Airport. After being prevented from using a balloon of 6 feet, or greater in diameter, the operator resorted to the use of a smaller balloon to avoid the applicability of Part 101. The FAA has been advised that legally it is extremely difficult to prevent balloon operations such as this, even though they present an immediate danger to aircraft in flight, unless appropriate amendments are made to Part 101.

Even though a moored balloon is less than 6 feet in diameter or has a gas capacity less than 115 cubic feet, the derogation to safety may be as great as if the moored balloon falls within the present regulation.

Although moored balloons may be operated free from regulatory constraint if less than 6 feet in diameter or 115 cubic feet gas capacity, the limited size of these objects makes it all the more difficult for a pilot to either detect the balloon and avoid striking it, or to see it in sufficient time to avoid the necessity of taking radical evasive action. In the latter case, injuries could result to passengers and crew, as well as placing excessive stresses upon the aircraft structure. Possible loss of control of the aircraft by the pilot is also a potential hazard. The latter possibility involves a major safety problem, since an incident of this type will occur during the approach or take-off phase of flight when the aircraft is being operated much closer to stalling speeds and relatively close to the ground.

By reason of the foregoing, a situation exists that demands immediate regulatory action involving moored balloons and kites. Because this regulatory action is needed immediately to correct an unsafe condition, it has been determined that in the public interest, notice and public procedure hereon are impracticable and for this reason good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, Part 101 of the Federal Aviation Regulations is amended, effective May 26, 1970, as follows:

1. By amending § 101.1(a) (1) and (2), and the introductory language of § 101.1(a) (4), to read as follows:

§ 101.1 Applicability.

(a) * * *

(1) Except as provided for in § 101.7, any balloon that is moored to the surface of the earth or an object thereon and that has a diameter of more than 6 feet or a gas capacity of more than 115 cubic feet.

(2) Except as provided for in § 101.7, any kite that weighs more than 5 pounds and is intended to be flown at the end of a rope or cable.

* * * * *

(4) Except as provided for in § 101.7, any unmanned free balloon that—

* * * * *

2. By inserting a new § 101.7 following § 101.5, to read as follows:

§ 101.7 Hazardous operations.

No person may operate any moored balloon, kite, unmanned rocket, or unmanned free balloon in a manner that creates a hazard to persons, property, or other aircraft.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958; 40 U.S.C. 1348, 1354(a); sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 19, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-6478; Filed, May 25, 1970; 8:49 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-623; Amdt. 29]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Reporting of Ferry Flight Statistics

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of May 1970.

By circulation of notice of proposed rule making EDR-172, dated October 24, 1969, Docket 21556, and publication at 34 F.R. 17528, the Board gave notice that it had under consideration an amendment to Part 241 which would change the manner of reporting ferry flight statistics. The amendment was designed to achieve uniformity in reporting statistics related to flights made to position aircraft, by establishing three classes of positioning flights: (1) "Ferry" flights for which no separate identifiable rate is set out in a tariff or contract would be reported as nonrevenue flights; (2) empty backhaul flights to MAC one-way charters, for which a higher rate is charged than for round-trip charters, would be reported as "other" nonrevenue flights; and (3) "paid positioning" flights for which a specific separate charge is set out in a tariff or contract would be reported as revenue flights.

Comments were filed by Continental Air Lines, Inc.; Modern Air Transport, Inc.; Pan American World Airways, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; and the Department of Defense. After careful consideration of all comments, the Board has decided to adopt the rule with modifications. As modified, the tentative findings made in EDR-172 are incorporated herein and made final.

The Department of Defense contends that empty backhaul flights to MAC one-way charters should be considered revenue flights because the minimum one-way rates set by the Board under Part 288 are fully compensatory for the entire trip including the empty return leg. DOD maintains that treating the empty backhaul miles as nonrevenue could have a distorting effect on the rate reviews under Part 288 and recommends that "paid positioning" flights be defined to include the empty backhaul flights to MAC one-way charters as revenue flights. Continental agrees with DOD that the higher one-way charter rates take into account the empty backhauls and are set at a figure that will reimburse the carrier for the empty backhaul miles. Continental urges that the empty backhauls be classified as paid ferry flights and be included in revenue statistics. This carrier also states that classifying empty backhauls as nonrevenue operations would create yield data and statistics that would not be comparable between carriers since figures would vary depending on whether carriers had a preponderance of one-way or round-trip MAC charters. On the other hand, TWA states that it presently reports nonrevenue positioning flights in connection with civilian charters as ferry flights and that MAC empty backhauls should be included in this classification.

Pan American agrees that paid positioning flights should be reported under revenue miles and revenue hours, which the carrier has been doing. United agrees that revenue hours, miles, and departures should be separately reported for paid positioning flights, but objects to inclusion of available seat-miles and ton-miles in revenue capacity statistics. United argues that its charter tariffs define a ferry charge as "the charge for mileage without payload" and since the rate is applicable only to movement of empty aircraft on which traffic cannot be carried, such flights do not generate available capacity. Therefore, the carrier contends, the statistical information used to measure performance against available capacity would be distorted by inclusion of available capacity statistics for paid positioning flights. United also contends that cost allocations to MAC charter operations will be increased if available capacity statistics are included for "paid ferry miles" as defined in § 288.9.[1]

It is true, as urged by DOD and Continental, that MAC one-way charter rates are set at a level to compensate for the fact that return flights may constitute empty backhauls. However, carriers are not paid to operate empty MAC backhauls, and the revenue for a one-way charter pertains only to the charter miles operated, not to the backhaul portion. Indeed the carriers are free to charter the backhaul to commercial customers and any revenues received are for the carriers' account. In fact, the one-way charter rate has generally been based on the assumption that revenues will be realized by the carrier on some backhaul flights, and such estimated revenues are offset against the backhaul operating costs. Accordingly, we adhere to the view that empty backhaul flights performed in connection with one-way charters for MAC shall be considered nonrevenue flights.

As noted above, United contends that available capacity should not be reported with respect to paid positioning flights, since they do not generate available capacity. However, paid positioning flights are revenue flights, with the capacity paid for by ferry charges. If capacity is

[1] Paid ferry miles are positioning flights, performed in the course of round-trip MAC charters, not to exceed 1,500 statute miles and to be paid for at the rate of 75 percent of the applicable round-trip rate.

not reported, the statistics would be distorted because the revenue received in connection with operating the aircraft would be spread over a number of units that are fewer than the number to which the revenue relates. In addition, we are not persuaded that requiring reports of revenue and nonrevenue positioning flights on a consistent basis by carriers performing charters will materially affect reviews of MAC rates under Part 288, which are primarily predicated on data reported under Part 243 and special carrier submissions.

Modern suggests that the monthly summarized traffic and capacity statistics of Schedule T-1 be modified to include total nonrevenue aircraft departures performed. Since an analysis of the relationship of nonrevenue to revenue operations can be obtained from other reported statistical data, such as nonrevenue aircraft hours and nonrevenue aircraft miles on Schedule T-3, Modern's suggestion would serve no useful purpose and, therefore, has not been adopted in this rule.

Although we find it desirable that revenue aircraft hours, miles and departures be separately reported for paid positioning flights, we shall not amend Schedule T-1 as proposed to provide for such reports. The proposed amendment conflicts with the format and coding system of revised Schedule T-1 outlined in Regulation ER-586, which becomes effective July 1, 1970. Instead, the carriers performing paid positioning flights will report on Schedule P-2 (Notes to Income Statement) separate data, by months, for aircraft departures, miles, and hours, using the following format:

PAID POSITIONING FLIGHTS

	Aircraft departures	Aircraft miles	Airborne hours
Civilian charters:			
Passenger-cargo...			
All-cargo..........			
Military charters:			
Passenger-cargo...			
All-cargo..........			

Although an effective date of January 1, 1970, had been proposed and no carrier objected, we have decided that the amendment should be made effective July 1, 1970. This will coincide with the implementation of ER-586, which provides for the modernization of the traffic and capacity data collection system.

Accordingly, the Board hereby amends Part 241 (14 CFR Part 241), effective July 1, 1970, as follows:

1. Amend section 03 by adding a definition for "Flight, paid positioning" immediately following "Flight ferry," and amending the definition of "Miles flown, nonrevenue aircraft" to read:

Flight, paid positioning. A flight for the purpose of positioning an empty aircraft in connection with a charter flight for which a specific charge is set forth in a tariff or contract for application directly to the positioning miles operated. Such flights are considered revenue flights for Form 41 reporting purposes.

