

[T.D. 56032]

PART 6—AIR COMMERCE
REGULATIONSMail Manifest Copy of Transit Air
Cargo Manifest

release may be extended by mutual agreement to a maximum of 30 calendar days. A release will not be conditioned upon ability to obtain a replacement.

(c) In negotiating the date an employee will leave to accept appointment with another Federal agency, supervisors may request two weeks' notice; or when a longer period is necessary to permit training of a replacement, they may request up to 30 days. In no case will a period be requested which would jeopardize the employee's transfer.

By order of the Secretary of the Air Force.

WILLIAM L. KOCH,
Lt. Colonel, U.S. Air Force, Chief,
Special Activities Group,
Office of The Judge Advocate
General.

[F.R. Doc. 63-11471; Filed, Oct. 30, 1963;
8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, De-
partment of the Treasury

[T.D. 56035]

PART 1—CUSTOMS DISTRICTS, PORTS,
AND STATIONSDeletion of Crosby, N. Dak., as
Customs Port of Entry

OCTOBER 22, 1963.

By virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623 (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authorization given to me by Treasury Department Order No. 190, Rev. 1 (26 F.R. 11877), the designation of Crosby, North Dakota, as a customs port of entry in Customs Collection District No. 34 (Dakota) is revoked, effective 30 days after publication of this Treasury decision in the FEDERAL REGISTER.

Section 1.1(c), Customs Regulations, is amended by deleting "Crosby, N. Dak." from the column headed "Ports of Entry" in District No. 34 (Dakota).

Notice of the proposed revocation of Crosby, North Dakota, as a customs port of entry was published in the FEDERAL REGISTER on September 5, 1963 (28 F.R. 9696), pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003). No objections were received.

(R.S. 161, as amended, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 22, 19 U.S.C. 1, 2, 66, 1624)

[SEAL] JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 63-11532; Filed, Oct. 30, 1963;
8:48 a.m.]

Section 6.23 of the Customs Regulations provides a procedure for the transportation of transit air cargo from the port of arrival to another port for exportation with the use of the required number of transit air cargo manifest sheets. Section 6.23(g) implies that the mail manifest copy, which is forwarded to the port of exportation from the port of arrival, may be closed out at the port of exportation with the use of the carrier manifest copy, which is required to be delivered to Customs upon arrival of the shipment at the port of exportation. There is no requirement that the carrier manifest copy show the exporting aircraft number, flight number and date, which is essential to a certification of exportation. This information is required to be shown on the exportation copy furnished to customs.

Therefore, the second sentence of § 6.23 (g), Customs Regulations, is amended by substituting "an exportation copy" for "a carrier manifest copy." The sentence as amended reads as follows: "When all or part of the cargo covered by a mail manifest copy is not closed out by an exportation copy, or a diversion copy endorsed by Customs at another port, within 40 days from the date of receipt of the mail manifest copy, the collector of customs must, without making inquiry of any carrier, make an appropriate report to the port of arrival and this report must be processed and action taken in accordance with § 6.22 (c), (d), and (e) of these regulations."

(R.S. 161, as amended, 251, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended; 5 U.S.C. 22, 19 U.S.C. 66, 1624, 49 U.S.C. 1509)

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: October 22, 1963.

JAMES A. REED,
Assistant Secretary of the
Treasury.

[F.R. Doc. 63-11531; Filed, Oct. 30, 1963;
8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Adminis-
tration, Department of Health, Edu-
cation, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting
From Contact With Containers or
Equipment and Food Additives
Otherwise Affecting Food

SLIMICIDES

The Commissioner of Food and Drugs, having evaluated the data submitted in

a petition (FAP 1111) filed by Cavedon Chemical Company, Inc., 26 Avenue C, Woonsocket, Rhode Island, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of alkenyl (C₁₀-C₁₉) - dimethylethylammonium bromide as a slime-control substance in the preparation of slimicides employed in the manufacture of paper and paper-board intended for use in contact with food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.2505 *Slimicides* is amended by inserting alphabetically in paragraph (c) the following new item:

List of substances	Limitations
Alkenyl (C ₁₀ -C ₁₉) dimethylethylammonium bromide.	

