 26—INTERNAL REVENUE, 1954**

**Chapter I—Internal Revenue Service, Department of the Treasury**

[T.D. 6377]

**PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953**

**Miscellaneous Amendments**

On January 15, 1958, notice of proposed rule making regarding the regulations under sections 531 through 537 of the Internal Revenue Code of 1954, as amended by the Act of August 11, 1955 (Public Law 367, 84th Cong., 69 Stat. 689), relating to corporations improperly accumulating surplus, was published in the FEDERAL REGISTER (23 F.R. 271). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted subject to the changes set forth below in paragraphs 1 through 12 to reflect such consideration and to incorporate those changes required by sections 31 and 89(b) of the Technical Amendments Act of 1958 (72 Stat. 1631 and 1665) and by section 205 of the Small Business Tax Revision Act of 1958 (72 Stat. 1680). In addition paragraphs 13 and 14 below amend the Income Tax Regulations (26 CFR (1954) Part 1) to conform §§ 1.1551 and 1.1551-1 of such regulations to section 205 of the Small Business Tax Revision Act of 1958 (72 Stat. 1680). The regulations adopted by this Treasury decision are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except as otherwise expressly provided.

**PARAGRAPH 1.** Section 1.531-1 is revised by inserting the following new sentence immediately after the first sentence thereof: "In the case of an affiliated group which makes, or is required to make, a consolidated return, see paragraph (a) of § 1.1502-30."

**PAR. 2.** Paragraph (a) of § 1.533-1 is revised.

**PAR. 3.** Section 1.534 is revised as follows:

(A) The first sentence of section 534 (b) is changed by striking out "registered mail" and inserting in lieu thereof "certified mail or registered mail".

(B) The historical note is changed by inserting before the bracket at the end thereof the following: "; sec. 89(b), Technical Amendments Act 1958 (72 Stat. 1665)".

**PAR. 4.** Section 1.534-2 is revised as follows:

(A) The last sentence of paragraph (a) (2) is changed to read as follows: "However, the burden of proof in the latter case is upon the Commissioner only with respect to the relevant ground or grounds set forth in the statement submitted by the taxpayer, and only if such ground or grounds are supported by facts (contained in the statement) sufficient to show the basis thereof."

(B) Paragraph (b) (2) is changed.