* * * * *

Miles flown, nonrevenue aircraft. The aircraft miles flown on nonrevenue flights, such as ferry (including empty backhauls to MAC one-way charters), personnel training, extension and development, and abortive revenue flights.

2. Amend Section 24—Profit and Loss Elements by adding new paragraph (g) to schedule P-2, to read as follows:

Schedule P-2—Notes to Income Statement

* * * * *

(g) Each air carrier performing paid positioning flights shall report with respect thereto, by months, aircraft departures, aircraft miles, and airborne hours for civilian passenger-cargo, civilian all-cargo, military passenger-cargo, and military all-cargo charters.

3. Amend section 25 by revising paragraph (d) of schedule T-41 to read as follows:

Schedule T-41—Charter and Special Service Revenue Aircraft Miles Flown

* * * * *

(d) Charter and special service revenue aircraft miles flown shall be separately reported as operations between the carrier's certificated points and operations not between its certificated points. Any point to which the reporting carrier may perform scheduled route service by exemption shall be considered a "certificated point" for purposes of reporting on this schedule. Differentiation for classifying mileage "between certificated points" and "not between certificated points" shall be on the basis of each flight stage operated with technical stops being disregarded. Under the heading of operations between certificated points the reported data shall reflect revenue aircraft miles involving (1) passengers exclusively, (2) cargo exclusively, (3) passengers and cargo jointly, and (4) paid positioning mileage. Under the heading of operations not between certificated points the revenue aircraft miles flown between foreign points shall first be segregated and reported on lines 10 and 25 for combination and all-cargo carriers, respectively. (Flights between foreign points are those which operate between and which serve traffic originating and terminating at points outside the United States, its territories or possessions.) The remaining reported data shall reflect revenue aircraft miles involving (1) passengers exclusively, (2) cargo exclusively, (3) passengers and cargo jointly, and (4) paid positioning mileage. In the case of charters performed for the Department of Defense by an all-cargo carrier between its certificated points, the passenger legs of trips on which the legs in the other direction involved transportation of cargo shall be shown separately as a subtotal. Also, in the case of an all-cargo carrier, cargo charter revenue aircraft miles flown which are not between points certificated to such carrier shall be broken down to reflect those within and those outside the carrier's "area of operations" as defined in § 207.6 of the Board's economic regulations. In the event special services are performed by any reporting carrier, the revenue aircraft miles in such services shall be separately identified.

4. Amend CAB Form 41 by revising Schedule T-41, in pertinent part, as attached hereto and incorporated herein by reference.[1]

(Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-6486; Filed, May 25, 1970; 8:50 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-121]

CUSTOMS RELATIONS WITH CANADA AND MEXICO

On January 20, 1970, notice of proposed rule making regarding revision of Part 5 of Title 19 of the Code of Federal Regulations was published in the FEDERAL REGISTER (35 F.R. 767). Interested persons were given 60 days in which to submit written comments, suggestions, or objections regarding the proposed revision. No objections were received.

The revision of Part 5 is a part of the general revision of the Customs Regulations which includes a rearrangement of the sequence of parts in Chapter I of Title 19 of the Code of Federal Regulations. As part of this rearrangement Part 5 is redesignated as Part 123.

The proposed revision of Part 5 and the conforming amendments to Parts 4, 10, 18, 23, and 24, are hereby adopted, subject to the following changes:

1. Part 5 of Chapter I of Title 19 of the Code of Federal Regulations is redesignated as Part 123.

2. The conforming amendments to Parts 4, 10, 18, 23, and 24 are changed to reflect the redesignation.

As part of the revision there is included a parallel reference table showing the relationship between the newly adopted sections and those which they supersede in 19 CFR Parts 5, 10, and 18.

The revision and conforming amendments are set forth below.

Effective date. This revision and the conforming amendments shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS, *Acting Commissioner of Customs.*

Approved: May 12, 1970.

EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

---

[1] Filed as part of the original document.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. Part 5 of Chapter I of Title 19 of the Code of Federal Regulations is redesignated as Part 123 and revised.

AUTHORITY: The provisions of this Part 123 issued under R.S. 251, sec. 624, 46 Stat. 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624. Additional authority is cited in the text or following the sections affected.

§ 123.0 Scope.

This part contains special regulations pertaining to customs procedures at the Canadian and Mexican borders. Included are provisions governing report of arrival, manifesting, unlading and lading, instruments of international traffic, shipments in transit through Canada or Mexico or through the United States, commercial traveler's samples transiting the United States or Canada, and baggage arriving from Canada or Mexico including baggage transiting the United States or Canada or Mexico. Aircraft arriving from or departing for Canada or Mexico are governed by the provisions of Part 6 of this chapter. The arrival of vessels of less than 5 net tons by sea and of all vessels 5 net tons or over, and the clearance of all vessels departing for Canada or Mexico are governed by the provisions of Part 4 of this chapter.

Subpart A—General Provisions

§ 123.1 Report of arrival from Canada or Mexico and permission to proceed.

(a) *Persons.* Any person arriving otherwise than in a vessel or vehicle from Canada or Mexico, who is importing or bringing in baggage or merchandise with him, shall immediately report his arrival to the customs officer at the port of entry or customhouse nearest the place at which the boundary was crossed and shall not proceed until permission to proceed is granted.

(b) *Vehicles.* The person in charge of every vehicle arriving in the United States from Canada or Mexico, whether or not the vehicle is carrying passengers, baggage, or merchandise, shall immediately report arrival to the customs officer at the port of entry or customhouse nearest the place at which the boundary was crossed and shall not proceed until permission to proceed is granted.

(c) *Vessels*—(1) *Less than 5 net tons arriving otherwise than by sea.* The master of every vessel of less than 5 net tons arriving from Canada or Mexico otherwise than by sea, if carrying baggage or other merchandise, shall immediately report arrival to the customs officer at the port of entry or customhouse nearest the point at which the vessel entered the territorial waters of the United States and shall not proceed until permission to proceed is granted.

(2) *Other vessels.* For requirements applicable to vessels of less than 5 net tons arriving by sea, and to vessels of 5 net tons or over, see §§ 4.2 and 4.3 of this chapter.

(Sec. 459, 46 Stat. 717, as amended; 19 U.S.C. 1459)

§ 123.2 Penalty for failure to report arrival or for proceeding without a permit.

(a) *Vehicles.* Whether or not a vehicle is carrying passengers, baggage, or merchandise, the penalty of $100 imposed by section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or for proceeding inland without a permit applies.

(b) *Vessels of less than 5 net tons.* The penalty imposed by section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or for proceeding inland without a permit applies only when such vessels are carrying baggage or merchandise.

(Sec. 460, 46 Stat. 717, as amended; 19 U.S.C. 1460)

§ 123.3 Inward foreign manifest required.

(a) *General requirement.* Baggage or other merchandise carried on a vehicle or on a vessel of less than 5 net tons arriving otherwise than by sea from Canada or Mexico shall be listed on a manifest as prescribed by § 123.4. Vessels which are required to make entry under § 4.3 of this chapter because they are arriving by sea or are 5 net tons or over shall have manifests on board as provided in § 4.7(a) of this chapter.

(b) *Exception where in possession of traveler.* When baggage arrives in the actual possession of a traveler, his declaration will be accepted in lieu of a manifest. Merchandise imported by a person otherwise than in a vessel or vehicle need not be covered by a manifest but shall be presented for inspection, and entry shall be made in accordance with the applicable laws and regulations.

(Sec. 459, 46 Stat. 717, as amended; 19 U.S.C. 1459)

§ 123.4 Inward foreign manifest forms to be used.

The inward foreign manifest required by § 123.3 for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico otherwise than by sea with baggage or merchandise, shall be on customs Form 7533, except as provided for shipments in transit in Subparts C, D, E, F, and G of this part, and in the following special cases:

(a) For merchandise free of duty entered on customs Form 7523, the same form may be used as a manifest in lieu of other forms. (See § 8.51a of this chapter.)

(b) For dutiable merchandise not exceeding $250 in value entered on customs Form 5119–A, the same form may be used as a manifest in lieu of other forms. (See § 8.51 of this chapter.)