Any person who will be adversely affected by the foregoing order may at any time within 30 days 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 and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: October 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-11529; Filed, Oct. 30, 1963;
8:48 a.m.]

SUBCHAPTER C—DRUGS

PART 141e—BACITRACIN AND
BACITRACIN-CONTAINING DRUGS;
TESTS AND METHODS OF ASSAYPART 146e—CERTIFICATION OF BAC-
ITRACIN AND BACITRACIN-
CONTAINING DRUGSBacitracin-Neomycin Undecylenate
Otic Drops

Under the authority vested in the Secretary of Health, Education, and Wel-

fare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for bacitracin and bacitracin-containing drugs are amended to provide for the certification of and tests and methods of assay for bacitracin-neomycin undecylenate otic drops by adding to Parts 141e and 146e two new sections, as follows:

§ 141e.432 Bacitracin-neomycin undecylenate otic drops.

(a) *Otic drops*—(1) *Potency*—(i) *Bacitracin content*. Proceed as directed in § 141e.401(a) except § 141e.401(a)(3), and in lieu of the directions in § 141e.401(a)(1)(ii) prepare the sample as follows: Place an accurately measured representative portion of the sample (usually approximately 1 milliliter) in a blending jar containing 1.0 milliliter of polysorbate 80 and sufficient 1 percent phosphate buffer, pH 6.0, to give a final volume of 200 milliliters. Using a high-speed blender, blend the mixture for 2 minutes and then make the proper dilutions in 1 percent phosphate buffer, pH 6.0, to one unit per milliliter (estimated). Its content of bacitracin is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(ii) *Neomycin content*. Proceed as directed in § 141e.410(b)(1), except prepare the sample for assay as follows: Place an accurately measured representative portion of the sample (usually approximately 1 milliliter) in a 100-milliliter volumetric flask containing 5.0 milliliters chloroform, and mix well. Fill the flask to volume with 95 percent ethyl alcohol and mix well. Dilute an aliquot with 0.1M potassium phosphate buffer, pH 8.0, to either reference point, depending on the organism used. Its content of neomycin is satisfactory if it contains not less than 85 percent of the number of milligrams of activity that it is represented to contain.

(2) *Moisture*. Proceed as directed in § 141a.7(c) of this chapter.

(b) *Neomycin undecylenate used in making the otic drops*—(1) *Neomycin content*. Proceed as directed in § 141e.410(b)(1), except prepare the sample for assay as follows: Accurately weigh approximately 500 milligrams of neomycin undecylenate, transfer to a 250-milliliter volumetric flask, add 50 milliliters of chloroform, and mix well. Adjust to volume with 95 percent ethyl alcohol, and mix well. Dilute an aliquot with 0.1M potassium phosphate buffer, pH 8.0, to either reference point, depending on the organism used.

(2) *Undecylenic acid content*. (i) *Reagents*:

95 percent ethyl alcohol (aldehyde-free).
Phenolphthalein indicator: Dissolve 1 gram of phenolphthalein in 100 milliliters of alcohol.

Alcoholic sodium hydroxide (about 0.1 normal): Weigh rapidly about 5 grams of sodium hydroxide pellets, dissolve in 10 milliliters of water, and add sufficient aldehyde-free alcohol to make 1 liter. Allow the solution to stand in a tightly stoppered bottle protected from light for

24 hours, then quickly decant the clear supernatant into a suitable tight container, and store protected from light. Determine the undecylenic acid equivalent of this solution each time an assay is performed.

