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Washington, Friday, April 3, 1942

The President

EXECUTIVE ORDER 9117

PRESCRIBING REGULATIONS GOVERNING OVERTIME COMPENSATION OF CERTAIN EMPLOYEES OF THE NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

By virtue of the authority vested in me by section 1 of the act of February 10, 1942, Public Law 450, 77th Congress, I hereby prescribe the following regulations governing the payment of compensation for employment in excess of forty hours in any administrative workweek to per-annum field service employees of the National Advisory Committee for Aeronautics whose overtime services are essential to the national-defense program, and whose duties I have determined are comparable to the duties of those employees of the War Department, the Navy Department, and the United States Coast Guard for whom overtime compensation is authorized under existing law and regulations:

SECTION 1. The administrative workweek, as herein contemplated, shall begin on Monday and run to Sunday, inclusive. Whenever the Chairman of the National Advisory Committee for Aeronautics, or other subordinate officials whom he may designate, shall determine that official hours of duty in excess of forty hours a week of any per-annum employee in the field services are essential to the national-defense program, compensation for employment during such official hours of duty in excess of forty hours in any administrative workweek may be paid at the rate of one and one-half times such employee's regular rate of pay: *Provided,* that no official hours of duty shall be established in excess of forty-eight hours in any administrative workweek.

SECTION 2. In determining the overtime compensation which may be paid to any per-annum employee under section 1 hereof, the regular rate of pay for one hour shall be computed as one-eighth of such employee's pay for one day. The pay for one day shall be considered to be one three-hundred-and-sixtieth of the employee's per-annum salary.

SECTION 3. The Chairman of the National Advisory Committee for Aeronautics may designate such subordinate officers as he may deem necessary to determine the per-annum employees in the field services whose overtime services are essential to the national-defense program: *Provided,* that no employee's overtime services shall be determined to be essential to the national-defense program unless the duties of the employee are directly connected with the expeditious prosecution of the work of the National Advisory Committee for Aeronautics in the design and construction of research facilities or in furtherance of projects for improving the design, performance, or effectiveness of aircraft for the armed forces: *Provided further,* that when, in the judgment of any such subordinate officer, the health or efficiency of an employee will be impaired by employment for more than eight hours a day or forty hours a week, such employee shall not be required to work overtime.

SECTION 4. It shall be the policy of the Chairman of the National Advisory Committee for Aeronautics to hold overtime work to a minimum consistent with the requirements of the national-defense program.

SECTION 5. This order shall take effect as of March 16, 1942, and shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 31, 1942.

[F. R. Doc. 42-2903; Filed, April 1, 1942; 2:04 p. m.]

EXECUTIVE ORDER 9119

ENLARGING THE ST. MARKS NATIONAL WILDLIFE REFUGE

FLORIDA

By virtue of the authority vested in me as President of the United States, and in order to effectuate further the pur-

CONTENTS

THE PRESIDENT

Executive Orders: Page
National Advisory Committee for Aeronautics, overtime compensation of certain employees ---- 2555
St. Marks National Wildlife Refuge, Fla., enlargement-- 2555

RULES, REGULATIONS, ORDERS

TITLE 10—ARMY: WAR DEPARTMENT:
Examination for technician specialists, scope of---- 2556
TITLE 14—CIVIL AVIATION:
Civil Aeronautics Board:
Gage Flying Service, exemption from certain rating requirements---- 2557
Pilot certificates, permanent- 2556
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Coal, coke, and briquets; taxable status of imports from Canada, Mexico, and the United Kingdom---- 2558
TITLE 20—EMPLOYEES' BENEFITS:
Social Security Board:
Definition of term "widow"--- 2558
TITLE 24—HOUSING CREDIT:
Federal Home Loan Bank Administration:
Status of mortgages, regulations relating to reports amended ---- 2558
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Excess profits tax, fractional returns---- 2572
Excise taxes on safe deposit boxes, telephone services, transportation of persons, etc---- 2559
Gauging manual, amendment- 2577
Industrial alcohol, amendment ---- 2576
Unfinished spirits for redistillation, production, removal, etc---- 2572

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 27—INTOXICATING LIQUORS:
Bureau of Internal Revenue: Page
Neutral spirits, modification of standard of identity 2577
TITLE 32—NATIONAL DEFENSE:
Office of Price Administration:
Price schedules, amendments, etc.:
Wool and wool tops and yarns 2580
Tea 2580
Selective Service System:
Civilian employees, appointment and tenure 2578
Payment for personal services 2578
War Production Board:
Fluorescent lighting fixtures, limitation order 2579
Motor trucks, trailers, passenger cars; amendments (4 documents) 2578, 2579
Rubber yarn and elastic thread, conservation order amended 2580
Wool, O. D. clips, rags, wastes; preference order amended 2579
TITLE 46—SHIPPING:
Coast Guard: Inspection and Navigation:
Coastwise or intercoastal trade under foreign flag 2581

NOTICES

Civil Aeronautics Board:
Pan American-Grace Airways, Inc., hearing 2586
Department of Agriculture:
Agricultural Marketing Administration:
Milk handling, proposed marketing agreements, etc.:
Omaha-Council Bluffs 2584
Sioux City, Iowa 2583
Department of Commerce:
Office of the Secretary:
Export declarations, examination at Mexican border ports 2586

CONTENTS—Continued

Department of the Interior: Page
Bituminous Coal Division:
Cease and desist orders:
Wilburn, Minton 2582
Williams, Ezra 2582
Y. & Y. Coal Co 2582
Hearings, postponements, etc.:
Cable, Taylor 2581
Nall, W. R 2581
Noeth, Fred 2582
Department of the Navy:
Coast Guard:
Lifesaving devices approved 2581
Federal Trade Commission:
Morton Salt Co., trial examiner appointed, etc 2586
War Department:
Exclusion of persons of Japanese ancestry from portion of Military Area No. 1 2581

poses of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described public lands, comprising 40 acres, more or less, in Wakulla County, Florida, be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved and set apart for the Department of the Interior, subject to valid existing rights, as an addition to and a part of the St. Marks National Wildlife Refuge:

TALLAHASSEE MERIDIAN

T. 4 S., R. 2 E., sec. 10, NW¼SE¼.

The St. Marks Migratory Bird Refuge was established by Executive Order No. 5740, of October 31, 1931, and the designation was changed to the St. Marks National Wildlife Refuge by Proclamation No. 2416,[1] of July 25, 1940.

The reservation made by this order supersedes as to any of the above-described lands the temporary withdrawal for classification and other purposes made by Executive Order No. 6964, of February 5, 1935, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 1, 1942

[F. R. Doc. 42-2939; Filed, April 2, 1942; 11:52 a. m.]

Rules, Regulations, Orders

TITLE 10—ARMY: WAR DEPARTMENT

Chapter VII—Personnel

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS, WARRANT OFFICERS, AND CHAPLAINS [2]

§ 73.319 *General scope of final examination (technical); technician specialists.*

* * * * *

(c) *Motor transport.* (Army Air Forces, Armored Force, Cavalry, Coast Artillery Corps, Corps of Engineers, Field Artillery, Infantry, Medical Department, Quartermaster Corps, and Signal Corps.) (Act of Oct. 15, 1940, 54 Stat. 1177, and Act of Aug. 21, 1941, Pub. Law 230, 77th Cong.) [Par. 34, AR 610-10, Sept. 13, 1941, as amended by Cir. 82, W.D., March 21, 1942]

* * * * *

[SEAL] J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 42-2940; Filed, April 2, 1942; 11:54 a. m.]

[1] 5 F.R. 2677.

[2] § 73.319 (c) is amended.

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Amendments 20-37 through 20-43, Civil Air Regs.]

PART 20—PILOT CERTIFICATES

PERMANENT PILOT CERTIFICATES

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 27th day of March 1942.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601 (a) and 602 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective April 1, 1942, Part 20 of the Civil Air Regulations is amended as follows:

1. By amending § 20.33 to read as follows:

§ 20.33 *Duration.* A pilot certificate shall be of 60 days' duration and, unless the holder thereof is otherwise notified by the Administrator within such period, it shall continue in effect thereafter until otherwise specified by the Board unless suspended, revoked or voluntarily surrendered, or until the holder thereof has applied for and has been issued a new certificate of a different grade to pilot the same type of aircraft.

2. By inserting after § 20.33 a new § 20.330 to read as follows:

§ 20.330 *Existing certificates.* A pilot certificate currently effective on April 1, 1942, shall continue in effect for a period of 60 days subsequent to the date of its issuance and, unless the holder thereof is otherwise notified by the Administrator within such period, shall continue in effect indefinitely thereafter, unless suspended, revoked or voluntarily surrendered, or until the holder thereof has applied for and has been issued a new certificate of a different grade to pilot the same type of aircraft: *Provided,* That no limited commercial certificate shall remain effective after May 1, 1942: *Provided, further,* That a pilot certificate under suspension on April 1, 1942, shall, after reinstatement, continue in effect in accordance with the provisions of this section applicable to currently effective pilot certificates.

3. By striking § 20.34 in its entirety.

4. By striking § 20.35 in its entirety and inserting in lieu thereof the following:

§ 20.35 *Expired certificates: special issuance.* The holder of any pilot certificate which has expired subsequent to April 1, 1941, upon application to any inspector made within one year of its expiration, may obtain a permanent certificate of the same or equivalent grade to pilot aircraft of the same type and with the same special ratings theretofore held by such person immediately prior to its expiration by passing a flight test appropriate to his grade of certificate. Such person shall be issued an aircraft rating based on the aircraft in which he passed such flight test.

5. By amending § 20.38 to read as follows:

§ 20.38 *Surrender.* A holder of a pilot certificate shall, upon request, surrender such certificate to any officer or employee of the Administrator if it has been suspended or revoked.

6. By striking § 20.43 in its entirety.

7. By striking § 20.44 in its entirety.

8. By striking § 20.618 and inserting in lieu thereof new sections (§§ 20.618 through 20.6184) to read as follows:

§ 20.618 *Recent experience requirements.*

§ 20.6180 *Solo flight.* A certificated pilot who within the preceding 6 months has not made and logged at least 5 take-offs and 5 landings to a full stop in an aircraft of the type and class proposed to be flown shall pass a flight check in such aircraft before otherwise piloting aircraft of that type and class. Such check flight shall be given by a certificated pilot of private grade or higher qualified according to § 20.6181 in an aircraft of the same type and if an airplane, within the same class as that of the aircraft proposed to be flown.

§ 20.6181 *Passenger flight.* A certificated pilot shall not pilot any civil aircraft carrying any other person (other than a certificated pilot of at least private grade or higher, rated for the aircraft operated and possessed of the recent experience required by this section or any member of the crew thereof) unless, within the 90 days immediately preceding, he shall have made and logged at least 5 take-offs and 5 landings to a full stop in an aircraft of the same type and if an airplane, within the same class as that of the aircraft in which any such person is carried: *Provided,* That a pilot while flying in scheduled air transportation shall be governed as to recent experience for passenger flight by the provision of Part 61.

§ 20.6182 *Instructional flight.* No flight instructor shall give flying instruction in civil aircraft to any other person unless within the 12-month period immediately preceding the giving of such instruction he shall either:

(a) while possessed of a valid instructor's rating have given at least 10 hours of flight instruction in aircraft for which he held at the time of giving such instruction a valid aircraft rating, or;

(b) have passed such practical flight test as the Administrator deems necessary and appropriate to demonstrate continued proficiency for giving flight instruction.

§ 20.6183 *Night flight.* No person shall take off or land a civil aircraft carrying passengers during the period of one hour after sunset and one hour before sunrise, unless he has made and logged at least 5 take-offs and 5 landings to a full stop during such period within the 90 days immediately preceding such take-off or landing.

§ 20.6184 *Instrument flight.* A certificated pilot shall not pilot any civil aircraft under instrument conditions, except when accompanied by a certificated pilot possessed of a valid instrument rating, unless he is possessed of a valid instrument rating and has had during the preceding 6-month period at least 2 hours of flight time solely by reference to instruments either under actual or properly simulated instrument flight conditions.