(c) For a shipment not exceeding $250 in value consisting of articles of American origin entered free of duty under the provisions of § 10.1(f) of this chapter and imported in a vehicle, customs Form 3311 used in entering the goods, in duplicate, may be accepted in lieu of a manifest.

(d) For baggage arriving in baggage cars, customs Form 7533–A shall be used. (See Subpart G of this part.)

§ 123.5 Certification and filing of inward foreign manifest.

The manifest listing baggage and other merchandise, certified by the master of the vessel or the person in charge of the vehicle, shall be presented to the customs officer at the time the report of arrival is made. It shall be filed in the original only, unless additional copies are required in this part.

§ 123.6 Train sheet for arriving railroad trains.

The conductor of a railroad train arriving from Canada or Mexico shall present to the customs officer at the port of arrival individual car manifests and a train sheet, sometimes called a consist, bridge sheet, or trip sheet, listing each car and showing the car numbers and initials.

§ 123.7 Manifest used as an entry for unconditionally free merchandise value not over $250.

When a shipment not exceeding $250 in value which is unconditionally free of duty and not subject to quota or to internal revenue tax arrives on a vessel of less than 5 net tons arriving otherwise than by sea, the inward foreign manifest on customs Form 7533 may be presented in duplicate and used as an entry if:

(a) No merchandise for a different entrant is listed on the same page of the manifest,

(b) The country of exportation of the merchandise, its value, and the provision of law under which free entry is claimed are noted thereon, and

(c) Evidence of the right to make entry is furnished as required by § 8.6 of this chapter.

(Sec. 498(a), 46 Stat. 728, as amended; 19 U.S.C. 1498(a))

§ 123.8 Permit or special license to unlade or lade a vessel or vehicle.

(a) *Permission to unlade or lade.* Before any passenger or merchandise, including baggage, may be landed or discharged from any vessel of less than 5 net tons arriving from Canada or Mexico by any route, or from a vehicle, permission to unlade shall be obtained from a customs officer. Permission to unlade at night, on a Sunday or holiday, or to lade at night on a Sunday or holiday merchandise requiring customs supervision, shall be obtained from the district director of customs. Permission to unlade is not required for a vessel of less than 5 net tons arriving otherwise than by sea carrying no baggage or other merchandise. For permission to unlade or lade for vessels of 5 net tons or over, see § 4.30 of this chapter.

(b) *Application for permit or special license to unlade or lade*—(1) *Permit to unlade during regular hours.* Application for a permit to unlade any vehicle or a vessel of less than 5 net tons may be made and permission may be granted orally. The district director of customs may require that the application and permission to unlade be on customs Form 3171.

(2) *Special license to unlade or lade at night, on a Sunday or holiday.* Application for permission to unlade passengers or merchandise from, or lade any merchandise requiring customs supervision on, a vessel of less than 5 net tons or a vehicle arriving from or departing for Canada or Mexico by any route at night, on a Sunday or holiday, and requests for any reimbursable overtime services shall be made on customs Form 3171. In the discretion of the district director of customs and under such condition as he may deem advisable the application may be made orally for vessels of less than 5 net tons and vehicles not carrying persons or property for hire, but requests for reimbursable overtime services shall be on customs Form 3171. The district director may authorize customs inspectors to approve the request for overtime services and to grant oral permission to unlade or lade.

(c) *Cash deposit or bond for overtime services.* A request for reimbursable overtime services shall not be approved unless the required cash deposit or bond on customs Form 7567, 7569, or 7597 shall have been received. However, when a carrier has on file a bond on customs Form 3587, no further bond shall be required if the merchandise, including baggage, is covered by an entry for transportation in bond.

(d) *Term permit or special license.* A permit or special license required by this section may be issued on a term basis in the manner, and under the conditions applicable, described in § 4.30 (f) or (g) of this chapter.

(Secs. 448, 450, 451, 452, 453, 454, 459, 46 Stat. 714, 715, as amended, 716, 717, as amended; 19 U.S.C. 1448, 1450, 1451, 1452, 1453, 1454, 1459)

Subpart B—International Traffic

§ 123.11 Supplies on international trains.

(a) *Articles acquired abroad.* Articles subject to internal revenue tax and other merchandise acquired abroad constituting supplies arriving on international trains crossing and recrossing the boundary line, for which the train crew elects not to file an inventory as provided for in paragraph (b) of this section, shall be subject to duty and tax unless locked or sealed in a separate compartment or locker upon arrival, and the lock or seal remains unbroken until the train departs from the United States at the final port of exit.

(b) *Inventory procedure.* Supplies acquired abroad for which internal revenue stamps are not required may be used in the United States under the following procedure:

(1) *Port of arrival.* An inventory executed in duplicate consisting of an itemized list showing the kind and quantity of each class of supplies on hand in the car with space for a parallel column in which to show at the port of exit the quantity used, shall be certified by the person in charge of the car and furnished to the customs officer upon arrival. The customs officer shall certify the correctness of both copies of the inventory, return the original to the person in charge of the car, and retain the duplicate, or forward it to the port of exit if this differs from the port of arrival.

(2) *Port of exit.* Upon arrival at the port of exit, the inventory returned at the port of arrival to the person in charge of the car shall be submitted to the customs officer after completion by showing the quantity of each item used in the United States, and being certified by the person in charge of the car. Entries must be filed and applicable duties and taxes paid at the port of exit on the quantity of supplies consumed in the United States.

(c) *Supplies purchased in the United States.* Supplies purchased in the United States shall be passed free of duty without inventory or entry.

(Sec. 465, 46 Stat. 718; 19 U.S.C. 1465)

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) *Use on a continuous route.* Foreign locomotives or other foreign railroad equipment in use on a continuous route crossing the boundary into the United States shall be admitted without formal entry or the payment of duty to proceed to and return from the end of the run, in accordance with the following:

(1) *On inward trip.* Unless formally entered and cleared through customs into the United States, a foreign locomotive shall be used on the inward trip only in connection with taking the inbound train to the last place in a continuous haul, including the switching of cars which it has hauled into the United States. Other foreign railroad equipment may proceed to the place of complete unloading for any merchandise imported therein.

(2) *On outward trip.* Foreign locomotives may be used on the outward trip only in connection with through trains crossing the boundary, including switching to make up such trains. Other foreign railroad equipment may be used in such trains or for such local traffic as is reasonably incidental to its economical and prompt return to the country from which it entered the United States.

(b) *Admission of empty equipment.* Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if the passengers or goods to be loaded are to be transported directly to or through the country from which the equipment entered the United States.

(c) *Use in violation of regulations.* Any foreign locomotive and other foreign railroad equipment used in violation of this section shall be subject to forfeiture under the provisions of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

§ 123.13 Foreign repairs to domestic locomotives and other domestic railroad equipment.

(a) *Domestic locomotives and other railroad equipment defined.* For the purpose of this section, locomotives or other railroad equipment manufactured in, or regularly imported into the United States, shall be considered "domestic" if not subsequently formally entered and cleared through foreign customs into another country, nor used in foreign local traffic otherwise than as an incident of the return of the equipment to the United States.

(b) *Report of arrival and payment of duty on repairs.* A report of the first arrival in the United States of a domestic locomotive or other railroad equipment after repairs have been made in a foreign country other than those required to restore it to the condition in which it last left the United States ("running repairs"), shall be made promptly, in writing, to the customs officer at the port of reentry. The report shall state the time and place of arrival, and the nature and value of the repairs. Each such locomotive or other piece of railroad equipment when withdrawn from international traffic shall be subject to duty upon the value of the repairs (other than "running repairs") made abroad at the rate at which the repaired article would be dutiable if imported.

(Sec. 14, 67 Stat. 516, 77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnte 11), 1322)

§ 123.14 Entry of foreign-based trucks, busses, and taxicabs in international traffic.

(a) *Admission without entry or payment of duty.* Trucks, busses, and taxicabs, however owned, which have their principal base of operations in a foreign country and which are engaged in international traffic, arriving with merchandise or passengers destined to points in the United States, or arriving empty or loaded for the purpose of taking out merchandise or passengers, may be admitted without formal entry or the payment of duty. Such vehicles shall not engage in local traffic except as provided in paragraph (c) of this section.