(ii) *Procedure*: Weigh accurately two 100-milligram portions of undecylenic acid (N.F. grade), and place each into separate Erlenmeyer flasks. Also, make two accurate weighings of the neomycin undecylenate sample, each consisting of about 120 milligrams, and place each into separate Erlenmeyer flasks. Carefully dissolve each of the undecylenic acid authentic and each of the samples in 10 milliliters of 95 percent ethyl alcohol. Add two drops of phenolphthalein indicator to each of the four flasks. Titrate each sample with 0.1N alcoholic sodium hydroxide to a phenolphthalein endpoint. Determine the amount of alcoholic sodium hydroxide equivalent to 10 milliliters of 95 percent ethyl alcohol and make this reagent-blank correction for each titration. From the undecylenic acid equivalent of the alcoholic sodium hydroxide, calculate the undecylenic acid content of neomycin undecylenate.

(3) *Moisture*. Proceed as directed in § 141a.5(a) of this chapter.

(4) *pH*. Proceed as directed in § 141a.5(b) of this chapter, except use a solution containing 50 milligrams per milliliter in 80 percent methyl alcohol.

(5) *Identity*. Weigh approximately 1 milligram of neomycin undecylenate and mix thoroughly with 200 milligrams of dried infra-red spectrophotometric quality potassium bromide in a small ball mill for about 1 minute. Prepare a potassium bromide disk by transferring the uniform mixture to a dye of suitable size. Evacuate gradually while raising the pressure to 3,000 pounds per square inch. Hold at 3,000 pounds per square inch until evacuation is complete and then raise the pressure to 20,000 pounds per square inch. Hold the pressure for 2 or 3 minutes. Using a suitable infra-red spectrophotometer, run the spectrum from 2 microns to 16 microns. Use an attenuator if necessary. Characteristic undecylenic acid peak absorbancies occur at 7.1 and 11 microns, distinguishing neomycin undecylenate from neomycin sulfate.

§ 146e.432 Bacitracin-neomycin undecylenate otic drops.

(a) *Standards of identity, strength, quality, and purity*. Bacitracin-neomycin undecylenate otic drops is bacitracin and neomycin undecylenate in a vegetable oil vehicle, with a suitable and harmless suspending agent. It may contain a suitable local anesthetic and cortisone or a suitable derivative of cortisone. Each milliliter contains not less than 500 units of bacitracin and the equivalent of not less than 3.5 milligrams of neomycin. The moisture content is not more than 1 percent. The bacitracin used conforms to the standards prescribed therefor by § 146e.401(a), except § 146e.401(a)(2), (3), (4), and (8). The neomycin undecylenate used has a potency of not less than 300 micrograms of neomycin base activity per milligram (calculated on the anhydrous basis), an undecylenic acid content of not less than 600 micrograms per milligram, and a

moisture content of not more than 5.0 percent. Its pH in a solution containing 50 milligrams per milliliter in 80 percent methyl alcohol is not less than 6.5 and not more than 7.0. It gives a positive infra-red identity test for neomycin undecylenate. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging*. In all cases the immediate container shall be glass, so closed as to be a tight container as defined by the U.S.P., and of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling*. In addition to the labeling requirements prescribed by § 1.106(b) of this chapter (regulations issued under section 502(f) of the act), each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) The statement "Expiration date _____," the blank being filled in with the date that is 12 months after the month during which the batch was certified.

(ii) If it contains one or more of the active ingredients specified in paragraph (a) of this section, after the name "bacitracin-neomycin undecylenate otic drops," wherever it appears, the words "with _____," in juxtaposition with such name, the blank being filled in with the common or usual name of each such ingredient used.

(d) *Request for certification; samples*.

(1) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch marks and (unless they were previously submitted) the dates on which the latest assays of the bacitracin and neomycin undecylenate used in making such batch were completed, the number of units of bacitracin and the number of milligrams of neomycin in each milliliter, the quantity of each ingredient used in making the batch, the date on which the latest assay of the batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request results of tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch: The number of units of bacitracin and the number of milligrams of neomycin per milliliter, and moisture content.

(ii) The bacitracin used in making the batch: Potency, moisture, pH, and ash content.