9. By inserting new sections (§§ 20.62 through 20.621) to read as follows:

§ 20.62 *Periodic physical examination.* (a) A certificated pilot shall not pilot an aircraft in flight unless within the 12-month period immediately preceding such flight he has met the physical requirements for original issuance of his certificate by passing an examination, given by an authorized medical examiner of the Administrator.

(b) In lieu of the physical examination conducted by an authorized medical examiner of the Administrator, a certificate from the appropriate officer in charge of flying in the Army, Navy, Marine Corps, or Coast Guard certifying that the applicant is on pilot status solo in such service will be accepted as evidence of the physical fitness required for the issuance of any medical certificate provided for in this Part: *Provided,* That the physical qualifications required for such pilot status are not less than these required by these regulations for the grade of pilot certificate applied for.

§ 20.620 *Medical certificate.* A medical certificate issued by an authorized medical examiner of the Administrator or other evidence satisfactory to the Administrator that the pilot has met the requirements of § 20.62 shall be carried by the pilot while piloting aircraft.

§ 20.621 *Correcting lenses.* A certificated pilot who, at his most recent periodic physical examination, met the physical qualifications for original issuance of his grade of certificate in accordance with § 20.62 only by the use of correcting lenses shall not pilot aircraft in flight without wearing such correcting lenses, and a statement to that effect shall be endorsed by the medical examiner on his medical certificate.

§ 20.622 *Reports.* At the time of each physical examination the pilot shall furnish to the medical examiner to be forwarded by him to the Administrator a report setting forth the amount and type of his aeronautical experience and such other pertinent data as the Administrator may require, since his last preceding medical examination.

10. By amending § 20.64 to read as follows:

§ 20.64 (Unassigned.)

11. By striking §§ 20.7 through 20.712.

12. By striking from the table of contents the words "20.34 Periodic endorsement requirements" and inserting in lieu thereof the words "20.34 (Unassigned)."

13. By striking from the table of contents the words "20.43 Periodic endorsement requirements with respect to special ratings" and inserting in lieu thereof the words "20.43 (Unassigned)."

14. By striking from the table of contents the words "20.44 Special issuance of special ratings" and inserting in lieu thereof the words "20.44 (Unassigned)."

15. By striking from the table of contents the words "20.64 Night flying" and inserting in lieu thereof the words "20.64 (Unassigned)."

16. By striking from the table of contents the words "20.35 Effect of expired certificates; special issuance" and inserting in lieu thereof the words "20.35 Expired certificates; special issuance."

17. By striking from the table of contents the words "20.62 (Unassigned)" and inserting in lieu thereof the words "20.62 Periodic physical examination."

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 42-2930; Filed, April 2, 1942; 11:12 a. m.]

[Regulations, Serial No. 212]

PART 50—FLYING SCHOOL RATING

SPECIAL REGULATION, CIVIL AIR REGULATIONS, EXEMPTING GAGE FLYING SERVICE FROM CERTAIN PROVISIONS OF PART 50

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 30th day of March 1942.

It appearing that: (a) The Gage Flying Service, in conjunction with the Compton Junior College, Compton, California, is a holder of a flying school rating and certificate issued pursuant to the provisions of Part 50 of the Civil Air Regulations;

(b) This school has been required to move its location to Independence, California, by reason of the emergency existing in California caused by the present state of war;

(c) The provisions of Part 50 of the Civil Air Regulations require the holder of a flying school rating and certificate to maintain personnel, facilities, and equipment at least equal in quality and quantity to those required for the issuance of such certificate;

(d) This school is unable to provide suitable hangar and classroom space to house aircraft used in training and students respectively, adequate washroom facilities, and suitable boundary and obstruction lights, in time to complete its Spring Civilian Pilot Training contracts;

(e) The failure to provide suitable hangar and classroom space, adequate

washroom facilities, and suitable boundary and obstruction lights will not adversely affect the primary and secondary instruction given in this school;

The Board finds that: Its action is desirable in the public interest, and is necessary to the furtherance of the war effort;

Now therefore, the Civil Aeronautics Board, acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601, and 607 of said Act, makes and promulgates the following special regulation:

The provisions of Part 50 of the Civil Air Regulations with respect to maintaining suitable hangar and classroom space, adequate washroom facilities and suitable boundary and obstruction lights, for use in giving flight instruction, at least equal in quality and quantity to those required for the issuance of a flying school rating and certificate, shall not apply to the Gage Flying Service while conducting its operations at Independence, California, pursuant to the provisions of its 1942 Spring Civilian Pilot Training contracts.

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 42-2929; Filed, April 2, 1942; 11:11 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T.D. 50593]

TAXABLE STATUS OF COAL, COKE, AND BRIQUETS IMPORTED FROM CANADA, MEXICO, AND THE UNITED KINGDOM

MARCH 31, 1942.

Coal, coke made from coal, and coal or coke briquets imported from the following countries and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1942, inclusive, will not be subject to the tax of ten cents per hundred pounds provided in the internal-revenue code, section 3423: Canada and Mexico.

Coal, coke made from coal, and coal or coke briquets produced in the following country, imported into the United States directly or indirectly therefrom and entered for consumption or withdrawn from warehouse for consumption during the calendar year 1942 will be exempt from the tax by virtue of the internal-revenue code, section 3420: United Kingdom.

The above list does not include countries from which there have been no importations of coal or allied fuels since January 1, 1940. Further information concerning the taxable status of such fuels imported during the calendar year 1942 will be furnished upon application therefor to the Bureau.

[SEAL] W. R. JOHNSON,
Commissioner of Customs.

[F. R. Doc. 42-2906; Filed, April 1, 1942; 3:20 p. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Board

[Regulations 3, Further Amended] [1]

PART 403—FEDERAL OLD-AGE AND SURVIVORS INSURANCE [2]

DEFINITION OF THE TERM "WIDOW"

This regulation amends Regulations No. 3 [3] (Part 403, Title 20, Code of Federal Regulations, 1940 Sup.), effective January 1, 1940, by deleting paragraph (a) of § 403.831, transposing paragraphs (b) and (c) thereof to become paragraphs (a) and (b), respectively, and substituting the example set forth below for Example 1 and Example 2 previously contained in this section, as follows:

SECTION 209 (j) OF THE ACT

The term "widow" (except when used in section 202 (g)) means the surviving wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him prior to the beginning of the twelfth month before the month in which he died.

§ 403.831 *Definition of "widow."* An individual is the "widow" of a wage earner, as that term is used in title II of the Act (except as stated in § 403.408 (d) (2) under section 202 (g) of the Act), if she meets the following requirements:

(a) She is the widow of the wage earner, or has the same status as a widow, under applicable State law (see § 403.829); and

(b) She either (1) is the mother of the wage earner's son or daughter, or (2) was married to the wage earner (became his wife, or acquired the status as such, under applicable State law) prior to the beginning of the twelfth month before the month in which he died.

An individual is the mother of a wage earner's son or daughter within the meaning of paragraph (b) (1) above, if a son or daughter was born to her and such wage earner, even though such son or daughter died before a claim for benefits was filed which involved the determination of whether such individual is a "widow," and even though such son or daughter was born after the death of such wage earner. (Sec. 205 (a), 53 Stat. 1368, sec. 1102, 49 Stat. 647; 42 U.S.C. 405 (a), 1302: interprets sec. 209 (j), 53 Stat. 1373; 42 U.S.C. 409 (j))

Example: W married H in March 1939, when he was 61. H died in April 1940. W is his widow under applicable state law. There were no children born to them.

Although there were no children born to W and H, W is the "widow" within the meaning of this section since she was married to him prior to the beginning of the twelfth month before the month in which he died. Had H died in March 1940, instead of in April, W would not meet the requirement of this section.

In pursuance of sections 205 (a) and 1102 of the Social Security Act, as amended, the foregoing regulation adopted by the Board is hereby prescribed this twenty-fifth day of March 1942.

[SEAL] SOCIAL SECURITY BOARD,
A. J. ALTMEYER,
Chairman.

Approved March 31, 1942.

PAUL V. MCNUTT,
Federal Security Administrator.

[F. R. Doc. 42-2931; Filed, April 2, 1942; 11:16 a. m.]

[1] 5 F.R. 1849.

[2] Under title II of the Social Security Act, as amended, effective January 1, 1940.

[3] For a chronological description of the statutory basis for the old-age and survivors insurance system under title II of the Social Security Act, as amended, and the regulations which have been issued thereunder, see § 403.1 of Regulations No. 3 of the Social Security Board. (§ 403.1, Title 20, Code of Federal Regulations, 1940 Sup.)

TITLE 24—HOUSING CREDIT

Chapter I—Federal Home Loan Bank Administration

[Bulletin No. 4]

PART 5—ADVANCES

REPORTS ON THE STATUS OF MORTGAGES

APRIL 1, 1942.

The Rules and Regulations for the Federal Home Loan Bank System are hereby amended effective April 2, 1942 as follows:

Section 5.2 (k) is amended to read as follows:

(k) *Reports on mortgage collateral.* At least annually, each borrowing member shall be required to furnish its Bank with a report of the current status of each home mortgage pledged as collateral. The form of the report shall be subject to the approval of the Governor.

Section 5.6 (f) is amended to read as follows:

(f) *Quarterly reports on collateral.* At least quarterly, each non-member mortgagee to which an advance has been made shall be required to furnish the Bank with a report of the current status of each insured mortgage pledged as collateral. The form of the report shall be subject to the approval of the Governor.

(Sec. 10 (a) of F.H.L.B.A., 47 Stat. 731, as amended by sec. 5, 49 Stat. 294, sec. 7, Pub. Law 24, 77th Cong., sec. 10 (b), 47 Stat. 732, 48 Stat. 646, 49 Stat. 295; sec. 10 (c) (d), 47 Stat. 732, (sec. 10b of F.H.L.B.A.) sec. 7, 49 Stat. 295, sec. 17, 47 Stat. 736; 12 U.S.C. 1430 (a), 1430 (b) and Sup., 12 U.S.C. 1430 (c), (d), 1430b, 1437; E.O. 9070, 7 F.R. 1529)

These amendments are deemed to be of a minor and procedural character within the provisions of paragraph (b) of § 8.3 of the Rules and Regulations for the Federal Home Loan Bank System.

[SEAL] FRED GREENE,
Acting Deputy Governor.

HAROLD LEE,
General Counsel.

ORMOND E. LOOMIS,
Executive Assistant to the Commissioner.

[F. R. Doc. 42-2937; Filed, April 2, 1942; 11:49 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter C—Miscellaneous Excise Taxes

[Regulations 42, 1942 ed.]

PART 130—TAXES ON SAFE DEPOSIT BOXES, TRANSPORTATION OF OIL BY PIPE LINE, TELEPHONE, TELEGRAPH, RADIO AND CABLE MESSAGES AND SERVICES, AND TRANSPORTATION OF PERSONS

SUBPART A—INTRODUCTORY

Sec.

130.0 Scope of regulations.

SUBPART B—DEFINITIONS

130.1 Meaning of terms.

SUBPART C—SAFE DEPOSIT BOXES

130.10 Effective period.
130.11 Scope of tax.
130.12 Definition of safe deposit box.
130.13 Liability for tax.
130.14 Rate and computation of tax.

SUBPART D—TRANSPORTATION OF OIL BY PIPE LINE

130.20 Effective period.
130.21 Scope of tax.
130.22 Gathering, trunk line, and loading services.
130.23 Liability for tax.
130.24 Rate and computation of tax.
130.25 Fair charge.

SUBPART E—TELEPHONE, TELEGRAPH, RADIO, AND CABLE FACILITIES

130.30 Effective period.
130.31 Scope of tax.
130.32 Meaning of the term "United States".
130.33 Rate and application of tax.
130.34 Franked dispatches, messages, and conversations.
130.35 Services rendered under contract.
130.36 Effective period.
130.37 Scope of tax.
130.38 Rate and application of tax.
130.39 Effective period.
130.40 Scope of tax.
130.41 Rate and application of tax.
130.42 Coin-operated telephones.
130.43 Services furnished to common carriers, telephone and telegraph companies, radio broadcasting stations and networks.
130.44 Services furnished to the United States, States, or political subdivisions thereof.
130.45 Services utilized in the collection of news for or dissemination of news through the public press, news ticker services, or radio broadcasting.
130.46 Use and retention of exemption certificates.