(b) *Deposit or registration by vehicle not on regular trip.* In any case in which a foreign-based truck, bus, or taxicab admitted under this section is not in use on a regularly scheduled trip, the district director may require that the registration card for the vehicle be deposited pending the return of the vehicle for departure to the country from which it arrived, or the district director may take other appropriate measures to assure the proper use and departure of the vehicle.

(c) *Use in local traffic.* Foreign-based trucks, busses, and taxicabs admitted under this section shall not engage in local traffic in the United States unless the vehicle comes within one of the following exceptions:

(1) The vehicle may carry merchandise or passengers between points in the United States while in use on a regularly scheduled trip if such carriage is directly incidental to the international schedule.

(2) A foreign-based truck trailer may carry merchandise between points in the United States on the return trip to the country from which it entered the United States under the same conditions as are prescribed for "other equipment" in § 123.12(a)(2).

(d) *Penalty for use without proper entry.* Any such vehicle used in violation of this section shall be subject to forfeiture under the provisions of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 123.15 Vehicles of foreign origin used between communities of the United States and Canada or Mexico.

Vehicles of foreign origin which are used for commercial purposes between adjoining or neighboring communities of the United States and Canada or Mexico, such as delivery, peddlers', and service trucks, or wagons, are subject to duty on first arrival, but may thereafter be admitted without formal entry or the payment of duty so long as they are continuously employed in such service.

(Sec. 14, 67 Stat. 516, 19 U.S.C. 1322)

§ 123.16 Entry of returning trucks, busses, or taxicabs in international traffic.

(a) *Admission without entry or payment of duty.* Trucks, busses, and taxicabs, whether of foreign or domestic origin, taking out merchandise or passengers for hire or leaving empty for the purpose of bringing back merchandise or passengers for hire shall on their return to the United States be admitted without formal entry or the payment of duty upon their identity being established by State registration cards.

(b) *Use in local traffic.* Trucks, busses, and taxicabs in use on regularly scheduled trips in international traffic, which may include the incidental carrying of merchandise or passengers for hire between points in a foreign country, or between points in this country, shall be admitted under this section. However, such vehicles taken abroad for commercial use between points in a foreign country, otherwise than in the course of a regularly scheduled trip in international traffic shall be considered to have been exported and must be regularly entered on return.

(Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 123.17 Foreign repairs to domestic trucks, busses, taxicabs and their equipment.

(a) *Domestic trucks, busses, and taxicabs and their equipment defined.* For the purpose of this section, trucks, busses, and taxicabs and their equipment manufactured in, or regularly imported into the United States, shall be considered "domestic" if not subsequently formally entered and cleared through foreign customs into another country, nor used in foreign local traffic otherwise than as an incident of their return to the United States.

(b) *Report of arrival and payment of duty on repairs.* A report of the first arrival in the United States of domestic trucks, busses, and taxicabs and their equipment after repairs have been made in a foreign country, other than those required to restore such vehicle or equipment to the condition in which it last left the United States ("running repairs"), shall be made by the driver or person in charge of the vehicle promptly, in writing, to the customs officer at the port of reentry. The report shall state the time and place of arrival and the nature and value of the repairs. Each such vehicle or its equipment when withdrawn from international traffic shall be subject to duty upon the value of the repairs (other than "running repairs") made abroad at the rate at which the repaired article would be dutiable if imported.

(Sec. 14, 67 Stat. 516, 77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnote 11), 1322)

§ 123.18 Equipment and materials for constructing bridges or tunnels between the United States and Canada or Mexico.

(a) *Admission of equipment and materials.* Equipment for use in construction of bridges or tunnels between the United States and Canada or Mexico shall be admitted without entry or the payment of duty. Materials for such use shall be admitted without entry or payment of duty only for installation in the bridge or tunnel proper, and not in the approaches on land at the United States end of such bridge or tunnel.

(b) *Customs supervision.* All articles admitted under paragraph (a) of this section shall be subject to customs supervision at the expense of the builder until installed, entered, or exported.

(Sec. 14, 67 Stat. 516, 19 U.S.C. 1322)

Subpart C—Shipments in Transit Through Canada or Mexico

§ 123.21 Merchandise in transit.

(a) *Status.* Merchandise may be transported from one port to another in the United States through Canada or Mexico in accordance with the regulations in this subpart or Subparts E for trucks transiting Canada, F for commercial traveler's samples, or G for baggage. Merchandise so transported is not subject to treatment as an importation when returned to the United States, and no inward foreign manifest is required for merchandise returned under an in-transit manifest. In-transit merchandise returned to the United States shall be treated as an importation as are shipments made from Canada or Mexico if:

(1) An in-transit manifest is not furnished for the merchandise upon its return to the United States;

(2) The merchandise has been transshipped in foreign territory without customs supervision when the transshipment required the breaking of customs seals; or

(3) The customs inspector finds any of the customs seals applied to the conveyance or compartment unlocked or missing.

(b) *Use of certain vessels prohibited.* Merchandise shall not be transported from port to port in the United States through Canada or Mexico by vessel in violation of the provisions of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), or section 588, Tariff Act of 1930, as amended (19 U.S.C. 1588). (See § 4.80 of this chapter.)

(c) *Regulations applicable.* The provisions of this subpart shall govern all merchandise transported from one port to another in the United States through Canada or Mexico under in-transit procedures, except as otherwise provided in this subpart or in Subpart E for truck shipments transiting Canada, Subpart F for commercial traveler's samples transiting Canada, and Subpart G for baggage transiting Canada or Mexico.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.22 In-transit manifest.

(a) *Manifest required.* A manifest in duplicate covering the in-transit merchandise which is to proceed under the provisions of this subpart shall be presented by the carrier to the customs officer at each port of lading of a vessel, or at the port of exit of a vehicle. Where the merchandise is transported under customs red in-bond seals and is accompanied by a transportation in-bond manifest, a separate in-transit manifest is not required.

(b) *Additional copies.* In the following cases additional copies of the manifest shall be presented:

(1) When the merchandise is to be transshipped in foreign territory under customs supervision, a copy of the manifest for each place of transshipment shall be presented.

(2) When a customs officer requests an extra copy of the manifest as a record of the transaction.

(c) *Manifest forms to be used.* The in-transit manifest forms to be used are:

(1) For trucks, railroad cars or other overland carriers transiting Mexico a manifest on customs Form 7533-B shall be presented.

(2) For vessels of less than 5 net tons departing and arriving otherwise than by sea, a manifest on customs Form 7533-B shall be presented. All other vessels are subject to the manifesting requirements contained in § 4.82 of this chapter.

(3) For rail cars transiting Canada, a manifest on customs Form 7533-C (Canada A4-1/2) shall be presented. For trains which will remain intact while transiting Canadian territory, a consolidated train manifest containing all the information included in the individual car manifests and the train sheet required by § 123.23 may be used in lieu of individual car manifests. For a number of cars which will transit Canada as a group, a consolidated manifest may be used, but a train sheet shall also be presented.

(4) In all other cases where no in-transit manifest form is specified in this subpart, or in Subpart E relating to truck shipments on the Canadian border, Subpart F relating to commercial traveler's samples, and Subpart G relating to baggage, customs Form 7533-B shall be presented.

(d) *Contents of in-transit manifest.* The information contained in the manifest shall correspond to the information contained in the waybill accompanying the shipment, except that:

(1) The conveyance shall be identified in a suitable manner in the place provided for such identification.

(2) The description of ladings made up of several shipments which are to go forward in a conveyance or compartment sealed with customs seals shall be "miscellaneous shipments."

(3) When an in-transit rail shipment will enter and reenter Canada in a continuing movement en route to a final destination in the United States, only the final United States port of reentry shall be shown on the manifest.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.23 Train sheet for in-transit rail shipments.

Before an in-transit train proceeding under the provisions of this subpart departs from the United States, the carrier shall furnish to the customs officer at the port of exit a train sheet, sometimes called a consist, bridge sheet or trip sheet, listing each car of the train and specifically identifying the in-transit cars, unless a consolidated manifest containing this information has been presented for a train which will remain intact.

(Sec 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.24 Sealing of conveyances or compartments.

(a) *Sealing required.* Merchandise in transit proceeding under the provisions of this subpart shall be transported in sealed conveyances or compartments, except that:

(1) Less than load or compartment lots may be forwarded in unsealed conveyances or compartments, without cording and sealing;

(2) The Commissioner of Customs may authorize treatment of full loads or lots in the same manner as less than load or compartment lots;

(3) Live animals identifiable by specific description in the manifest may be transported in the care of an attendant or customs inspector at the expense of the parties in interest, in unsealed conveyances or compartments.