(iii) The neomycin undecylenate used in making the batch: Neomycin content,

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER O—RIGHTS-OF-WAY—ROADS

PART 163—ESTABLISHMENT OF ROADLESS AND WILD AREAS ON INDIAN RESERVATIONS

Wind River Reservation, Wyoming

On page 7949 of the FEDERAL REGISTER of August 3, 1963, there was published a notice of intention to amend § 163.1 of Title 25 Code of Federal Regulations. The purposes of the amendment are to reduce the size of the roadless area on the Wind River Reservation, Wyoming from 220,000 acres to 180,387 acres and to change the name of the roadless area to the "Wind River Reserve."

Interested persons were given an opportunity to submit their comments, suggestions or objections in writing on the proposed amendment within 30 days from the date of publication of the notice in the FEDERAL REGISTER. During the 30 day period, no comments, suggestions or objections were received, and the proposed amendment is hereby adopted without change and is set forth below.

The lands affected by the regulation are the private property of the Shoshone and Arapahoe Tribes of the Wind River Reservation, Wyoming, though held in trust by the United States, and the portions to be eliminated from the reserve are needed by the tribes for development as an outdoor recreational site and for gathering of fallen timber by tribal members for firewood. Further, the councils of the two tribes requested the promulgation of the amendment. For these reasons, it has been determined that it is in the best interest of the Indians and the public to make the amendment effective immediately. Therefore, the amendment shall become effective on the date of this publication in the FEDERAL REGISTER.

(R.S. 161, 5 U.S.C. 22)

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 24, 1963.

Section 163.1 is amended to reflect a reduced and renamed roadless area on the Wind River Reservation, Wyoming, and to read as follows:

§ 163.1 Definition of roadless areas.

A roadless area has been defined as one which contains no provision for the passage of motorized transportation and which is at least 100,000 acres in forested country and at least 500,000 acres in non-forested country. Under this definition the Secretary of the Interior ordered (3 F.R. 609, March 22, 1938) certain roadless areas established on Indian reservations. The following are the presently existing roadless areas:

Name of area	Reservation	State	Approximate acreage
Wind River Reserve.	Wind River...	Wyoming.	180,387
Mesa Verde....	Ute Mountain.	Colorado..	115,000

undecylenic acid content, moisture, pH, and identity.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch: One immediate container for each 5,000 immediate containers in the batch, but in no case less than six immediate containers, collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The bacitracin used in making the batch: Six packages, containing approximately equal portions of not less than 0.5 gram.

(iii) The neomycin undecylenate used in making the batch: 10 Packages, each containing approximately equal portions of not less than 300 milligrams.

(iv) In case of an initial request for certification, each other substance used in making the batch: One package of each containing approximately 5 grams.

(4) The results referred to in subparagraph (2) (i) and (iii) of this paragraph and the samples referred to in subparagraph (3) (ii) and (iii) of this paragraph are not required if such results or samples have been previously submitted.

(e) Fees. The fees for the services rendered with respect to each batch under the regulations in this part shall be:

(1) \$5.00 for each immediate container in the sample submitted in accordance with paragraph (d) (3) (i) of this section; \$4.00 for each immediate container in the samples submitted in accordance with paragraph (d) (3) (ii), (iii), and (iv) of this section.

(2) If the Commissioner considers that investigations other than examination of such immediate containers are necessary to determine whether or not such batch complies with the requirements of § 146.3 of this chapter for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d) of this chapter.

Notice and public procedure are not necessary prerequisites to the promulgation of the order, and I so find, since the drug bacitracin-neomycin undecylenate otic drops has been found to be safe and efficacious for use, conditions precedent to its certification.

Effective date. This order becomes effective 30 days from the date of its publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357)

Dated: October 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-11528; Filed, Oct. 30, 1963; 8:48 a.m.]