SUBPART F—TRANSPORTATION OF PERSONS, ETC.

130.50 Effective period.
130.51 Scope of tax.
130.52 Rate and application of tax.
130.53 Payments for transportation subject to tax.
130.54 Payments not subject to tax.
130.55 Effective period.
130.56 Scope of tax.
130.57 Rate and application of tax.
130.58 Motor vehicles with seating capacity of less than ten.
130.59 Charges not exceeding 35 cents.
130.60 Commutation tickets.
130.61 Transportation and facilities furnished to the United States, to States, or political subdivisions thereof.
130.62 Evidence of right to exemption.
130.63 Members of military and naval service.
130.64 Stamp tax.

SUBPART G—MISCELLANEOUS PROVISIONS

Sec.

130.70 Duty to collect, return, and pay tax.
130.71 Records.
130.72 Returns.
130.73 Extension of time.
130.74 Payment of taxes.
130.75 Refusal to pay taxes.
130.76 Jeopardy assessment.
130.77 Credit.
130.78 Abatement or refund of erroneous or illegal assessments or collections.
130.79 Penalties and interest.
130.80 Promulgation of regulations.

AUTHORITY: §§ 130.0 to 130.80 are issued under the authority contained in sections 1855, 3472, and 3791 of the Internal Revenue Code (53 Stat. 206, 423, and 467, 26 U.S.C. 1940 ed., 1855, 3472, and 3791), and follow the statutory provisions to which they, respectively, refer.

SUBPART A—INTRODUCTORY

§ 130.0 *Scope of regulations.* The regulations in this part deal with the excise taxes—

(a) On the use of safe deposit boxes, imposed by Chapter 12 of the Internal Revenue Code, as amended by section 532 of the Revenue Act of 1941.

(b) On the transportation of oil by pipe line, imposed by Chapter 30, Subchapter A, of the Internal Revenue Code, as amended by sections 502 and 521 (a) (22) of the Revenue Act of 1941.

(c) Imposed by Chapter 30, Subchapter B, of the Internal Revenue Code, as amended by section 548 of the Revenue Act of 1941, with respect to—

(1) Telephone and radio telephone messages and conversations;

(2) Telegraph, cable and radio dispatches and messages;

(3) Leased wire, teletypewriter, and talking circuit special service;

(4) Wire and equipment services, (including stock quotation and information services, burglar alarm and fire alarm service, and all similar services);

(5) Local telephone service rendered to subscribers.

(d) Imposed by Chapter 30, Subchapter C, of the Internal Revenue Code, as added by section 554 (b) of the Revenue Act of 1941, with respect to—

(1) Transportation of persons by rail, motor vehicle, water, or air;

(2) Seating and sleeping accommodations furnished in connection with transportation of persons by rail, motor vehicle, water, or air.

The regulations with respect to the imposition, manner of application, and computation of tax are set forth in Subparts B to F, inclusive. The regulations relating to the return and collection of tax and the imposition of penalties and related matters are contained in Subpart G.

The statutory references are to the Internal Revenue Code (53 Stat., Part 1) unless otherwise stated.

SUBPART B—DEFINITIONS

SEC. 3797. DEFINITIONS.

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate of a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

* * * * *

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(10) *State.* The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(13) *Collector.* The term "collector" means collector of internal revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to a tax imposed by this title.

* * * * *

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

* * * * *

§ 130.1 *Meaning of terms.* As used in the regulations in this part—

(a) *General.* The terms defined in the applicable provisions of law shall have the meanings so assigned to them.

(b) *Political subdivision.* The term "political subdivision" means a county, city, town, village or other municipality.

SUBPART C—SAFE DEPOSIT BOXES

SEC. 1850. TAX (AS AMENDED BY SECTION 532, PART III, TITLE V OF THE REVENUE ACT OF 1941).

(a) *Rate.* There shall be imposed a tax equivalent to 20 per centum of the amount collected for the use of any safe deposit box.

(b) *By whom paid.* The tax imposed by subsection (a) shall be paid by the person paying for the use of the safe deposit box.

SEC. 1851. COLLECTION OF TAX BY LESSOR.

(a) *Requirement.* Every person making any collections specified in subsection (a) of section 1850 shall collect the amount of tax imposed by such subsection from the person paying for the use of the safe deposit box.

* * * * *

SEC. 1857. DEFINITION OF SAFE DEPOSIT BOX.

For the purposes of this chapter any vault, safe, box, or other receptacle of not more than 40 cubic feet capacity, used for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers of any kind, or other valuable personal property, shall be regarded as a safe deposit box.

SEC. 536. EFFECTIVE DATE OF PART III (REVENUE ACT OF 1941).

The amendments made by this Part shall be applicable only with respect to the period

beginning with October 1, 1941, and the rates specified in section 1650 (a) * * * of the Internal Revenue Code shall not apply with respect to such period. This Part shall take effect on October 1, 1941.

§ 130.10 *Effective period.* The tax on the use of safe deposit boxes was imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code. The rate of tax was increased from 10 percent to 11 percent by section 1650 (a), as added by section 210 of the Revenue Act of 1940, effective for a period of five years beginning July 1, 1940. Such increased rate was superseded and the rate of tax was again increased, effective October 1, 1941, by the further amendment of section 1850 (a) by section 532 of the Revenue Act of 1941.

§ 130.11 *Scope of tax.* Section 1850 as amended by section 532 of the Revenue Act of 1941 imposes a tax upon amounts collected for the use of safe deposit boxes.

The tax does not apply to amounts collected for rental of open space in a general storage vault.

§ 130.12 *Definition of safe deposit box.* The term "safe deposit box" includes any vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, such as is customarily leased by a bank, trust company, security dealer, investment company, or storage company, for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, important papers of any kind, or other forms of valuable personal property.

§ 130.13 *Liability for tax.* The tax is payable by the person paying for the use of the safe deposit box. Every person receiving payments for the use of a safe deposit box is required to collect the tax from the person paying for such use, and must return and pay over the taxes so collected in accordance with the provisions of §§ 130.72 and 130.74.

§ 130.14 *Rate and computation of tax.* With respect to the period beginning October 1, 1941, the tax is imposed at the rate of 20 percent of the amount collected for the use of any safe deposit box.

The tax is measured strictly by the amount collected for the use of the safe deposit box without regard to the period for which the payment is made. Thus, the tax at the increased rate of 20 percent applies to the amount collected on or after October 1, 1941, even though such amount represents a payment, whether in whole or in part, for use of a safe deposit box prior to October 1, 1941.

Where during the term of the contract or agreement for the use of a safe deposit box, such use is relinquished and a new agreement is made for the use of another safe deposit box, additional tax is due upon any further amount collected under the new agreement.

SUBPART D—TRANSPORTATION OF OIL BY PIPE LINE

SEC. 3460. TAX (AS AMENDED BY SECTIONS 502 AND 521 (a) (22) OF THE REVENUE ACT OF 1941).

(a) *Computation and payment.* There shall be imposed upon all transportation of crude petroleum and liquid products thereof by pipe line—

(1) A tax equivalent to 4½ per centum of the amount paid for such transportation, to be paid by the person furnishing such transportation.

(2) In case no charge for transportation is made, either by reason of ownership of the commodity transported or for any other reason, a tax equivalent to 4½ per centum of the fair charge for such transportation, to be paid by the person furnishing such transportation.

(3) If (other than in the case of an arm's length transaction) the payment for transportation is less than the fair charge therefor, a tax equivalent to 4½ per centum of such fair charge, to be paid by the person furnishing such transportation.

(b) *Fair charge defined.* For the purposes of this section, the fair charge for transportation shall be computed—

(1) from actual bona fide rates or tariffs, or

(2) if no such rates or tariffs exist, then on the basis of the actual bona fide rates or tariffs of other pipe lines for like services, as determined by the Commissioner, or

(3) if no such rates or tariffs exist, then on the basis of a reasonable charge for such transportation, as determined by the Commissioner.

SEC. 521. DEFENSE EXCISE TAX RATES MADE PERMANENT WHICH ARE NOT INCREASED BY THIS ACT (REVENUE ACT OF 1941).

* * * * *

(b) The rates specified in subsection (a) shall be applicable only with respect to the period after the date of the enactment of this Act, and the rates specified in section 1650 (a) * * * of the Internal Revenue Code shall not apply with respect to such period.

§ 130.20 *Effective period.* The tax on the transportation of crude petroleum and liquid products thereof by pipe line was imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code. The rate of tax was increased from 4 percent to 4½ percent by section 1650 (a), as added by section 210 of the Revenue Act of 1940, effective for a period of five years beginning July 1, 1940. The tax at such increased rate was made permanent by amendment of section 3460 (a) by section 502 of the Revenue Act of 1941.

§ 130.21 *Scope of tax.* Section 3460, as amended by section 502 of the Revenue Act of 1941, imposes a tax on all transportation of crude petroleum and liquid products thereof by pipe line.

The tax applies to any movement of the specified products by pipe line by any person regardless of whether the movement is for hire. The ownership of the pipe-line facilities, or of the product transported, is immaterial. The taxable pipe-line movement of the specified products includes gathering service within the producing field or area, trunk line transportation service, and loading service furnished as part of, or in connection with, a transportation service.

§ 130.22 *Gathering, trunk line, and loading services.* The term "gathering service" includes movements of crude petroleum or liquid products thereof through any pipe line reaching from wells, flow tanks, or settling tanks in the area or field where the product is produced, to storage tanks, a trunk line or main line, a refinery, or to market, or any other point within the producing area or field, without regard to the size of the pipe, the length of the movement, or the quantity of the specified products carried through such line. Such term does not include a movement from wells to flow tanks, or settling tanks adjacent to the wells.

Trunk line service includes movements of the specified products from the end of gathering lines, or from unloading points such as loading racks or loading wharves, through main or trunk pipe lines to a point of delivery.

Loading service includes the loading of the specified products into tank cars or tank vessels over loading racks or loading wharves, where such service is performed as part of, or in connection with, transportation service.

§ 130.23 *Liability for tax.* The tax is payable by the person furnishing the transportation service.

§ 130.24 *Rate and computation of tax.* The tax is imposed at the rate of 4½ percent of the amount paid under actual bona fide rates or tariffs for transportation of crude petroleum and liquid products thereof by pipe line.

Where no charge is made for the transportation of crude petroleum and liquid products thereof by pipe line by reason of the ownership of the commodity so transported, or for any other reason, the tax, at the rate of 4½ percent, shall be computed on the basis of a fair charge for such transportation, as determined by the Commissioner.

In cases of other than arm's-length transactions, where the payment for transportation of crude petroleum and liquid products thereof by pipe line is less than the fair charge for such transportation, the tax at the rate of 4½ percent shall be computed on the basis of a fair charge for such transportation, as determined by the Commissioner.

§ 130.25 *Fair charge.* Where no actual bona fide rates or tariffs have been published to cover any particular pipeline transportation movement of crude petroleum or liquid products thereof, the Commissioner will determine what constitutes a fair charge for the purpose of this tax in respect of the particular movement under consideration, on the basis of the ordinary or customary charge for like or similar service.

Where no ordinary or customary charge for like or similar service exists there

should be submitted to the Commissioner for his guidance and assistance in determining a fair charge, (a) a full statement of the facts surrounding the particular movement; (b) a full description of the pipe-line system; and (c) a map or diagram showing in detail the particular area or field and the pipe-line facilities used including tanks at the point of origin, along the line and at destination, loading and unloading facilities, and any other facilities used in connection with such system.

SUBPART E—TELEPHONE, TELEGRAPH, RADIO, AND CABLE FACILITIES

TRANSMISSION OF DISPATCHES, MESSAGES, AND CONVERSATIONS

SEC. 3465. IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).

(a) There shall be imposed:

(1) (A) In the case of each telephone or radio telephone message or conversation which originates within the United States, for which the charge is more than 24 cents, a tax of 5 cents for each 50 cents, or fraction thereof, of the charge.

(B) In the case of each telegraph, cable, or radio dispatch or message which originates within the United States, a tax of 10 per centum of the amount of the charge. Only one payment of a tax imposed by subparagraph (A) or (B) shall be required notwithstanding the lines or stations of one or more persons are used in the transmission of such dispatch, message, or conversation.