(b) *Seals to be affixed.* The carrier shall affix blue in-transit seals to all openings of conveyances and compartments containing in-transit merchandise except that:

(1) Sealable carload shipments on the Canadian border shall be sealed with yellow in-transit seals.

(2) Conveyances or compartments sealed with U.S. Customs red in-bound seals may go forward without additional seals.

(c) *Carrier relieved of responsibility.* The district director of customs may relieve the carrier of the responsibility of affixing in-transit seals by notification in writing that customs inspectors will assume it.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1551)

§ 123.25 Certification and disposition of manifests.

(a) *Certification.* Conveyances proceeding under the provisions of this subpart shall not proceed until the customs inspector has certified the in-transit manifest or verified its certification by the carrier. The district director may require the carrier to execute the certificate as an alternative to certification by the customs officer. When the carrier is to execute the certificate, and the merchandise will be forwarded without being under customs seals, the agent of the carrier shall carefully examine the packages covered by the manifests to satisfy himself that the merchandise agrees with the manifest as to quantity and description.

(b) *Disposition of manifest.* The original manifest, after certification, shall accompany the merchandise. Additional copies required when the merchandise is to be transshipped in Canada or Mexico under customs supervision shall be given to the person in charge of the conveyance for delivery to the customs officers who will supervise transshipment.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.26 Transshipment of merchandise moving through Canada or Mexico.

(a) *General.* Merchandise in transit proceeding under the provisions of this subpart may be transshipped from one conveyance to another in foreign territory. When transshipment requires the breaking of customs seals, the breaking of the seals, transshipment and sealing of the conveyance or compartment to which the merchandise is transshipped shall be under the supervision of a customs officer. He shall note his action on both the additional copy of the manifest presented to him, in accordance with § 123.25(b), and on the original copy, which shall be returned to the person in charge of the conveyance to accompany the merchandise. Merchandise transshipped in foreign territory without customs supervision when customs seals were broken shall be treated upon return to the United States as imported merchandise.

(b) *Storage awaiting transshipment.* Merchandise moving under in-transit manifests and customs seals which is to be stored in foreign territory awaiting transshipment shall be checked into a storehouse by the customs officer at the place of transshipment. It shall remain under customs locks and seals until transshipment is completed under customs supervision.

(c) *Manifests where contents broken up.* When transshipment involves the breaking up of the in-transit contents of a conveyance or compartment, in such a manner as to require separate manifests for articles previously covered by a single manifest, the customs officer supervising the transshipment shall take up the carrier's copy of the manifest and require the carrier to prepare a new manifest, in duplicate, for each conveyance to which the merchandise is transshipped. If there is to be further transshipment, an additional copy of each new manifest shall be presented by the carrier, and shall be returned to the person in charge of the carrier for delivery to the customs officer at the point of further transshipment in accordance with § 123.25(b). After the transshipment and sealing of the conveyances and compartments has been supervised and the new manifests certified the originals of the new manifests shall be returned to the carrier to accompany the merchandise to the point of reentry into the United States.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.27 Feeding and watering animals in Canada.

If animals in sealed conveyances or compartments cannot be fed and watered in Canada without breaking customs seals, the seals shall be broken and the animals fed and watered under the supervision of a United States or Canadian customs officer. The supervising officer shall reseal the conveyance or compartment, and make notation as to the resealing on the manifest.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.28 Merchandise remaining in or exported to Canada or Mexico.

(a) *In transit status abandoned.* When the in-transit status of merchandise transiting Canada or Mexico is abandoned and the merchandise is entered for consumption or other disposition in Canada or Mexico, the carrier shall send the in-transit seals and manifests to the port where the manifests were first filed with U.S. Customs, or in the case of trucks under Subpart E, the port of exit, with an endorsement by the carrier's agent on each manifest showing that the merchandise was so entered. The carriers shall comply with the export control regulations, 15 CFR Part 370.

(b) *In-transit merchandise exported to Canada or Mexico.* Merchandise to be exported to Canada or Mexico after moving in-transit through a contiguous country shall be treated as exported when it has passed through the last port of exit from the United States. This paragraph shall control whether or not the merchandise to be exported is domestic or foreign and whether or not it is exported with benefit of drawback. The manifest, shipper's export declaration, and the notice of exportation, if any, shall be filed at the last port of exit from the United States.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.29 Procedure on arrival at port of reentry.

(a) *Presentation of documents.* At the first port in the United States after transportation through Canada or Mexico under the provisions of this subpart, the carrier shall present to customs the in-transit manifest or manifests for each loaded conveyance. For mixed ladings, that is, ladings made up of several shipments, the waybills shall be available at the port of return or discharge for use by customs officers. For a railroad train for which a consolidated manifest was not used the conductor shall also present a train sheet showing the car numbers and initials.

(b) *Vessels and rail shipments continuing in-transit movement*—(1) *Vessels.* In the case of a vessel carrying in-transit merchandise, the master's copies of the in-transit or in-bond manifest covering the merchandise given final customs release at that port shall be retained by customs at that port and the manifests covering merchandise to be discharged at subsequent ports of arrival shall be returned to the master of the vessel for presentation to customs at the next port.

(2) *Rail shipments.* An in-transit rail shipment arriving at an intermediate port of reentry or exit intended for further in-transit movement through Canada may be permitted to go forward under the accompanying in-transit manifest after verification by customs that the manifest satisfactorily identifies the shipment.

(c) *Checking and breaking of seals*—(1) *Checking seals.* The customs officer at the port of arrival shall check customs seals applied to the conveyance or compartment for unlocked or missing seals. Where the seals are unlocked or missing, the merchandise shall be treated as having been imported from the transited country.

(2) *Breaking seals.* In-bond seals shall be broken only by a customs officer or by a person acting under the direction of a customs officer. In-transit seals may be broken by any carrier's employee, or by a consignee at any time or place after the merchandise under such seals has been released by customs.

(d) *Proper manifest.* In-transit merchandise shall not be released until proper in-transit manifests are received except that it may be treated as imported merchandise.

(e) *Substitution of merchandise.* Any instance of substitution of merchandise shall be reported to the Commissioner of Customs, and the merchandise shall be detained.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

Subpart D—Shipments in Transit Through the United States

§ 123.31 Merchandise in transit.

(a) *From one contiguous country to another.* Merchandise may be transported in transit across the United States between Canada and Mexico under the procedures set forth in Part 18 of this chapter for merchandise entered for transportation and exportation.

(b) *From one point in a contiguous country to another through the United States.* Merchandise may be transported from point to point in Canada or in Mexico through the United States in bond in accordance with the procedures set forth in §§ 18.20 to 18.24 of this chapter except where those procedures are modified by this subpart or Subparts E for trucks transiting the United States, F for commercial traveler's samples, or G for baggage.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.32 Manifests.

(a) *Form and number of copies required.* Three copies of the transportation entry and manifest on customs Form 7512 shall be presented upon arrival of merchandise which is to proceed under the provisions of this subpart.

(b) *Consolidated train manifest.* When the route is such that a train will remain intact while proceeding through the United States, a consolidated train manifest containing the same information as is required on individual manifests may be used.

(c) *Disposition of manifest form.* One copy of the manifest shall be delivered to the person in charge of the carrier to accompany the conveyance and be delivered to the customs officer at the final port of exit.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.33 Sealable rail shipments at Canadian border.

No seals other than the green in-transit seals placed on cars prior to departure from Canada shall be required for sealable carload shipments arriving at frontier ports for in-bond movement through the United States and return to Canada if:

(a) The sealing has been verified by Canadian customs officers, and

(b) The seals are found to be properly attached and locked.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.34 Certain vehicle and vessel shipments.

In the following circumstances, the copy of customs Form 7512 to be retained at the port of first arrival may be adapted for use as a combined inward foreign manifest and in-bond transportation or direct exportation entry:

(a) When all the merchandise arriving on one vehicle (except on trucks on the Canadian border) is to move in bond in the importing vehicle in a continuing movement through the United States; or

(b) When all the merchandise arriving on one vessel or on one vehicle (except on trucks on the Canadian border) is entered immediately upon arrival either under a single immediate transportation entry or a single transportation and exportation or direct exportation entry.