(a) The boundaries of the Wind River Reserve roadless area are as follows: Wind River Meridian, Wyoming. Starting at the SW corner of sec. 22, T. 2 S., R. 3 W., on the south boundary of the Wind River Indian Reservation, thence north six (6) miles to the NE corner of sec. 28, T. 1 S., R. 3 W., thence west three (3) miles to the SW corner of sec. 19, T. 1 S., R. 3 W., thence north four (4) miles along range line to the Wind River Base Line, thence west one (1) mile along Wind River Base Line to the SW corner of sec. 36, T. 1 N., R. 4 W., thence north six (6) miles to the NW corner of sec. 1, T. 1 N., R. 4 W., thence west five (5) miles along township line to the NE corner of sec. 1, T. 1 N., R. 5 W., thence north four and one-half (4½) miles along Range line to the NE corner of the SE¼ of sec. 12, T. 2 N., R. 5 W., thence west one and one-half (1½) miles to the center of sec. 11, T. 2 N., R. 5 W., thence on a straight line in a northwesterly direction to the top of Bold Mountain, thence on a straight line to the SE corner of sec. 35, T. 4 N., R. 6 W., thence west one (1) mile along township line to the SW corner of sec. 35, T. 4 N., R. 6 W., thence north two (2) miles to the NW corner of sec. 26, T. 4 N., R. 6 W., thence on a straight line in a northwesterly direction to the point where the north line of sec. 15, T. 4 N., R. 6 W. intersects the West boundary of the Reservation, thence south, southeasterly and east along the Reservation boundary to point of beginning.

(b) The boundaries of the Mesa Verde roadless area are as follows: Starting at the point where U.S. Highway No. 666 cuts the northern boundary of the reservation, thence south along said highway to the junction with the road in sec. 31, T. 33 N., R. 17 W., thence along the road running east to Floyd Reservoir, thence along the road running to Kraft Reservoir, thence along the east and north boundary of the reservation to the point of beginning.

[F.R. Doc. 63-11491; Filed, Oct. 30, 1963; 8:47 a.m.]

APPENDIX—EXTENSION OF THE TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

Trust Periods Expiring During Calendar Years 1964 Through 1968, inclusive

By virtue of and pursuant to the authority delegated by Executive Order No. 10250 of June 5, 1951, and pursuant to section 5 of the Act of February 8, 1887 (24 Stat. 388, 389), the Act of June 21, 1906 (34 Stat. 325, 326), and the Act of March 2, 1917 (39 Stat. 969, 976), and other applicable provisions of law, it is hereby ordered that the periods of trust or other restrictions against alienation contained in any patent applying to Indian lands, whether of a tribal or individual status, which, unless extended would expire during calendar years 1964 through 1968, inclusive, be, and the same are hereby, extended until January 1, 1969.

This Order is not intended to apply to any case in which Congress has specifically reserved to itself authority to

extend the period of trust on tribal or individual Indian lands.

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 24, 1963.

[F.R. Doc. 63-11492; Filed, Oct. 30, 1963;
8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6688]

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

Definition of Controlled Foreign Corporation

On January 29, 1963, notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 828) regarding the amendments of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 957(a) of the Internal Revenue Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1017). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments set forth below are hereby adopted. The amendments shall apply with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such corporations end. In addition, paragraph 3 hereof contains an amendment which was inadvertently omitted from Treasury Decision 6683.

PARAGRAPH 1. Section 1.957 is amended to read as follows:

§ 1.957 Statutory provisions; controlled foreign corporations; United States persons.

Sec. 957. *Controlled foreign corporations; United States persons*—(a) *General rule.* For purposes of this subpart, the term "controlled foreign corporation" means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such foreign corporation.

(c) *Corporations organized in United States possessions.* For purposes of this subpart, the term "controlled foreign corporation" does not include any corporation created or organized in the Commonwealth of Puerto Rico or a possession of the United States or under the laws of the Commonwealth of Puerto Rico or a possession of the United States if—

(1) 80 percent or more of the gross income of such corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within the Commonwealth of

Puerto Rico or a possession of the United States; and

(2) 50 percent or more of the gross income of such corporation for such period, or for such part thereof, was derived from the active conduct within the Commonwealth of Puerto Rico or a possession of the United States of any trades or businesses constituting the manufacture or processing of goods, wares, merchandise, or other tangible personal property; the processing of agricultural or horticultural products or commodities (including but not limited to livestock, poultry, or fur-bearing animals); the catching or taking of any kind of fish or the mining or extraction of natural resources, or any manufacturing or processing of any products or commodities obtained from such activities; or the ownership or operation of hotels.