* * * * *

SEC. 3467. RETURNS AND PAYMENT.

(a) The taxes imposed by section 3465 shall be paid by the person paying for the services or facilities.

* * * * *

SEC. 550. EFFECTIVE DATE OF PART IV (REVENUE ACT OF 1941).

(a) The amendments made by this Part shall be applicable only with respect to the period beginning with the effective date of this Part * * *. This Part shall take effect on October 1, 1941.

§ 130.30 *Effective period.* The taxes on telegraph, telephone, cable, or radio dispatches, messages, or conversations, were imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code. The Code provisions were amended subsequently by various Acts, including the Revenue Act of 1940, and as so amended were to remain in effect until June 30, 1945. The Code provisions were further amended by the Revenue Act of 1941, and as the result of such amendment, the rates and basis of computing these taxes were changed effective as of October 1, 1941, and the taxes will now continue in effect indefinitely.

§ 130.31 *Scope of tax*—(a) *Telephone and radio telephone messages, and conversations.* Paragraph (1) (A) of section 3465 (a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on each telephone or radio telephone message or conversation which originates within the United States and for which the charge is more than 24 cents.

(b) *Telegraph, cable and radio dispatches, and messages.* Paragraph (1) (B) of section 3465 (a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on each telegraph, cable, or radio dispatch or message which originates within the United States, regardless of the amount of the charge therefor.

§ 130.32 *Meaning of the term "United States."* The term "United States" includes the States, the Territories of Alaska and Hawaii, and the District of Columbia. It also includes inland waters (such as rivers, lakes, bays, etc.) lying wholly within the United States, and, where an international boundary line divides inland waters, such parts of such inland waters as lie within the boundary of the United States, and also the waters known as a marine league from low tide on the coast line. Ships within these limits whether of foreign or domestic registry are considered to be within the United States.

§ 130.33 *Rate and application of tax*—(a) *Telephone and radio telephone messages, and conversations.* In the case of each telephone or radio telephone message or conversation where the charge is more than 24 cents, the rate of tax is 5 cents for each 50 cents or fraction thereof of the charge. Any additional charge made for "overtime" in connection with a telephone, or radio telephone message or conversation, shall be added to the basic charge for the purpose of determining the amount of tax due. A report charge amounting to more than 24 cents is subject to tax. For information with respect to charges amounting to 24 cents or less, see §§ 130.39 to 130.42.

(b) *Telegraph, cable and radio dispatches, and messages.* The amount paid for each telegraph, cable or radio dispatch or message is subject to tax at the rate of 10 percent.

A charge made for a telephone toll call used by a telegraph company in effecting delivery of a telegraph message shall be added to the basic charge for the transmission of the telegraph message for the purpose of determining the amount subject to tax. In such case, the telegraph company is not liable for tax on the amount paid by it to the telephone company for the toll call whether or not the charge therefor is in excess of 24 cents.

A charge made for a telephone toll call which is used to reach a telegraph office for the purpose of sending a telegraph message, should not be added to the basic charge for the transmission of the telegraph message as the telegraph message is considered to begin at the telegraph office. The telephone toll call in such case is considered to be a separate transaction and as such subject to tax.

(c) *General.* The tax applies to all charges made for services rendered and facilities provided incidental to the transmission of a message or conversation. A charge made by a telephone, telegraph, radio or cable company for messenger service in bringing the recipient of a message to the telephone, or in delivering a dispatch or message, must be included in determining the total amount subject to tax. However, a charge for messenger service rendered by a hotel or similar establishment is not to be included in the total charge on which the tax is computed.

Transmission begins when the message is delivered by the sender to the carrier, or its agent, and continues until receipt by the addressee or his agent. A dispatch, message, or conversation transmitted by the combined facilities of several lines or radio links is considered to be one dispatch, message or conversation for purposes of the tax.

All transmission services, as described herein, when rendered for hire are subject to tax whether or not the agency furnishing such services is a common carrier.

The term "charge" as used herein means the amount specified for the transmission service whether satisfied in money, service or other valuable consideration.

The tax is payable by the person paying the transmission charge and is to be collected by the person receiving the payment. (See § 130.70). If a message, dispatch or conversation is transmitted "collect" the person who pays the charge therefor is liable for the tax.

Messages which originate in the United States and are sent "collect" to a recipient outside of the United States are taxable. On the other hand messages originating outside of the United States and sent "collect" to a recipient in the United States are not taxable.

§ 130.34 *Franked dispatches, messages, and conversations.* Where dispatches, messages, or conversations are transmitted by telephone, radio, telephone, telegraph, cable, or radio free of any charge whatsoever, no tax attaches, but where the carrier in fact makes some charge for the transmission, either in money, service, or other valuable consideration, such charge is subject to the tax upon the basis of the amount of the charge computed in money or money's worth.

§ 130.35 *Services rendered under contract.* Where, under the provisions of a contract, dispatches, messages or conversations are transmitted by telephone, radio telephone, telegraph, cable or radio in consideration of the payment of a lump sum of money or the performance of services, the amounts paid for such transmissions are subject to tax regardless of whether such dispatches, messages or conversations relate to the operation of the business of a common carrier and whether they are "on line" or "off line."

Where a telegraph company agrees to transmit over its wires dispatches or messages relating to the business of a carrier free or at reduced rates in consideration of services to be performed by the carrier in transporting men or materials of the telegraph company, all such dispatches or messages are subject to tax.

LEASED WIRE, TELETYPEWRITER, TALKING CIRCUIT SPECIAL SERVICE, AND WIRE AND EQUIPMENT SERVICES

[SEC. 3465. IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).]

[(a) There shall be imposed:]

(2) (A) A tax equivalent to 10 per centum of the amount paid for leased wire, teletypewriter, or talking circuit special service.

(B) A tax equivalent to 5 per centum of the amount paid for any wire and equipment service (including stock quotation and information services, burglar alarm or fire alarm service, and all other similar services, but not including service described in subparagraph (A)). The tax shall apply under this paragraph whether or not the wires or services are within a local exchange area.

* * * * *

(b) This section shall not apply to the amount paid for so much of the service described in paragraph 2 of subsection (a) as is utilized in the conduct, by a common carrier or telephone or telegraph company or a radio broadcasting station or network, of its business as such.

SEC. 550. EFFECTIVE DATE OF PART IV (REVENUE ACT OF 1941).

(a) The amendments made by this Part shall be applicable only with respect to the period beginning with the effective date of this Part * * *. This Part shall take effect on October 1, 1941.

* * * * *

(c) Despite the provisions of subsection (a) the amendment of section 3465 (a) (2) made by section 548 of this Act (relating to tax on leased-wire, etc., services) shall be applicable only to amounts paid on or after such effective date for services rendered on or after October 1, 1941, and the provisions of such subsection before its amendment by section 548 shall be applicable with respect to the period before October 1, 1941.

* * * * *

§ 130.36 *Effective period.* The tax on leased wires, and talking circuit special service was imposed originally by Title V of the Revenue Act of 1932. The applicable provisions of the Revenue Act of 1932 were superseded March 1, 1939, by the provisions of the Internal Revenue Code. The Code provisions were amended subsequently by various Acts, including the Revenue Act of 1940, and as so amended were to remain in effect until June 30, 1945. Effective as of October 1, 1941, the provisions of the Code relating to this tax were further amended by section 548 of the Revenue Act of 1941, increasing the rate of tax and imposing a tax on the amount paid for any wire and equipment service (including stock quotation and information services, and burglar alarm and fire alarm service). Under the amendment made by section 548 these taxes will continue in effect indefinitely.

§ 130.37 *Scope of tax*—(a) *Leased wire, teletypewriter, or talking circuit special service.* Paragraph (2) (A) of section 3465 (a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on the amount paid for leased wire, teletypewriter, or talking circuit special service.

(b) *Wire and equipment service.* Paragraph (2) (B) of section 3465 (a), as amended by section 548 of the Revenue Act of 1941, imposes a tax on the amount paid for any wire and equipment services, including stock quotation and information services, burglar and fire alarm services and all other similar services.

§ 130.38 *Rate and application of tax*—(a) *Leased wire, teletypewriter, or talking circuit special service.* In the case of leased wire, teletypewriter, or talking circuit special service, the tax is to be computed at the rate of 10 percent of the amount paid therefor.

In general, leased wire, teletypewriter, or talking circuit special service relates to private line service where channels, equipment and other facilities are furnished (usually, but not necessarily, on a contractual basis), to enable users to communicate between specified locations continuously or for specified periods, as distinguished from the sending of single dispatches, messages and conversations by telephone, radio telephone, telegraph, cable, or radio for which tolls are charged by the carrier. The communications may be telephonic, in Morse or similar code, or may be reproduced at the terminating end in the form of a typewritten page or tape, or picture or facsimile. The charge for such service may be on a monthly, daily, or hourly basis, or may be determined by the time consumed in transmission, or by the number of words or characters transmitted. In certain instances it may be necessary to utilize the switchboards and exchanges of a carrier to connect the sending and receiving terminals of the service.

Examples of such services are, (1) channels and equipment for private telephone service, (2) channels and equipment for private Morse or similar code service, (3) channels and equipment for teletypewriter or teleprinter service, (4) channels and equipment for teletypewriter or teleprinter exchange service, (5) channels and equipment for program transmission, and (6) channels and equipment for photograph, picture or facsimile transmission, etc.

(b) *Wire and equipment services.* In the case of wire and equipment service the tax is to be computed at the rate of 5 percent of the amount paid therefor.

Where the services rendered include the furnishing of information, such as stock market quotations, baseball scores, racing results, weather reports, or musical programs, etc., the total amount paid, including any amounts charged for information or programs furnished, shall be the basis for determining the tax due, whether or not individual items are charged or billed separately.

In general, wire and equipment service includes the following and similar services:

(1) Burglar, fire, or other alarm service, where the service consists of channels furnished between a remote point and the subscriber's office or a police or fire station, or a central station, and over which a signal is transmitted in the case of illegal entry, fire, leakage, etc.

(2) Wires and equipment installed on the subscriber's premises for burglar, fire or other alarm service, not owned by the subscriber, but for the use and maintenance of which he pays a periodic fee, whether or not the wires and equipment are located wholly within his premises.

(3) Channels furnished between a point of origin and the subscriber's premises over which are given stock and bond market quotations and reports, racing results, baseball scores and other sporting results, news items, musical programs, weather reports, the time, etc. (For exception, see § 130.45.)

(4) Metering services, including channels and equipment, furnished between a remote point and the subscriber's office, over which signals are transmitted so that the subscriber may obtain information as to a given condition at the remote point, such as water level, water pressure, gas pressure, etc.

(5) Remote control channels furnished between a remote point and the subscriber's premises which will actuate an instrument at the remote point, such as the starting and stopping of a radio transmitter, etc.

Persons furnishing any of the services specified must collect the tax on the total charge therefor even though they have paid a tax under section 3465 (a) (2) (A) on any wires leased by them for use in furnishing such services.

(c) *General provisions.* In determining the amount of tax due, there shall be included all charges made in connection with the furnishing of any of the services enumerated, such as salaries of operators, if in the employ of the person furnishing such services, charges for equipment, instruments, and other apparatus, and installation charges.

The tax applies whether or not the wires or services are within a local exchange area. The tax is to be paid by the person paying for the services or facilities furnished, and is to be paid to the person furnishing the services or facilities who is under duty to collect the tax and return and pay it over to the collector of internal revenue. (See §§ 130.72 and 130.74.)

LOCAL AND OTHER TELEPHONE SERVICE

[SEC. 3465. IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).]

[(a) There shall be imposed:]

(3) A tax equivalent to 6 per centum of the amount paid by subscribers for local telephone service and for any other telephone service in respect of which a tax is not payable under paragraph (1) or (2). Amounts paid for the installation of instruments, wires, poles, switch-boards, apparatus, and equipment shall not be considered amounts paid for service. Service paid for by inserting coins in coin-operated telephones shall not be subject to the tax imposed by this paragraph.

[SEC. 550. EFFECTIVE DATE OF PART IV] (REVENUE ACT OF 1941).