When customs Form 7512 is to be used in this manner, the foreign port of lading and the name of the shipper shall be shown in every case, and a certificate in the following form shall be legibly stamped on the manifest or on a separate paper securely fastened thereto and executed by the master of the vessel or the person in charge of the vehicle:

This entry correctly covers all the merchandise on the vessel or vehicle, of which I am the master or person in charge, when it first arrived in the United States. If an error in the quantity, kind of article, or other details is discovered, I will immediately report the correct information to the district director of customs.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

Subpart E—United States and Canada In-Transit Truck Procedures

§ 123.41 Truck shipments transiting Canada.

(a) *Manifest required.* Sealable truckload and less than truckload shipments transiting Canada from point to point in the United States shall be manifested on customs Form 7512-B, Canada 8-1/2. Trucks transiting Canada will be allowed to proceed without presentation of this in-transit manifest at the U.S. port of departure.

(b) *Procedure at Canadian ports of arrival and exit.* Truck shipments transiting Canada shall comply with Canadian customs regulations. These procedures are generally the following:

(1) *Canadian port of arrival.* The driver will present a manifest on customs Form 7512-B, Canada 8-1/2, to the Canadian customs officer. The truck will be sealed unless sealing is waived by Canadian customs.

(2) *Canadian port of exit.* The driver will present the manifest to the customs officer at the Canadian port of exit for certification. The customs officer will verify that the seals are intact if the vehicle has been sealed, or if sealing has been waived that there are no irregularities. After verification and certification of the in-transit manifest by Canadian customs the truck will be allowed to proceed to the United States.

(c) *Procedure at the U.S. port of reentry.* The driver of a truck reentering the United States after transiting Canada shall present a copy of the combined inward foreign and in-transit manifest on customs Form 7512-B, Canada 8-1/2, to the customs officer. When this copy of the manifest does not bear the certification of a customs officer at the Canadian port of exit, the driver shall be allowed to return to that port to obtain certification. The carrier will be permitted to break any seals affixed by Canadian customs upon presentation of a certified manifest. If sealing was waived, the U.S. customs officer shall satisfy himself that the truck contains only that merchandise which moved on the truck from the United States through Canada.

(d) *Proof of exportation from Canada.* Upon request of the carrier at the port of reentry, a certified copy of the in-transit manifest presented at the time of reentry shall be furnished as proof of exportation of the shipment from Canada.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.42 Truck shipments transiting the United States.

(a) *Procedure at U.S. port of arrival*—(1) *Combined inward foreign and in-transit manifest.* Trucks with merchandise transiting the United States from point to point in Canada shall present a combined inward foreign and in-transit manifest on customs Form 7512-B, Canada 8-1/2, to the customs officer at the port of arrival. The customs officer shall note on the form over his initials the seal numbers or the waiver of sealing, retain the original and return three copies to the person in charge of the carrier to accompany the shipment for presentation and cretification at the port of exit.

(2) *Sealing or waiver of sealing.* Trucks transiting the United States shall be sealed with red in-bond seals at the U.S. port of arrival unless sealing is waived in accordance with § 18.4 of this chapter. If a truck cannot be sealed effectively and sealing is deemed necessary to protect the revenue or to prevent violation of the customs laws or regulations, the truck shall not be permitted to transit the United States under bond.

(b) *Procedure at U.S. port of exit.* The driver shall present the returned copies of the manifest to the customs officer at the U.S. port of exit. The customs officer shall check the numbers and condition of the seals and record and certify his findings on all copies of the manifest, returning two copies to the person in charge of the carrier. The check shall be made as follows:

(1) If the seals are intact, they shall be left unbroken unless there is indication that the contents should be verified.

(2) If the seals have been broken, or there is other indication that the contents should be verified, all merchandise shall be required to be unladen and a detailed inventory made against the waybills.

(3) If sealing has been waived, the customs officer shall verify the goods against the accompanying waybills in sufficient detail to detect any irregularity.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

Subpart F—Commercial Traveler's Samples in Transit Through the United States or Canada

§ 123.51 Commercial samples transported by automobile through Canada between ports in the United States.

(a) *General provisions.* A commercial traveler arriving at a U.S. frontier port desiring to transport his commercial samples by automobile through Canada to another place in the United States without displaying the samples in Canada may request a U.S. customs officer at the port of departure to cord and seal the outer containers of the samples if they can be effectively corded and sealed.

(b) *List of samples.* The traveler shall furnish the U.S. customs officer at the port of exit a list, in duplicate, of all the articles in the containers, with their approximate values, in substantially the following form:

SAMPLES CARRIED IN TRANSIT THROUGH CANADA IN PRIVATE VEHICLE

________________ ________
(U.S. port of exit printed here) (Date)

I have checked the quantity and values of the below-listed articles carried by ________
____
(Name and address of traveler)
and owned by ________________
____
(Name and address of firm or company)
These articles are contained in ________
(Number)
packages which have been corded and sealed for in-transit movement through Canada to
________________ in ________________
(U.S. port of reentry) (Year, make and license number of vehicle)

____
(U.S. Customs Inspector)

Description of merchandise	*Value*
________________	________
________________	________
________________	________

When the traveler arrives at customs with lists already prepared, the form may be inscribed "as per list attached."

(c) *Checking, cording, and sealing by U.S. Customs officers.* The customs officer shall check the list with the articles and satisfy himself that the values shown are approximately correct. The customs officer will cord and seal the containers with yellow in-transit seals. The traveler may be required to assist the customs officer in the cording and sealing. The original of the list, signed by the customs officer over his title and showing that the articles on the list have been checked by the officer against those in the containers shall be returned to the traveler for submission by him to Canadian customs upon his arrival in Canada.

(d) *In-transit manifest.* The traveler shall execute and file customs Form 7533-B, in the original only, at the U.S. port of departure, as an in-transit manifest covering the movement of the samples to the U.S. port through which the traveler will return. Descriptions, quantities, and values may be shown thereon by noting "Commercial Samples" and the number of corded and sealed containers. The manifest shall be returned to the traveler to accompany the samples after being signed and dated by the customs officer.

(e) *Presentation of in-transit manifest at U.S. port of reentry.* Upon return to the United States, the traveler shall present customs Form 7533-B and the corded and sealed samples to the U.S. customs officer at the port where the samples are returned to this country. The customs officer shall verify that there has been no irregularity.

(Sec. 554, 46 Stat. 743; 19 U.S.C. 1554)

§ 123.52 Commercial samples transported by automobile through the United States between ports in Canada.

(a) *General provisions.* A commercial traveler arriving from Canada may be permitted to transport effectively corded and sealed samples in his automobile without further sealing in the United States, upon compliance with this section and subject to the conditions of § 18.20(b), since customs bonded carriers as described in § 18.1 of this chapter are not considered to be reasonably available. Samples having a total value of not more than $200 may be carried by a nonresident commercial traveler through the United States without cording and sealing and without an in-transit manifest in accordance with § 10.18(d) of this chapter.

(b) *Presentation of sample list at Canadian port of exit.* A commercial traveler arriving from Canada desiring to transport without display in the United States commercial samples in his automobile through the United States to another port in Canada, may present his samples to a Canadian customs officer at the Canadian port of exit. The traveler will be required to furnish the Canadian customs officer a list in duplicate of all articles presented showing their approximate values. The list shall bear the traveler's name and address, and the name and address of the firm represented.

(c) *Checking, cording, and sealing by Canadian customs officers.* The Canadian customs officer will examine the articles, identify them with the list, and satisfy himself that the values shown are approximately correct. The Canadian customs officer will cord and seal the outer containers with uncolored in-transit seals and authenticate the list of samples with his signature and title. Cording and sealing may be waived with the concurrence of United States and Canadian customs officers.

(d) *Treatment at U.S. port of arrival.* The list of samples properly authenticated shall be submitted upon arrival to the U.S. customs officer at the port of arrival. After ascertaining that the samples are effectively corded and sealed, or that sealing has been waived, notation of the number of corded and sealed containers, or of the waiver shall be made on the list of samples and the list shall be retained by the customs officer as a record of the shipment.