For purposes of paragraphs (1) and (2), the determination as to whether income was derived from sources within the Commonwealth of Puerto Rico or a possession of the United States and was derived from the active conduct of a described trade or business within the Commonwealth of Puerto Rico or a possession of the United States shall be made under regulations prescribed by the Secretary or his delegate.

[Sec. 957 (a) and (c) as added by sec. 12(a), Revenue Act 1962 (76 Stat. 1017)]

PAR. 2. There is inserted immediately after § 1.957 the following new section:

§ 1.957-1 Definition of controlled foreign corporation.

(a) *In general.* For purposes of sections 951 through 964, the term "controlled foreign corporation" means any foreign corporation of which more than 50 percent (or more than 25 percent, in a case to which section 957(b) and § 1.957-2 apply) of the total combined voting power of all classes of stock entitled to vote is owned within the meaning of section 958(a), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day of the taxable year of such foreign corporation. For definition of the term "United States shareholder," see section 951(b) and the regulations thereunder. For definition of the term "foreign corporation," see § 301.7701-5 of this chapter (Procedure and Administration Regulations). For treatment of associations as corporations, see section 7701(a)(3) and §§ 301.7701-1 and 301.7701-2 of this chapter. For definition of the term "stock," see sections 958(a)(3) and 7701(a)(7). For the classification of a member in an association, joint-stock company, or insurance company as a shareholder, see section 7701(a)(8).

(b) *Percentage of total combined voting power owned by United States shareholders*—(1) *Meaning of combined voting power.* In determining for purposes of paragraph (a) of this section whether United States shareholders own the requisite percentage of total combined voting power of all classes of stock entitled to vote, consideration will be given to all the facts and circumstances of each case. In all cases, however, United States shareholders of a foreign corporation will be deemed to own the requisite percentage of total combined voting power with respect to such corporation—

(i) If they have the power to elect, appoint, or replace a majority of that body of persons exercising, with respect to such corporation, the powers ordinarily exercised by the board of directors of a domestic corporation;

(ii) If any person or persons elected or designated by such shareholders have the power, where such shareholders have the power to elect exactly one-half of the members of such governing body of such foreign corporation, either to cast a vote deciding an evenly divided vote of such body or, for the duration of any deadlock which may arise, to exercise the powers ordinarily exercised by such governing body; or

(iii) If the powers which would ordinarily be exercised by the board of directors of a domestic corporation are exercised with respect to such foreign corporation by a person whom such shareholders have the power to elect, appoint, or replace.

(2) *Shifting of formal voting power.* Any arrangement to shift formal voting power away from United States shareholders of a foreign corporation will not be given effect if in reality voting power is retained. The mere ownership of stock entitled to vote does not by itself mean that the shareholder owning such stock has the voting power of such stock for purposes of section 957. For example, if there is any agreement, whether express or implied, that any shareholder will not vote his stock or will vote it only in a specified manner, or that shareholders owning stock having not more than 50 percent of the total combined voting power will exercise voting power normally possessed by a majority of stockholders, then the nominal ownership of the voting power will be disregarded in determining which shareholders actually hold such voting power, and this determination will be made on the basis of such agreement. Moreover, where United States shareholders own shares of one or more classes of stock of a foreign corporation which has another class of stock outstanding, the voting power ostensibly provided such other class of stock will be deemed owned by any person or persons on whose behalf it is exercised or, if not exercised, will be disregarded if the percentage of voting power of such other class of stock is substantially greater than its proportionate share of the corporate earnings, if the facts indicate that the shareholders of such other class of stock do not exercise their voting rights independently or fail to exercise such voting rights, and if a principal purpose of the arrangement is to avoid the classification of such foreign corporation as a controlled foreign corporation under section 957.