(d) Despite the provisions of subsection (a), section 3465 (a) (3) of the Internal Revenue Code (relating to tax on telephone bills), added to the Internal Revenue Code by section 548 of this Act, shall apply only to the amounts paid in pursuance of bills rendered, after October 5, 1941, for services for which no previous bill was rendered. Such section 3465 (a) (3) shall not apply to amounts paid for services otherwise taxable under section 3465 (a) (1) which were rendered before October 6, 1941; nor to amounts paid for services otherwise taxable under section 3465 (a) (2) which were rendered or paid for before October 6, 1941.

§ 130.39 *Effective period.* The tax on local and other telephone services was added to the provisions of section 3465 of the Internal Revenue Code by section 548 of the Revenue Act of 1941. In accordance with section 550 (d) of the Act, the tax applies only to amounts paid in pursuance of bills rendered, after October 5, 1941, for services for which no previous bill was rendered. It is further provided

that the tax shall not apply to amounts paid for services otherwise taxable under section 3465 (a) (1) which were rendered before October 6, 1941, nor to amounts paid for services otherwise taxable under section 3465 (a) (2) which were rendered or paid for before October 6, 1941.

§ 130.40 *Scope of tax.* Paragraph 3 of section 3465 (a), as added by section 548 of the Revenue Act of 1941, imposes a tax on the amount paid by any subscriber for local telephone service and for any other telephone service in respect of which a tax is not payable under the provisions of paragraph (1) or (2) of that section.

The term "local telephone service" relates generally to the ordinary residential or business or commercial telephone service within a local exchange area and includes all types of such service, such as individual line and party line telephones, and extension telephones.

The term "any other telephone service" covers any service furnished, the nature of which is telephonic, regardless of the commercial or other name or term by which such service may be known or designated, and which is not embraced in any of the services subject to the provisions of section 3465 (a) (1) or (2) of the Code, as amended. (See §§ 130.30 to 130.38.)

§ 130.41 *Rate and application of tax.* The tax is imposed at the rate of 6 percent of the amount paid by any subscriber for local telephone service or for any other telephone service which is not subject to the provisions of section 3465 (a) (1) or (2) of the Code, as amended. (See §§ 130.30 to 130.38.)

The "amount paid" means the amount collected for the service, whether paid or satisfied in money, service or other valuable consideration, and whether the charge is made on a monthly or other periodic basis, or is based on the number of calls made, or is in the form of an assessment as in the case of a mutual telephone system. Where a basic periodic charge is made for the service, with additional charges for all calls or additional calls above a certain number, the additional charges are also subject to the tax.

Where the charge for telephone service includes an additional charge for not making payment within a specified time, the total amount paid including the additional charge is the basis for computing the amount of tax due. Similarly, where a discount is allowed for the payment within a specified time of a charge for services rendered, the tax is to be computed on the amount actually paid.

All amounts paid by subscribers for private branch exchange service, for the use of switchboard, switching, and other telephone equipment, for the use of trunk line facilities, for tie lines (within the local exchange area) connecting private branch exchanges within a local exchange area, are subject to tax. Charges of 24 cents or less for local zone and inter-zone calls are also subject to the tax.

Where a subscriber to local telephone service is outside of the local exchange area and an additional charge is made on a mileage or other basis, the additional charge is regarded as a charge for leased wire service and is subject to the tax imposed by section 3465 (a) (2) (A) of the Code, as amended.

The tax attaches to the total charge made to a hotel, or similar subscriber for local telephone service, including all charges for telephone calls costing not more than 24 cents, made either by the hotel or its guests, but no tax attaches to any charge made by the hotel for service rendered in placing the calls for its guests.

No tax is imposed on amounts paid by subscribers as charges for the installation of instruments, wires, poles, switchboards, apparatus, and equipment.

§ 130.42 *Coin-operated telephones.* No tax is imposed with respect to charges of 24 cents or less paid by the insertion of coins in public coin-operated telephones for a single telephone conversation. However, if the amount paid for a single telephone conversation, including additional charges for overtime service, totals more than 24 cents the tax imposed by section 3465 (a) (1) of the Code, as amended applies. (See §§ 130.30 to 130.35).

Service rendered by means of a coin-operated telephone installed under a contract wherein the subscriber agrees that a specified minimum amount will be paid for a prescribed period is regarded as taxable under section 3465 (a) (3) and is not considered to be "service paid for by inserting coins in coin-operated telephones" within the meaning of that section. In such case, the tax attaches to the total amount paid by the subscriber to the coin-box service including the amount paid for the excess calls over the maximum number allowed for the guaranteed monthly or other periodic sum.

EXEMPTIONS

[SEC. 3465 IMPOSITION AND RATE OF TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).]

(b) This section shall not apply to the amount paid for so much of the service described in paragraph (2) of subsection (a) as is utilized in the conduct, by a common carrier or telephone or telegraph company or a radio broadcasting station or network, of its business as such.

§ 130.43 *Services furnished to common carriers, telephone and telegraph companies, radio broadcasting stations, and networks.* The taxes imposed by section 3465 (a) (2) (leased wires, wire and equipment service, etc.) do not apply to amounts paid for any such service which is utilized by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business as such.

This particular exemption is not applicable in the case of the taxes imposed by section 3465 (a) (1) (telephone toll charges, telegraph service, etc.) or section 3465 (a) (3) (local telephone service, etc.), even though the services referred to are utilized by the companies described in the conduct of their business as such.

SEC. 3466. EXEMPTION FROM TAX (AS AMENDED BY SECTION 548 OF THE REVENUE ACT OF 1941).

(a) No tax shall be imposed under section 3465 upon any payment received for services or facilities furnished to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia.

(b) No tax shall be imposed under section 3465 (a) (1) and (2) upon any payment received from any person for services or facilities utilized in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for such services or facilities is billed in writing to such person. Section 3465 (a) (3) shall not be construed as imposing a tax on services and facilities described in section 3465 (a) (1) or (2) which are exempt from tax under this subsection.

(c) The right to exemption under this section shall be evidenced in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe.

§ 130.44 *Services furnished to the United States, States, or political subdivisions thereof.* Amounts paid for services or facilities furnished to officers or employees of the United States or any State or Territory or political subdivision thereof, or the District of Columbia, are exempt from tax under this section if such amounts are paid from government funds.

No exemption certificate is required where the payment for the services or facilities furnished is made by a government agency direct to the person furnishing the services or facilities. In all other cases the right to exemption shall be evidenced by properly executed exemption certificates in substantially the following form: (See also § 130.46)

EXEMPTION CERTIFICATE

---------- 19--
(Date)

I certify that ----------
(Name service or facility)
have been furnished by ----------
(Telephone, telegraph company, etc.)
to ----------; that the
(Federal, State, etc., government)
charges of $---------- will be paid from
---------- funds; and
(Federal, State, etc., government)
that the charges are exempt from tax under section 3466 of the Internal Revenue Code.

(Signature of officer or employee)

(Title)

(Address)

NOTE: Penalty for fraudulent use, $10,000 or imprisonment or both. (See section 1718 of the Internal Revenue Code.)

§ 130.45 *Services utilized in the collection of news for or dissemination of news through the public press, news ticker services, or radio broadcasting.* The exemption provided by section 3466 (b), is applicable only to payments for services and facilities of the kind de-

scribed in section 3465 (a) (1) (telephone toll charges, telegraph messages, etc.) and section 3465 (a) (2) (leased wires, etc.). The exemption will apply only with respect to payments for services and facilities which are utilized exclusively (a) in the collection of news for the public press or radio broadcasting or in the dissemination of news through the public press or by means of radio broadcasting, or (b) in the collection or dissemination of news by a news ticker service furnishing a general news service similar to that of the public press. For the exemption to apply the charge for the services or facilities must be billed in writing to the person paying for the services or facilities and such person must certify in writing that the services or facilities are so utilized.

The exemption applies to amounts charged for messages from any newspaper, press association, radio news broadcasting agency, or news ticker service, to any other newspaper, press association, radio news broadcasting agency, or news ticker service or to or from their bona fide correspondents, which messages deal exclusively with the collection of news items for, or the dissemination of news items through, the public press, radio broadcasting, or a news ticker service furnishing a general news service similar to that of the public press.

The exception does not extend to the collection and dissemination of information or matter for publication in magazines, periodicals and trade and scientific publications issued to supply information on certain subjects of interest to particular groups; to amounts paid by newspapers, press associations, radio news broadcasting agencies or net works, or news ticker services, for subscribers local telephone service or any other telephone services which are subject to the tax imposed by section 3465 (a) (3) of the Code, as amended, or to a message the charge for which is 24 cents or less.

§ 130.46 *Use and retention of exemption certificates.* An agent of a telegraph, telephone, radio, or cable company should not accept an exemption certificate unless satisfied, on the basis of proper credentials or otherwise, that the person who signed it is the person whom he represents himself to be and that the exemption claimed is allowable under the law.

A separate exemption certificate will be required for each message paid for as a separate item, but where periodical payments are made, a blanket certificate (for a period not to exceed one month) may be accepted as evidence of the right to exemption.

These certificates should be retained with the record of the services rendered or the facilities furnished and made available for inspection by internal revenue officers for at least four years from the date the tax would have become due if applicable.

SUBPART F—TRANSPORTATION OF PERSONS, ETC.

TRANSPORTATION OF PERSONS

SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).

(a) *Transportation.* There shall be imposed upon the amount paid within the United States, on or after October 10, 1941, for the transportation, on or after such effective date, of persons by rail, motor vehicle, water, or air, within or without the United States, a tax equal to 5 per centum of the amount so paid. Such tax shall apply to transportation by motor vehicles having a passenger seating capacity of less than ten adult passengers, including the driver, only when such vehicle is operated on an established line.

(b) *Exemption of certain trips.* The tax imposed by subsection (a) shall not apply to amounts paid for transportation which do not exceed 35 cents, to amounts paid for commutation or season tickets for single trips of less than thirty miles, or to amounts paid for commutation tickets for one month or less.

* * * * *

(d) *Returns and payment.* The taxes imposed by this section shall be paid by the person making the payment subject to the tax. * * *

§ 130.50 *Effective period.* The tax on the transportation of persons imposed by section 3469 (a) became effective as of October 10, 1941, and continues in effect indefinitely.

§ 130.51 *Scope of tax.* Section 3469 (a) imposes a tax upon payments of more than 35 cents made in the United States on or after October 10, 1941, for transportation of persons, on or after such date, by rail, motor vehicle, water, or air.

The taxability of a payment for transportation is determined strictly by the place of payment, i. e., whether within or without the United States. The place where the transportation service is furnished has no bearing on the tax. Thus, a payment made within the United States is subject to tax even though the transportation is wholly without the United States, and conversely, a payment made without the United States is not subject to tax even though the transportation is wholly within the United States.

The purpose of the transportation, whether business or pleasure, is immaterial.

It is not necessary that the transportation be between two definite points. If not otherwise exempt, a payment for continuous transportation beginning and ending at the same point is subject to the tax.

The tax accrues at the time payment is made for the transportation, irrespective of when the transportation is furnished.

The tax is payable by the person making the taxable transportation payment and is collectible by the person receiving such payment. (See § 130.70).

The tax does not apply to payments for transportation where the charge is 35 cents or less. For other payments not subject to the tax, see §§ 130.54 and 130.60 to 130.63.

§ 130.52 *Rate and application of tax.* The tax is 5 percent of the amount of the taxable payment for transportation.

The tax is measured by the total amount paid, whether paid at one time or collected at intervals during the course of a continuous transportation, as in the case of a carrier operating under the zone system.

The tax is determined by the amount paid for transportation with respect to each person. Thus, where a single payment is made for the transportation of two or more persons, the taxability of the payment and the amount of the tax, if any, payable with respect thereto, must be determined on the basis of the portion of the total payment properly allocable to each person transported.

Where a payment covers charges for nontransportation services as well as for transportation of a person, such as charges for meals, hotel accommodations, etc., the charges for the nontransportation services may be excluded in computing the tax payable with respect to such payment, provided such charges are separable and are shown in the exact amounts thereof in the records pertaining to the transportation charge. If the charges for nontransportation services are not separable from the charge for transportation of the person, the tax must be computed upon the full amount of the payment.