(e) *In-transit manifest.* Movement of the samples from the port of arrival to the port of exit from the United States under this procedure shall be under an in-transit manifest on customs Form 7520 executed and filed in triplicate by the traveler at the port of arrival in the United States. Descriptions, quantities, and values may be shown thereon by noting "Commercial Samples," the number of corded and sealed containers, and the approximate total value of the samples. When cording and sealing has been waived with the concurrence of a Canadian customs officer, samples must be identified on the manifest by suitable itemized descriptions and approximate values, or by attaching to the manifest a copy of the list of samples which has been initialed by the customs officer.

(f) *Presentation of samples and manifest at U.S. port of exit.* The manifest on customs Form 7520 shall be presented to the customs officer at the U.S. port of exit, together with the samples covered. If the seals are broken or cording and sealing has been waived, the customs officer shall verify that there are no irregularities.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

Subpart G—Baggage

§ 123.61 Baggage arriving in baggage car.

An inward foreign manifest on customs Form 7533-A shall be used for all baggage arriving in baggage cars.

§ 123.62 Baggage in possession of traveler.

For baggage arriving in the actual possession of a traveler, his declaration shall be accepted in lieu of an inward foreign manifest. (See § 5.3.)

§ 123.63 Examination of baggage from Canada or Mexico.

(a) *Opening vehicle or compartment to examine baggage.* Customs officers shall not unlock a vehicle or compartment thereof for the purpose of examining baggage unless the owner or operator refuses to unlock such vehicle or compartment.

(b) *Inspection of baggage.* Customs officers shall not open baggage for the purpose of making the inspection required by section 461, Tariff Act of 1930 (19 U.S.C. 1461), but shall detain such baggage until its owner or his agent opens or refuses to open it. If the owner or his agent refuses to open the baggage, it shall be opened and examined in accordance with the provisions of section 462, Tariff Act of 1930 (19 U.S.C. 1462), unless a request is received from the owner or his agent to make other proper disposition thereof.

(Sec. 461, 462, 46 Stat. 717, 718; 19 U.S.C. 1461, 1462)

§ 123.64 Baggage in transit through the United States between ports in Canada or in Mexico.

(a) *Procedure.* Baggage in transit from point to point in Canada or Mexico through the United States may be transported in bond through the United States in accordance with the procedures set forth in §§ 18.13, 18.14, and 18.20–18.24 of this chapter except where those procedures are modified by this section.

(b) *In-transit manifest.* Three copies of the manifest on customs Form 7520 shall be required. One copy shall be delivered to the person in charge of the carrier to accompany the baggage and shall be delivered by the carrier to the customs officer at the port of departure from the United States.

(c) *Consolidated train manifest.* When the route is such that a train carrying baggage in bond will remain intact while proceeding through the United States, a consolidated train manifest containing the same information as is required on individual manifests may be used in lieu of individual manifests on customs Form 7520.

(d) *Baggage cards*—(1) *Baggage arriving from Mexico.* For baggage arriving at a port on the Mexican border for in-transit movement through the United States in bond and return to Mexico, the in-transit baggage card described in § 18.14 of this chapter shall be used.

(2) *Baggage arriving from Canada.* For baggage arriving at a port on the Canadian border for in-transit movement through the United States in bond and return to Canada, the joint United States-Canada in-transit baggage card, customs Form 7524, Canada A-21, shall be used. The baggage card will be filled out and securely attached to the baggage and the attachment verified by a Canadian customs officer before the baggage leaves Canada. If the joint in-transit baggage card is found to be improperly prepared or attached upon arrival of the baggage in the United States for movement in bond, the carrier may be required to furnish the baggage card described in § 18.14 of this chapter for attachment to the baggage before being allowed to proceed. At the port of exit from the United States the joint in-transit baggage card shall be allowed to remain on the baggage.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

§ 123.65 Domestic baggage transiting Canada or Mexico between ports in the United States.

(a) *General provision.* Upon request of the carrier, checked baggage of domestic origin may be transported from one port in the United States to another through Canada or through Mexico in accord with the procedure set forth in this section. The provisions of this section shall not apply to domestic hand baggage crossing Canada or Mexico which, upon reentry into the United States, shall be examined in the same manner as baggage of foreign origin.

(b) *Special in-transit tag manifest.* The carrier shall complete and attach to each piece of baggage by wire or cord under customs supervision a special in-transit tag manifest furnished by the carrier as follows:

(1) *Baggage transiting Mexico.* For baggage of domestic origin to be transported through Mexico between ports of the United States, the special in-transit tag manifest attached to each piece of baggage shall be on white cardboard not less than $2\frac{1}{2} \times 4\frac{1}{2}$ inches in size printed in substantially the following form:

UNITED STATES CUSTOMS

IN-TRANSIT BAGGAGE MANIFEST

Carrier's Baggageman: Destroy this tag if owner has access to baggage before its return to United States.

Check No. ______

This baggage is in transit from ______________________ through foreign
(Port of exit)
territory to ______________________ in the
(Port of reentry)
United States.

This baggage was laden for transportation as above stated.

Date ______________

____
(U.S. Customs Officer)

(2) *Baggage transiting Canada.* For baggage of domestic origin to be transported through Canada between ports in the United States, the joint United States-Canada in-transit baggage card, customs Form 7524, Canada A-21, shall be used as the special in-transit tag manifest attached to each piece of baggage.

(c) *Removal of special in-transit tag manifest.* The special in-transit tag manifest shall be removed only by the customs officer at the final port of reentry into the United States. If the officer finds the special in-transit tag manifest missing or not intact, or for any other reason believes that the baggage has been tampered with while outside the United States, he shall detain it for examination. Otherwise, baggage transported under the procedure in this section may be passed without examination.

(d) *Procedure in lieu of special in-transit tag manifest.* In lieu of attaching the special in-transit tag manifest to each piece of baggage as set forth in paragraph (b) of this section, baggage of domestic origin may be forwarded in a car or compartment sealed with in-transit seals and manifested as in the case of other merchandise in transit through Canada or Mexico, as provided in Subpart C of this part.

Subpart H—Miscellaneous Provisions

§ 123.71 Merchandise found in building on the boundary.

When any merchandise on which the duty has not been paid or which was imported contrary to law is found in any building upon or within 10 feet of the boundary line between the United States and Canada or Mexico, such merchandise shall be seized and a report of the facts shall be made to the Commissioner. With his approval the building or that portion thereof which is within the United States shall be taken down or removed. The provisions of § 23.11 of this chapter shall be applicable to the search of any such building.

(Sec. 595, 46 Stat. 752; 19 U.S.C. 1595)

§ 123.72 Treatment of stolen vehicles returned from Mexico.

District directors shall admit without entry and payment of duty allegedly stolen or embezzled vehicles, trailers, airplanes, or component parts of any of them, under the provisions of Executive Order 7965, dated August 29, 1938 (T.D. 49851), if accompanied by a letter from the U.S. Embassy in Mexico City containing:

(a) A statement that the Embassy is satisfied from information furnished it that the property is stolen property being returned to the United States under the provisions of the convention between the United States and Mexico concluded October 6, 1936, and

(b) An adequate description of the property for identification purposes.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.30 [Amended]

2. In § 4.30, paragraph (a) is amended by substituting "§ 123.8" for "§ 5.2."

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

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

3. In § 10.41, paragraph (a) is amended, and paragraphs (b), (e), and (g) are deleted as follows:

§ 10.41 Instruments; exceptions.

(a) Locomotives and other railroad equipment, trucks, busses, taxicabs, and other vehicles used in international traffic shall be subject to the treatment provided for in Part 123 of this chapter.

(b) [Deleted]

* * * * *

(e) [Deleted]

* * * * *

(g) [Deleted]

(Sec. 14, 67 Stat. 516; 19 U.S.C. 1322)

§ 10.42 [Amended]

4. Section 10.42 is amended by deleting therefrom paragraphs (e), (f), and (g).

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

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.1 [Amended]

5. In § 18.1, paragraph (e) is amended by substituting "Part 123" for "§ 5.11" in the parenthetical matter at the end of the paragraph.

§ 18.2 [Amended]

6. In § 18.2, paragraph (b) is amended by substituting "Subpart D of Part 123" for "§ 5.11" in the last sentence.

§ 18.4 [Amended]

7. In § 18.4, paragraph (a) is amended by substituting "§ 123.33" for "§ 5.11(b)" in the parenthetical matter in the first sentence.