(c) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). Foreign corporation R has two classes of capital stock outstanding, 60 shares of class A stock, and 40 shares of class B stock. Each share of each class of stock has one vote for all purposes. E, a United States person, owns 51 shares of class A stock. Corporation R is a controlled foreign corporation.

Example (2). Foreign corporation S has three classes of capital stock outstanding, consisting of 60 shares of class A stock, 40 shares of class B stock, and 200 shares of class C stock. The owners of a majority of class A stock are entitled to elect 6 of the 10 corporate directors, and the owners of a majority of the class B stock are entitled to elect the other 4 of the 10 directors. Class C stock has no voting rights. D, a United States person, owns all of the shares of the class C stock. He also owns 31 shares of class A stock and as such an owner can elect 6 members of the board of directors. None of the remaining shares of class A stock, or the 40 shares of class B stock, is owned, or considered as owned, within the meaning of section 958, by a United States person. Since, as owner of 31 shares of the class A stock, D has sufficient voting power to elect 6 directors, D has more than 50 percent of the total combined voting power of all classes of stock entitled to vote, and S Corporation is a controlled foreign corporation.

Example (3). M, a United States person, owns a 51-percent interest in R Company, a foreign company of which he is a member. The company, if it were domestic, would be taxable as a corporation. The remaining interest of 49 percent in the company is owned by seven other members none of whom is a United States person. The memorandum of association of R Company provides for only one manager, who with respect to the company exercises the powers ordinarily exercised by a board of directors of a domestic corporation. The manager is to be elected by unanimous agreement of all the members. Since M owns 51 percent of the company, he will be deemed to own more than 50 percent of the total combined voting power of all classes of stock of R Company entitled to vote, notwithstanding that he has power to elect a manager only with the agreement of the other members. Company R is a controlled foreign corporation.

Example (4). Domestic corporation M owns a 49-percent interest in S Company, a foreign company of which it is a member. The company, if it were domestic, would be taxable as a corporation. Company S is formed under the laws of foreign country Y. The remaining interest of 51 percent in S Company is owned by persons who are not United States persons. The organization contract of S Company provides for one manager, B, a citizen and resident of country Y who is an officer of M Corporation in charge of its foreign operations in such country, or any person M Corporation may at any time appoint to succeed B in such capacity. The manager has the sole authority with respect to S Company to exercise powers ordinarily exercised by a board of directors of a domestic corporation. Since M Corporation has the discretionary power to replace B and to appoint his successor as manager of S Company, the company is a controlled foreign corporation.

Example (5). N, a United States person, owns 50 percent of the outstanding shares of the only class of capital stock of foreign corporation R. An additional 48 percent of the outstanding shares is owned by foreign corporation S. The remaining 2 percent of shares is owned by P, a citizen and resident of foreign country T, who regularly acts as attorney for N in the conduct of N's business affairs in country T. All of the shares of the outstanding capital stock of R Corporation are bearer shares. At the time of the issuance of the shares to him, P places the certificates for such shares in a depository to which N has access. On several occasions N, with P's acquiescence, has taken such shares from the depository and, on one such occasion, used the shares as collateral in borrowing funds on a loan. Although dividends, when paid, are paid to P on his shares, his charges to N for legal fees are reduced by the amount of the divi-

dends paid on such shares. Although P votes his shares at meetings of shareholders, the facts set forth above indicate an implied agreement between P and N that N is really to retain dominion over the stock. N is deemed to own the voting rights ostensibly attached to the stock owned by P, and R Corporation is a controlled foreign corporation.