§ 130.53 *Payments for transportation subject to tax.* The following are examples of taxable payments for transportation:

(a) *Cash fares.* The tax applies to payments of so-called "cash fares" where no ticket or other evidence of the right to transportation is issued to the passenger.

(b) *Scrip books.* The tax applies to the amount paid for scrip books. The tax shall be collected from the purchaser at the time the scrip book is sold, and not when and as the scrip is used for transportation.

(c) *Additional collections.* Amounts paid as additional charges for changing the class of accommodations, changing the destination or route, extending the time limit of a ticket, as "extra fare", or for exclusive occupancy of a section, etc., are subject to the tax.

(d) *Round trip tickets.* An amount paid for a round trip ticket is taxable if the one-way fare of like class is more than 35 cents.

(e) *Commutation or season tickets.* An amount paid for a commutation or season ticket good for more than one month is subject to tax where the single trip is thirty miles or more. For this purpose the term "thirty miles" means thirty constructive miles where the rate for transportation is fixed on the constructive mileage. The tax shall be collected from the purchaser at the time of payment for the commutation or sea-

son ticket, and not when and as the ticket is used for transportation.

In the event that a partly used exempt commutation or season ticket is redeemed and the carrier makes a charge at regular rates for the used portion of the ticket, the tax applies to such charge, if the one-way fare is more than 35 cents.

(f) *Prepaid orders.* The tax applies to the amount paid for a prepaid order for transportation whether within or without the United States, where the payment is made in the United States. As to prepaid orders for which payment is made outside the United States see § 130.54 (b). The tax also applies to the payment of an additional amount in the United States for transportation procured in connection with the use of a prepaid order, regardless of whether the original payment for the prepaid order is made within or without the United States.

(g) *Exchange orders.* An amount paid in the United States for an exchange order, whether as part of a through ticket or a round trip ticket, is subject to the tax. An additional amount paid in the United States in procuring transportation in connection with the use of an exchange order is likewise subject to tax, without regard to whether the original payment for the exchange order is made within the United States.

(h) *Combinations of rail, motor vehicle, water, or air transportation.* The tax applies to the total amount paid for transportation over the lines of a number of connecting carriers; and also to the total amount paid for any combination of rail, motor vehicle, water, or air transportation, such as rail-air line, air line-motor bus, or motor bus-steamship, etc.

(i) *Chartered conveyances.* An amount paid in the United States for the charter of a special car, train, motor vehicle, aircraft or boat for transportation purposes, provided no charge is made by the charterer to the persons transported, is subject to tax if the amount paid represents a per capita charge of more than 35 cents for each person actually transported.

The charterer of a conveyance who sells transportation to other persons, must collect and account for the tax with respect to all amounts paid to him for transportation which are in excess of 35 cents. In such case, no tax will be due on the amount paid for the charter of the conveyance but it shall be the duty of the owner of the conveyance to advise the charterer of his liability for collecting and accounting for the tax.

(j) *All-expense tours.* An amount paid in the United States for an all-expense tour, regardless of the places embraced within the tour, is subject to tax with respect to that portion representing transportation. (See § 130.54 (h).)

§ 130.54 *Payments not subject to tax.* In addition to the payments specifically exempt from tax, as to which see §§ 130.60 to 130.63, the following are examples of transportation payments not subject to tax:

(a) *Payments prior to October 10, 1941.* The tax does not apply to payments for transportation made prior to October 10, 1941, regardless of whether the transportation is furnished, in whole or in part, after such date. Thus, payments for single tickets for transportation, scrip, prepaid orders, or exchange orders, are not subject to tax where made prior to October 10, 1941, Tickets for transportation issued on or after October 10, 1941, pursuant to a prepaid order, exchange order, or scrip, purchased prior to such date, should be stamped with an appropriate legend, for example, "Exchange—Nontaxable Prepaid Order", so that if such tickets are later redeemed, no refund of any amount as tax will be made with respect thereto.

(b) *Payments outside the United States.* The tax does not apply to transportation furnished within the United States where payment for the transportation is made outside the United States. Thus, tickets for transportation, scrip, prepaid orders, and exchange orders are not subject to tax where payment therefor is made outside the United States. Tickets for transportation issued on or after October 10, 1941, pursuant to prepaid orders, exchange orders, or scrip, purchased outside the United States, should be stamped with an appropriate legend, for example, "Exchange—Nontaxable Prepaid Order", so that if such tickets are later redeemed, no refund of any amount as tax will be made with respect thereto.

(c) *Exchange of prepaid order, scrip, etc., for tickets.* A ticket issued pursuant to an exchange order, prepaid order, airline pilot order, or scrip, is not subject to tax where the tax is paid at the time of payment for the order or scrip.

(d) *Caretakers and messengers accompanying freight shipments.* The tax does not apply to an amount paid for transportation of freight that includes also the transportation of caretakers or messengers for which no specific charge as such is made.

(e) *Special baggage cars.* An amount paid for a special baggage car is not subject to tax, if separable from the payment for transportation of persons and if shown in the exact amount of the charge on the records covering the taxable transportation payment.

(f) *Circus or show trains.* The amount paid pursuant to a contract for the movement of a circus or show train is not subject to tax where the amount covers only the transportation of the performers, laborers, animals, equipment, etc., by the circus or show train. However, if the contract payment also covers the issuance to advance agents, bill posters, etc., of circus or show scrip books, or other evidence of the right to transportation, for use on regular passenger trains, that portion of the contract payment properly allocable to such scrip books or other evidence is subject to the tax.

(g) *Corpses.* The tax does not apply to the amount paid for transportation of a corpse, but does apply to the amount paid for the transportation of any person accompanying the corpse.

(h) *Miscellaneous charges.* Where the charge is separable from the payment for transportation of a person, and is shown in the exact amount thereof on the records pertaining to the transportation payment, the tax does not apply to the following and similar charges:

(1) Charges for transportation of baggage, including incidental charges such as excess value, storage, transfer, parcel checking, special delivery, etc.

(2) Charges for transportation of an automobile in connection with the transportation of a person.

(3) Charges for bridge or road toll, or a ferry charge of 35 cents or less, made in connection with the transportation of a person by bus. Charges incurred by the carrier which are part of his costs of operation, such as bridge tolls, road tolls, or ferry charges, paid by the carrier on account of the bus and driver, cannot be deducted from the charge made to the passenger in determining the taxable charges for transportation.

(4) Charges for admissions, guides, meals, hotel accommodations, and other nontransportation services, for example, where such items are included in a lump sum payment for an all-expense tour.

(5) Charges in connection with the charter of a land, water, or air conveyance for the transportation of persons, such as for parking, icing, sanitation, "layover" or "waiting time", movement of equipment in deadhead service, dockage, wharfage, etc.

SEATS, BERTHS, ETC.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).]

(c) *Seats, berths, etc.* There shall be imposed upon the amount paid within the United States for seating or sleeping accommodations in connection with transportation with respect to which a tax is imposed by subsection (a) a tax equivalent to 5 per centum of the amount so paid.

(d) *Returns and payment.* The taxes imposed by this section shall be paid by the person making the payment subject to the tax. * * *

§ 130.55 *Effective period.* The tax on seating and sleeping accommodations imposed by section 3469 (c) became effective on October 10, 1941, and will continue in effect indefinitely.

§ 130.56 *Scope of tax.* Section 3469 (c) imposes a tax upon payments of any amount in the United States for seating or sleeping accommodations in connection with transportation with respect to which a tax is payable under section 3469 (a).

§ 130.57 *Rate and application of tax.* The tax is 5 percent of the amount of the taxable payment for the seating or sleeping accommodations.

Subject to the exception that the tax on seating or sleeping accommodations imposed by section 3469 (c) applies to all payments for such accommodations irrespective of the amount thereof, the various rules and provisions set forth in §§ 130.51 to 130.54 inclusive, with respect

to the tax on payments for transportation imposed by section 3469 (a) are also generally applicable to the tax on payments for seating or sleeping accommodations.

EXEMPTIONS

SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).

(a) * * * Such tax shall apply to transportation by motor vehicles having a passenger seating capacity of less than ten adult passengers, including the driver, only when such vehicle is operated on an established line.

§ 130.58 *Motor vehicles with seating capacity of less than ten.* No tax is imposed on transportation by a motor vehicle having a seating capacity of less than ten adult passengers, including the driver, unless such vehicle is operated on an established line. The term "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that the person rendering the service maintains and exercises control over the direction, route, time, number of passengers carried, etc. It implies also that the primary contract between the operator and the person served is for the transportation of the person and not for the hire or use of the vehicle.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941)]

(b) *Exemption of certain trips.* The tax imposed by subsection (a) shall not apply to amounts paid for transportation which do not exceed 35 cents, to amounts paid for commutation or season tickets for single trips of less than thirty miles, or to amounts paid for commutation tickets for one month or less.

§ 130.59 *Charges not exceeding 35 cents.* The tax imposed by section 3469 (a) on transportation payments does not apply to payments of 35 cents or less.

The exemption is determined by the amount paid for a single one-way trip. Thus, an amount of more than 35 cents paid for round trip transportation is exempt from the tax, if the regular one-way single fare of like class between the terminal points of the round trip does not exceed 35 cents.

An amount paid for the charter of a car, train, motor vehicle, aircraft, or boat is exempt from the tax, if the payment represents a per capita charge of 35 cents or less for each person actually transported.

Any amount paid for seating or sleeping accommodations is not subject to tax under section 3469 (c) where the amount of the related payment for transportation is 35 cents or less. However, where the payment for transportation exceeds 35 cents, a payment for seating or sleeping accommodations in connection with such transportation is subject to the tax imposed by section 3469 (c) regardless of the amount thereof.

§ 130.60 *Commutation tickets.* Amounts paid for commutation or season tickets or books for single trips of less than 30 miles are exempt from the tax imposed by section 3469 (a), regardless of the length of time for which such tickets or books are valid. The phrase "less than 30 miles" means less than 30 constructive miles in instances where the charge is based on constructive mileage.

Amounts paid for commutation tickets or books for one month or less are exempt from the tax imposed by section 3469 (a), regardless of the distance of a single trip.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941).]

(f) *Exemptions*—(1) *Governmental exemption.* The tax imposed by this section shall not apply to the payment for transportation or facilities furnished to the United States, or to any State or Territory, or political subdivision thereof, or the District of Columbia.

§ 130.61 *Transportation and facilities furnished to the United States, to States, or political subdivisions thereof.* Amounts paid by the United States, a State or Territory, or political subdivision thereof, or the District of Columbia, for the transportation of persons or accommodations furnished in connection therewith, are exempt from tax under this section.

Amounts paid for transportation or facilities by an officer or employee of a government agency who is traveling on a mileage or other allowance basis are exempt from tax where reimbursement is made to such officer or employee by the government agency.

§ 130.62 *Evidence of right to exemption.* The right to exemption under this section shall be established by the use of (a) government transportation requests or (b) exemption certificates, Form 731, revised. In the latter case, a separate certificate must be furnished with respect to each amount paid for transportation or for seating or sleeping accommodations furnished in connection therewith. Where a government agency purchases transportation or facilities for a group of persons, as in the case of an officer conducting a number of prisoners, one certificate covering the total amount paid may be accepted by the carrier. Where a government agency makes periodic payments for transportation or facilities furnished officers or employees, one certificate covering the total amount paid at any one time may be accepted by the carrier. One exemption certificate covering a number of separate payments may not be accepted by the carrier. Every person claiming exemption from the tax must identify himself by presenting credentials in the form of papers, documents or other evidence which will reasonably assure the agent of the carrier collecting a charge that he is the officer or employee of the exempt agency on whose behalf the certificate is issued. The exemption certificate must be submitted to the carrier at the time the charges for transportation or facilities are paid. The carrier will retain all exemption certificates accepted, with the record of services and facilities rendered, available for inspection by internal revenue officers for at least 4 years from the date the tax would have become due if payable.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 OF THE REVENUE ACT OF 1941.)]