8. In § 18.6, paragraph (e) is amended by substituting "Subpart D of Part 123 of this chapter, and § 18.11, or § 18.20" for "§ 5.11 of this chapter, and §§ 18.11, 18.20, or § 18.29." As amended, paragraph (e) reads as follows:

§ 18.6 Short shipments; shortages; entry and allowance.

* * * * *

(e) In the case of shipments arriving in the United States by rail or seatrain which are forwarded under customs in-bond seals under the provisions of Subpart D of Part 123 of this chapter, and § 18.11, or § 18.20, a notation shall be made by the carrier or shipper on the in-bond manifest, customs Form 7512, to show whether the shipment was transferred to the car designated in the manifest or whether it was laden in the car in the foreign country, which shall be named.

§ 18.13 [Amended]

9. Section 18.13 is amended by deleting therefrom paragraph (d).

§ 18.14 [Amended]

10. Section 18.14 is amended by substituting "§ 123.64" for "§ 5.11" in the last sentence.

11. In § 18.15, the heading of the section is revised, paragraph (c) is revised, paragraph (d) is revised, and paragraph (e) is deleted, as follows:

§ 18.15 Domestic baggage through foreign territory.

* * * * *

(c) In lieu of attaching a special in-transit manifest to each piece as set forth in paragraph (a) of this section, the baggage may be forwarded in a car or compartment sealed with in-transit seals in harmony with Subpart C of Part 123 of this chapter and manifested as in the case of other merchandise in transit through foreign territory.

(d) The provisions of this section shall not apply to domestic hand baggage crossing foreign territory which, upon reentry into the United States, shall be examined in the same manner as baggage of foreign origin.

(e) [Deleted]

§ 18.20 [Amended]

12. In § 18.20, paragraph (a) is amended by substituting "Subparts D, E, F, and G of Part 123" for "§ 5.11" in the first sentence.

§§ 18.28–18.31 [Deleted]

13. Sections 18.28–18.31 are deleted.

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

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

§ 23.11 [Amended]

14. In § 23.11, paragraph (h) is amended by substituting "§ 123.71" for "§ 5.15" in the parenthetical matter at the end thereof.

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

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

15. In § 24.13, paragraph (b) is revised to read as follows:

§ 24.13 Car, compartment, and package seals; kind, procurement.

* * * * *

(b) Red in-bond seals used for sealing imported merchandise shipped between ports in the United States shall be stamped "U.S. Customs in Bond." Green seals used by Canadian customs officer to seal railroad cars moving in bond through the United States between Canadian ports as provided in § 123.33 of this chapter shall be stamped [Can. Customs]

[U.S. Transit], and uncolored seals used to seal containers of commercial traveler's samples transiting the United States as provided by § 123.52 of this chapter shall be stamped "Canada-United States Customs." Blue in-transit seals used to seal merchandise transiting foreign territory or waters between ports in the United States as provided in § 123.24 of this chapter shall be stamped "U.S. Customs In-Transit." Yellow in-transit seals used on rail shipments of merchandise and on containers of commercial traveler's samples transiting Canada between U.S. ports as provided in §§ 123.24 and 123.51 of this chapter shall be stamped [U.S. Customs]

[Can. Transit] for use on railroad cars, and "United States-Canada Customs" for use on samples. Uncolored seals used for customs purposes other than for (1) shipping in bond, (2) shipping by other than a bonded common carrier in accordance with section 553, Tariff Act of 1930, as amended, or (3) shipping in transit shall be stamped "U.S. Customs." All seals (except uncolored in-transit seals on containers of commercial traveler's samples) shall be stamped with the name of the port for which they are ordered. Each strap seal shall be stamped with a serial number. Each automatic metal seal shall be stamped with a symbol number and, when required, with a serial number.

* * * * *

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

ANNEX TO REVISED PART 123

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in revised Part 123 to superseded 19 CFR Part 5.)

Revised section	*Superseded section*
123.0	None
123.1(a)	5.1(b)
123.1(b)	5.1(a)
123.1(c)	5.1(a)
123.2	5.1(d)
123.3	5.1 (a) and (b)
123.4	5.1 (b) and (c)
123.5	5.1 (a) and (b)
123.6	None
123.7	5.1(b)
123.8(a)	5.2 (a) and (b)
123.8(b)	5.2(b)
123.8(c)	5.2(c)
123.8(d)	5.2(d)
123.11(a)	5.7(a)
123.11(b)	5.7 (b), (c), (d) and (e)
123.11(c)	5.7(f)
123.12	5.12(a)
123.13	5.12(b)
123.14	10.41 (b) and (d)
123.15	10.41(g)
123.16	10.42(f)
123.17	10.42(g)
123.18	10.41(e)
123.21(a)	5.8(a), 5.10 (f), (g) and (h)
123.21(b)	None
123.21(c)	None
123.22(a)	5.8 (e) and (g)
123.22(b)	5.8(e)
123.22(c)	None
123.22(d)	5.8(d)
123.22(d) (1)	5.8(b)
123.22(d) (2)	5.8(e)
123.22(d) (3)	5.8(b)
123.23	5.8(f)
123.24(a)	5.8 (b) and (c)
123.24(b)	5.8(g)
123.24(c)	5.8(g)
123.25(a)	5.8 (b) and (g)
123.25(b)	5.8(h)
123.26(a)	5.9(a), 5.10(f)
123.26(b)	5.9(d)
123.26(c)	5.9(b)
123.27	5.9(c)
123.28(a)	5.10(b)
123.28(b)	18 28
123.29(a)	5.10(c) (1) and (h)
123.29(b)	5.10(d), 5.10(c) (2)
123.29(c)	5.10(e) and (f)
123.29(d)	5.10(g)
123.29(e)	5.10(f)
123.31(a)	None
123.31(b)	5.11(a)
123.32	5.11(a) (1) and (2)
123.33	5.11(b)
123.34	5.11(d), 5.1(c)
123.41	None
123.42	None
123.51	18.15(e)
123.52	5.11(c)
123.61	5.1(b)
123.62	5.1(b)
123.63	5.4
123.64	5.11(a)
123.65(a)	18.15 (a) and (d)
123.65(b)	18.15(a)
123.65(c)	18.15(b)
123.65(d)	18.15(c)
123.71	5.15
123.72	5.13, 10.42(e)

[F.R. Doc. 70-6409; Filed, May 25, 1970; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl O-[p-(Methylsulfinyl) phenyl] Phosphorothioate

A petition (PP 9F0838) was filed with the Food and Drug Administration by Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, proposing establishment of tolerances for the combined residues of the insecticide *O,O*-diethyl *O*-[*p*-(methylsulfinyl) phenyl] phosphorothioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities peanut hulls at 7 parts per million, sugar beets and sugar beet tops at 0.1 part per million, and peanuts at 0.03 part per million.

Subsequently, the petitioner amended his petition by proposing tolerances of 5 parts per million for residues in or on peanut hulls and 0.05 part per million for residues in or on peanuts, sugar beets, and sugar beet tops in place of those originally proposed.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given data submitted in the petition and other relevant material, the Commissioner of Food and Drug concludes that:

1. The proposed usage is not reasonably expected to result in residues in milk, poultry tissue, and eggs. The usage is in the category specified in § 120.6(a) (3) with respect to these commodities. Residues in meat, if any, would be less than the presently established tolerance of 0.02 part per million.

2. The tolerances established by this order are safe and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d) (2), 68 Stat. 512; 21 U.S.C. 346a(d) (2)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.234 is revised to read as follows to establish the new tolerances:

§ 120.234 *O,O*-Diethyl *O*-[*p*-(methylsulfinyl)phenyl] phosphorothioate; tolerances for residues.

Tolerances are established for the combined residues of the insecticide *O,O*-diethyl *O*-[*p*-(methylsulfinyl) phenyl] phosphorothioate and its cholinesterase-inhibiting metabolites in or on raw agricultural commodities as follows:

5 parts per million in or on peanut hulls.

1 part per million in or on corn forage and fodder (including field corn, popcorn, and sweet corn).

0.1 part per million in or on corn grain (including field corn, popcorn, and sweet corn), onions (dry), potatoes, and tomatoes.

0.05 part per million in or on peanuts, pineapples, pineapple forage, sugar beets, and sugar beet tops.

0.02 part per million (negligible residue) in or on bananas.

0.02 part per million in meat, fat, and meat byproducts of cattle, goats, and sheep.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. 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.

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