Example (6). M, a domestic corporation which manufactures in the United States and distributes all of its production for foreign consumption through N, a person other than a related person or a United States person, forms foreign corporation S to purchase products from M Corporation and sell them to N. Corporations S and M have common directors. The outstanding capital stock of S Corporation consists of 10,000 shares of \$100 par value class A stock, which has no voting rights except to vote for dissolution of the corporation on a share for share basis, and 500 shares of no par class B stock which has full voting rights. Each class of the outstanding stock is to participate on a share for share basis in any dividend. The class A stock has a preference as to assets on dissolution of the corporation to the extent of its par value as well as the right to participate with the class B stock in all other assets on a share for share basis. All of the shares of class A stock are issued to M Corporation in return for property having a value of \$1 million. Of the class B stock, 300 of the shares are issued to N in return for \$3,000 in cash and 200 shares are issued to M Corporation for \$2,000 in cash. At stockholder meetings N never votes in opposition to M Corporation on important issues. Corporation S has average annual earnings of \$200,000, all of which will be subpart F income if S Corporation is held to be a controlled foreign corporation. All such earnings are accumulated. Although N ostensibly has 60 percent of the voting power of S Corporation by virtue of his ownership of 300 shares of class B stock, he has the right to only approximately 3 percent of any dividends which may be paid by S Corporation; in addition, upon liquidation of S Corporation, N is entitled to share in the assets only after M Corporation has received the par value of its 10,000 shares of class A stock, or \$1 million. Thus, the voting power owned by N is substantially greater than its proportionate share of the earnings of S Corporation. In addition, the facts set forth above indicate that N is not exercising his voting rights independently and that a principal purpose of the capitalization arrangement is to avoid classification of S Corporation as a controlled foreign corporation. For these reasons, the voting power ostensibly provided the class B stock will be deemed owned by M Corporation, and S Corporation is a controlled foreign corporation.

Example (7). Foreign corporation A, authorized to issue 100 shares of one class of capital stock, issues, for \$1,000 per share, 45 shares to domestic corporation M, 45 shares to foreign corporation B, and 10 shares to foreign corporation C. Corporation C, a bank, lends \$3 million to finance the operations of A Corporation. In the course of negotiating these financial arrangements, D, an officer of C Corporation, and E, an officer of M Corporation, orally agree that C Corporation will vote its stock as M Corporation directs. By virtue of such oral agreement M Corporation possesses the voting power ostensibly owned by C Corporation, and A Corporation is a controlled foreign corporation.

PAR. 3. In Treasury Decision 6683, published in the FEDERAL REGISTER on October 18, 1963 (28 F.R. 11177), subparagraph (2) was inadvertently omitted

from paragraph (d) of § 1.955-6. Subparagraph (2) of such paragraph should read as follows:

§ 1.955-6 Gross income from sources within less developed countries.

(d) Sale of tangible personal property. * * *

(2) Production defined. For purposes of this paragraph, the term "produced" means manufactured, grown, extracted, or constructed and includes a substantial transformation of property purchased for resale or the manufacture of a product when purchased components constitute part of the property which is sold. See paragraph (a)(4)(ii) and (iii) of § 1.954-3 for a statement and illustration of the principles set forth in the preceding sentence.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] BERTRAND M. HARDING,
Acting Commissioner
of Internal Revenue.

Approved: October 29, 1963.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

[F.R. Doc. 63-11541; Filed, Oct. 30, 1963;
8:49 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER A—REGULATIONS

PART 516—RECORDS TO BE KEPT BY EMPLOYERS

Salary Example

Pursuant to section 11 of the Fair Labor Standards Act of 1938 (29 U.S.C. 211), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and General Order No. 45-A of the Secretary of Labor (15 F.R. 3290), 29 CFR 516 is hereby amended to show a change in the figures in the salary example contained in 29 CFR 516.3.

As this amendment merely reflects a change made necessary by the change in salary test in 29 CFR 541, and concerns interpretative rules, notice and opportunity for public participation regarding it are deemed unnecessary and are not required by section 4 of the Administrative Procedure Act (5 U.S.C. 204). This fact also provides good cause for making the amendment effective immediately. The amendment is hereby made effective immediately.

Section 516.3 of 29 CFR 516 is amended to read as follows:

§ 516.3 Bona fide executive, administrative, professional, and outside sales employees as referred to in section 13(a)(1) of the act—items required.

With respect to persons employed in a bona fide executive, administrative or professional capacity or in the capacity of outside salesman, as defined in Part 541 of this chapter (pertaining to so-

called "white collar" employee exem-