[(f) *Exemptions.*]

(2) *Exemption of members of military and naval service.* The tax imposed by this section shall not apply to the payment for transportation or facilities furnished under special tariffs providing for fares of not more than 1¼ cents per mile applicable to round trip tickets sold to personnel of the United States Army, Navy, Marine Corps, and Coast Guard traveling in uniform of the United States at their own expense when on official leave, furlough, or pass, including authorized cadets and midshipmen, issued on presentation of properly executed certificate.

§ 130.63 *Members of military and naval service.* Amounts paid for transportation and for seating or sleeping accommodations furnished to personnel of the United States Army, Navy, Marine Corps and Coast Guard, including authorized cadets and midshipmen, at their own expense, will be exempt from tax only upon compliance with all of the requirements of section 3469 (f) (2). A person claiming exemption thereunder will be required to exhibit to the agent of the carrier a properly executed certificate to show that he is traveling on official leave, furlough, or pass, but the surrender of an exemption certificate on Form 731, revised, is not necessary in such case.

[SEC. 554. TRANSPORTATION OF PERSONS, ETC.] (Revenue Act of 1941.)

(c) *Stamp tax on passage tickets not to apply.* No tax shall be imposed under chapter 11 of the Internal Revenue Code on a ticket sold or issued for passage the amount paid for which is taxable under section 3469 of the Internal Revenue Code.

§ 130.64 *Stamp tax.* The stamp tax imposed on passage tickets under section 1806 of the Internal Revenue Code, as amended, which are sold or issued in the United States for passage on any vessel to any port or place not in the United States, Canada, Mexico, Cuba, or Puerto Rico, does not apply to any such passage ticket if the amount paid therefor is subject to the tax imposed under section 3469 of the Code. (See Chapter V of Regulations 71.)

SUBPART G—MISCELLANEOUS PROVISIONS

ADMINISTRATIVE PROVISIONS

COLLECTION, RETURN, AND PAYMENT OF TAX

SEC. 1851. COLLECTION OF TAX BY LESSOR.

(a) *Requirement.* Every person making any collections specified in subsection (a) of section 1850 shall collect the amount of tax imposed by such subsection from the person paying for the use of the safe deposit box.

* * * * * *

SEC. 1852. RETURNS.

(a) *Requirement.* Every person making any collections specified in subsection (a) of section 1850 shall on or before the last day of each month make a return, under oath, for the preceding month. Such returns shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) *Place for filing.* The return shall be made to the collector for the district in which is located the principal place of busi-

ness of the person making any collections specified in subsection (a) of section 1850, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland.

SEC. 1853. PAYMENT OF TAX.

(a) *Time for payment.* The tax imposed by section 1850 shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return.

(b) *Place for payment.* The tax shall be paid to the collector for the district in which is located the principal place of business of the person making any collections specified in subsection (a) of section 1850, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland.

* * * * *

SEC. 3461. RETURNS.

Every person liable for the tax imposed under section 3460 shall make monthly returns under oath in duplicate and pay such taxes to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SEC. 3467. RETURNS AND PAYMENT.

(a) The taxes imposed by section 3465 shall be paid by the person paying for the services or facilities.

(b) Each person receiving any payments specified in section 3465 shall collect the amount of the tax imposed by such section from the person making such payments, and shall on or before the last day of each month make a return, under oath, for the preceding month, and pay the taxes so collected, to the collector of the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe. The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than 90 days.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 (b) OF THE REVENUE ACT OF 1941).]

(d) *Returns and payment.* The taxes imposed by this section shall be paid by the person making the payment subject to the tax. Each person receiving any payment specified in subsection (a) or (c) shall collect the amount of the tax imposed from the person making such payment, and shall, on or before the last day of each month, make a return, under oath, for the preceding month, and pay the taxes so collected to the collector in the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe.

SEC. 3470. PAYMENT OF TAXES.

The taxes imposed by this chapter shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return. * * *

LIABILITY FOR TAXES COLLECTED

SEC. 3661. ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

SEC. 3658. FRACTIONAL PARTS OF A CENT.

In the payment of any tax under this title not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

RECORDS, STATEMENTS, AND SPECIAL RETURNS

SEC. 1720. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 3603. NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

[SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC. (AS ADDED BY SECTION 554 (B) OF THE REVENUE ACT OF 1941).]

(e) *Extensions of time.* The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than ninety days.

SEC. 3634. EXTENSION OF TIME FOR FILING RETURNS.

If the failure to file a return (other than a return of income tax) or list at the time prescribed by law or by regulation made under authority of law is due to sickness or absence, the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

SEC. 3632. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) *Internal revenue personnel*—(1) *Persons in charge of administration of internal revenue laws generally.* Every collector, deputy collector,' internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

* * * * *

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SEC. 3330. WITNESSING OF RETURNS IN LIEU OF OATH.

The Commissioner with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of $10, be signed or acknowledged before two witnesses instead of under oath.

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR

(a) *Authority of collector.* If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) *Authority of Commissioner.* In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) *To make return.* Make a return, or

(2) *To amend collector's return.* Amend any return made by a collector or deputy collector.

(c) *Legal status of returns.* Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

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EXAMINATION OF BOOKS AND WITNESSES

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) *To determine liability of the taxpayer.* The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

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APPLICABILITY OF ADMINISTRATIVE PROVISIONS

SEC. 1856. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 1700 shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the tax imposed by section 1850.

SEC. 3473. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 1700, shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 1722. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 1719. DISCRETIONARY METHOD ALLOWED COMMISSIONER FOR COLLECTING TAX.

Whether or not the method of collecting any tax imposed by this chapter is specifically provided herein, any such tax may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and

C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

§ 130.70 *Duty to collect, return, and pay tax.* Every person receiving any taxable payment for:

(a) The use of any safe deposit box,

(b) The transmission by telephone, telegraph, cable, or radio of dispatches, messages, or conversations,

(c) Any leased wire or talking circuit special service, or wire and equipment services, etc.

(d) Local telephone service, etc.,

(e) Transportation of persons by rail, motor vehicle, water, or air, or

(f) seating or sleeping accommodations furnished in connection with the transportation of persons, must collect the tax from the person making such payment at the time the payment is made.

§ 130.71 *Records.* (a) Every person required to collect any tax on amounts collected for the use of any safe deposit box, must keep accurate records and accounts of (1) all transactions subject to the tax, and (2) evidence of the right to exemption on any such transaction in respect of which tax is not collected.

(b) In all cases where taxable services are rendered in connection with the transportation of crude petroleum and liquid products thereof by pipe line, the carrier must keep accurate records and accounts showing (1) the daily volume of such commodities accepted for transportation by pipe lines; (2) daily run records of the amount taken into the pipe lines and the amount delivered from the pipe lines; (3) deductions from acceptances or allowances for evaporation, basic sediment, water, etc.; and (4) the charge per barrel and the total charge for each movement.

(c) Every person required by the provisions of the Code to collect any tax on any amount paid for (1) the transmission by telephone, telegraph, cable or radio of dispatches, messages, or conversations, (2) any leased wire, or talking circuit special service, or wire and equipment service, etc., or (3) any local telephone services, etc., must keep accurate records and accounts of (i) all such services and facilities furnished upon which the tax is imposed, and (ii) evidence of the right to exemption relative to any such services or facilities furnished in respect of which tax is not collected.

(d) Every person required by the provisions of the Code to collect any tax on any amount paid for the transportation of persons, and seating or sleeping accommodations furnished in connection with such transportation, must keep accurate records to show with respect to each ticket or order sold or fare collected, or other individual transaction, the amount of tax collected or evidence of the right to exemption where tax is not collected.

(e) *In general.* Such records shall be kept for at least four years from the date the tax is due, and shall at all times be open to inspection by internal revenue officers. For penalties for failure to keep proper and accurate records see § 130.79.

§ 130.72 *Returns.* (a) Every person required by the provisions of the Code to collect any tax on amounts collected for the use of any safe deposit box, must make returns on Form 727, in accordance with the instructions printed on the back thereof. The returns shall include all taxes collected on payments for the use of safe deposit boxes.

(b) Every person required by the provisions of the Code to pay any tax in connection with the transportation of crude petroleum and liquid products thereof by pipe line must make returns on Form 727 (Revised), in accordance with the instructions on the back thereof. The returns shall include taxes due on all such commodities transported.

(c) Every person required to collect any tax on any amount paid for (1) the transmission by telegraph, telephone, cable or radio of dispatches, messages, or conversations, (2) any leased wire, or talking circuit special service, or wire and equipment services, etc., or (3) any local telephone services, etc., must make returns on Form 727 (Revised), in accordance with the instructions printed on the back thereof.

Returns covering tax on any telegraph, telephone, cable, or radio services shall include the tax on (a) all prepaid dispatches, messages, or conversations originating on the lines of the person rendering such service and all collect dispatches, messages, or conversations delivered by the person making the return; (b) all leased wire, or talking circuit special services, or wire and equipment services, etc., and (c) all local telephone services, etc., that are recorded and accounted for by the person making such return and reflected in his billing records for the month, in accordance with the usual business routine.

Every person transmitting any telephone, telegraph, cable, or radio dispatch, message, or conversation "collect" to a point outside the United States, and receiving, whether from a connecting carrier or otherwise, any payment for the transmission, shall collect the tax and make return in accordance with § 130.74.

The tax on conversations through the stations of rural or farmers' line associations, which are recorded and billed by a telephone company operating the exchange to which such stations are connected for service, should be included in the return of said operating company. Taxable conversations, if they are recorded and filed by such rural or farmers' line associations and not by the operating company, should be reported by such associations.

(d) Every person (except as hereinafter noted) required to collect any tax on any amount paid for (1) transportation of persons, or (2) seating or sleeping accommodations furnished in connection with such transportation must make returns on Form 727 (Revised), in accordance with the instructions printed on the back thereof.

Every person receiving payment for transportation or seating or sleeping accommodations to be furnished by more than one carrier shall collect all of the tax applicable to such transportation or accommodations, and if such person is not the initial carrier, shall remit the amount thereof to the initial carrier, if located in the United States, who will include the amount in its return on Form 727, Revised.

Every person receiving payment for a prepaid order or exchange order for transportation or seating or sleeping accommodations to be furnished by any carrier within the United States shall collect all of the tax applicable to such transportation or accommodations and remit such tax in the proper amount to those carriers located within the United States furnishing such transportation or accommodations to be included in monthly returns on Form 727, Revised.

Every person receiving payment for transportation or seating or sleeping accommodations where the initial carrier is located outside the United States, or selling any prepaid order or exchange order for transportation or seating or sleeping accommodations to be furnished by any carrier outside the United States, shall collect all of the tax applicable to such transportation or accommodations and include same in monthly return on Form 727, Revised.

(e) *In general.* A return must be made, in duplicate, under oath, for each calendar month, and must be sworn to before an officer duly authorized to administer oaths unless the amount of tax returned is $10 or less when it may be signed or acknowledged before two witnesses. The return, together with the amount of the tax, must be filed with the collector of the district in which the principal place of business of the person required to file the return is located (or if he has no principal place of business in the United States, with the collector at Baltimore, Maryland), on or before the last day of the month following that for which it is made, except where otherwise required. (See § 130.73 relating to extension of time and § 130.76 relating to jeopardy assessments.)

When the last day of the month in which a return is due falls on Sunday or a legal holiday, the return may be filed with the collector of internal revenue or his authorized representative on the next secular or business day. If a person charged with the duty of collecting and paying over the tax on any of the facilities or services specified above discontinues business for any reason, the last return to be filed shall be marked "Final Return."

For penalties for failure to file, or delinquency in filing, returns, see § 130.79.

§ 130.73 *Extension of time.* In the case of taxes imposed by section 3465, as amended, (relating to telephone, telegraph, etc., services and facilities) and section 3469 (relating to transportation of persons, and seating or sleeping accommodations furnished in connection therewith), if it is found impossible to make the proper return within the prescribed time, a request may be filed with the Commissioner for an extension of time, and upon a proper showing the

Commissioner may fix a definite time in each instance within which the return may be filed, but in no case shall such extension of time exceed 90 days.

§ 130.74 *Payment of taxes.* All taxes are due and payable to the collector of internal revenue, without assessment by the Commissioner or notice from the collector, at the time fixed for filing the return. If the tax is not paid when due there shall be added as part of the tax, interest at the rate of 6 percent per annum from the time the tax became due to the actual date of payment or assessment, whichever is prior. (See § 130.79.)

§ 130.75 *Refusal to pay taxes.* If a person to whom any taxable services or facilities (other than pipe-line transportation services) are furnished, refuses to pay the tax imposed thereon, or if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency should report to the collector of internal revenue for the district in which its returns are filed the name and address of such person, the nature of the service rendered, the amount paid for such service, and the date on which paid. Upon receipt of such information the collector will report the item to the Commissioner for direct assessment. (See § 130.79 for penalties for refusal to pay tax.)

JEOPARDY ASSESSMENT

SEC. 3660. JEOPARDY ASSESSMENT.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

§ 130.76 *Jeopardy assessment.* Whenever in the opinion of the collector it becomes necessary to protect the interests of the Government by effecting immediate collection of tax, the matter shall be promptly reported to the Commissioner by telegram or letter showing the reasons therefor. The communication must state the full name and address of the person involved, the kind and amount of tax due, and the period involved, so that the Commissioner can immediately assess the tax, together with all penalties and interest due. Such tax, penalties, and interest will, upon assessment, become immediately due and payable, and the collector shall, without delay, issue a notice and demand for payment thereof in full.

The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the collector deems necessary, conditioned upon the payment of the amount, collection of which is stayed, at the time at which such amount would normally be due.

Upon refusal to pay, or failure to pay or give bond, the collector shall proceed immediately to collect the tax, penalty, and interest, by distraint, without regard to the 10-day period after notice and demand prescribed in section 3690.

REFUNDS AND CREDITS

SEC. 3471. REFUNDS AND CREDITS (as amended by section 554 (d) (2) of the Revenue Act of 1941).

(a) Credit or refund of any overpayment of tax imposed by subchapter B or subchapter C may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) Any person entitled to refund of tax under this chapter paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) Any person making a refund of any payment on which tax under subchapter B or subchapter C has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 1854. REFUNDS AND CREDITS.

(a) *Allowance.* Credit or refund of any overpayment of tax imposed by section 1850 may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) *Credit on monthly returns.* Any person entitled to refund of tax under section 1850 paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) *Adjustments for refunded payments.* Any person making a refund of any payment on which tax under section 1850 has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS (as amended by section 508 (b) of the Second Revenue Act of 1940).

(a) *To taxpayers*—(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

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SEC. 3313. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS.

All claims for the refunding or crediting of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SEC. 3771. INTEREST ON OVERPAYMENTS.

(a) *Rate.* Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 per centum per annum.

(b) *Period.* Such interest shall be allowed and paid as follows:

(1) *Credits.* In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921, 42 Stat. 227, or any subsequent Revenue Act, then to the date of the assessment of that amount.

(2) *Refunds.* In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

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SEC. 3772. SUITS FOR REFUND.

(a) *Limitations.*—(1) *Claim.* No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(2) *Time.* No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates.

(3) *Reconsideration after mailing of notice.* Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun. This paragraph shall not operate (A) to bar a suit or proceeding in respect of a claim reopened prior to June 22, 1936, if such suit or proceeding was not barred under the law in effect prior to that date, or (B) to prevent the suspension of the statute of limitations for filing suit under section 3774 (b) (2).

(b) *Protest or duress.* Such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

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SEC. 3774. REFUNDS AFTER PERIODS OF LIMITATION.

A refund of any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) shall be considered erroneous—

(a) *Expiration of period for filing claim.* If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) *Disallowance of claim and expiration of period for filing suit.* In the case of a claim filed within the proper time and disallowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the Board of Tax Appeals or the courts. If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.

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SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

(a) *Period against United States.* Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 3770 (a) (2).

(b) *Period against taxpayer.* A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 3774.

§ 130.77 *Credits.* Every person required to pay tax, or to collect any pay tax, who overpays from his own funds, tax on any monthly return may, in cases where the overpayment was the result of a clerical or mechanical error, take credit for such overpayment against the tax due on a subsequent monthly return.

Every person required to collect tax, who makes a refund of any payment on which tax has been collected, may repay therewith the amount of tax collected on such payment and take credit for the amount so repaid against the tax due on a subsequent monthly return.

Any monthly return on which a credit is taken shall have attached thereto a sworn statement explaining the reason or reasons for claiming the credit, setting forth the amount of each kind of tax, and the portion thereof chargeable to each month's tax payment which is claimed to have been overpaid or overcollected, and stating whether a claim for refund with respect to any of the amounts involved has been filed, either with the collector or the Commissioner. To the extent that credit claimed on a return filed by a collecting agency is based on refunds or adjustments made with persons who paid the tax, the statement shall show that the collecting agency has refunded the tax to the persons involved or has obtained the written consent of such persons to the allowance of the credit. The written consent must be forwarded to the collector with the return on which the credit is taken.

A complete and detailed record of all credits taken shall be maintained and made available for inspection by revenue officers for four years from the date of the return on which the credit appears.

§ 130.78 *Abatement or refund of erroneous or illegal assessments or collections.* A claim for abatement or refund of taxes alleged to have been erroneously or illegally assessed or paid (or of any penalties assessed or collected without authority) shall be prepared on Form 843 and presented to the collector of internal revenue for the district in which the amount claimed was assessed or paid. (See section 3313 of the Code.)

Where a collecting agency has erroneously or illegally overpaid from its own funds any tax, the collecting agency may claim a refund of such overpayments. In case a collecting agency has erroneously or illegally overcollected and overpaid any tax due, the collecting agency may claim a refund of the amount so overcollected and overpaid, but only if it is established by affidavit or otherwise as may be required (a) that the tax so overcollected and overpaid has been returned to the person from whom collected, or that the collecting agency has obtained the written consent of such person to the granting of the refund and (b) that no credits have been taken for the alleged overpayment in the manner provided for in § 130.77.

If a person who has paid tax to a collecting agency files a claim for refund in his own name, there should be attached to the claim the original receipts issued by the collecting agency showing payment of the tax involved and a sworn statement of the facts on which the claim for refund is based, and the affidavit on Form 843 must show that no repayment of the tax alleged to have been overpaid or any part thereof has been made to the claimant by the collecting agency and that he has not consented to the allowance of credit or refund to the collecting agency.

PENALTIES AND INTEREST

[SEC. 1853. PAYMENT OF TAX.]

(c) *Addition to the tax in case of delinquency.* If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

SEC. 3470. PAYMENT OF TAXES.

* * * If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

[SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.]

(d) *Additions to tax*—(1) *Failure to file return.* In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided,* That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) *Fraud.* In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

* * * * *

(e) *Collection of additions to tax.* The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity or fraud, in which cases the amount so added shall be collected in the same manner as the tax.

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) *Delivery.* Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) *Addition to tax for nonpayment.* If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment * * *.

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SEC. 1718. PENALTIES.

(a) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this chapter to collect, account for and pay over any tax imposed by this chapter who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this chapter, or

willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(d) The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

§ 130.79 *Penalties and interest.* In case of failure to file a return within the prescribed time, a certain percentage of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the prescribed time is shown to the satisfaction of the Commissioner to be due to a reasonable cause and not to willful neglect. The amount to be added to the tax is 5 percent if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate.

Failure to pay tax within the time fixed for filing returns causes interest to accrue automatically, without assessment of the tax by the Commissioner or notice to the taxpayer, to the date of payment or assessment, whichever is prior. The due date of the tax for the purpose of computing interest is the last day of the month within which the return is required to be filed and the tax paid.

Where assessment is made, and payment is not made within 10 days after the issuance of the first notice and demand (Form 17), there will accrue, under section 3655, a 5 percent penalty and interest at the rate of 6 percent per annum computed upon the entire assessment from the date of issuance of Form 17 until date of payment. Where assessment is settled by partial payments, interest shall be computed on the total assessment at the above-prescribed rate from the date of the first 10-day notice through the date of first payment, and on the balance interest shall be computed from the next succeeding day to the date of the next payment, and so on until the assessment is paid in full.

If a claim for abatement is filed with the collector within 10 days after the date of the issuance of the first notice and demand, the 5 percent penalty does not attach. If the assessment is not paid within 10 days after receipt of notice of rejection of the claim, the 5 percent penalty applies. The filing of the claim does not affect the accrual of interest, which continues to run for the full period from the date of the first notice and demand through the date of payment.

If a false or fraudulent return is willfully made, the penalty under section 3612 (d) (2) is 50 percent of the total tax due for the entire period involved, *including any tax previously paid for such period.*

Any person who willfully fails to pay or collect any tax due, file return, or keep records, or who attempts in any manner to evade or defeat the tax, is subject to a fine of $10,000, or imprisonment, or both, with costs of prosecution, and is also liable to a penalty equal to the amount of the tax not collected or paid. These penalties apply to any officer or employee who, as such officer or employee, is under a duty to perform the act in respect of which the violation occurs, as well as to any other person who fails or refuses to perform any of the duties imposed by the Code, i. e., pay or collect the tax, make return, keep records, supply information, etc.

SEC. 3710. SURRENDER OF PROPERTY SUBJECT TO DISTRAINT.

(a) *Requirement.* Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) *Penalty for violation.* Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(c) *Person defined.* The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 3793. PENALTIES AND FORFEITURES.

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(b) *Fraudulent returns, affidavits, and claims*—(1) *Assistance in preparation or presentation.* Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) *Person defined.* The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

* * * * *

SEC. 35. CRIMINAL CODE OF THE UNITED STATES, AS AMENDED BY THE ACT APPROVED APRIL 4, 1938 (52 STAT., 197).

(A) Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

* * * * *

AUTHORITY FOR REGULATIONS

SEC. 1855. REGULATIONS. [Relating to tax on safe deposit boxes.]

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

SEC. 3472 REGULATIONS (AS AMENDED BY SECTION 554 (d) (3) OF THE REVENUE ACT OF 1941.) [Relating to taxes on transportation of oil by pipe line and telegraph, telephone, radio and cable facilities.]

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

SEC. 3791. RULES AND REGULATIONS.

(a) *Authorization.*—(1) *In general.* * * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

§ 130.80 *Promulgation of regulations.* In pursuance of the provisions of the law, the foregoing regulations are hereby prescribed, and Regulations 42, approved October 22, 1932, as amended (Part 130, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code (53 Stat., Part I) by Treasury Decision 4885, approved February 11, 1939, are superseded as of October 1, 1941.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 31, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-2904; Filed, April 1, 1942; 3:20 p. m.]

[T.D. 5131]

Subchapter A—Income and Excess Profits Taxes

PART 30—EXCESS PROFITS TAX

RETURNS FOR A FRACTIONAL PART OF A YEAR

Section 30.729–1 of Regulations 109 [Part 30, Title 26, Code of Federal Regulations, 1941 Sup.] is amended by changing the last sentence of the first paragraph thereof to read as follows:

* * * The excess profits tax return of a corporation of income received or accrued

(1) from the date of its incorporation to the end of its first accounting period, where the period between the date of incorporation and the end of such period is less than twelve months, or

(2) from the beginning of its last accounting period to the date it ceases operations and is dissolved, retaining no assets, where the period between the beginning of the accounting period and such date is less than twelve months, shall be considered as a return for a fractional part of a year consisting of such period, and shall be filed within the time prescribed for filing returns for taxable years of less than twelve months.

(This Treasury decision is issued under the authority contained in sections 729 and 3791 of the Internal Revenue Code (1939) 53 Stat. 467, (1940) 54 Stat. 989 (U.S.C., Title 26, sections 729 and 3791).)

[SEAL] NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

Approved: March 31, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42–2933; Filed, April 2, 1942; 11:46 a. m.]

[T.D. 5132]

Subchapter C—Miscellaneous Excise Taxes

PART 171—MISCELLANEOUS REGULATIONS RELATED TO LIQUOR

SUBPART I—PRODUCTION, REMOVAL, ETC., OF UNFINISHED SPIRITS FOR REDISTILLATION

The Act of March 27, 1942 provides as follows:

That section 2883 of the Internal Revenue Code (relating to transfer of spirits at registered distilleries) is amended by adding at the end thereof the following:

(d) Under regulations to be prescribed by the Commissioner and approved by the Secretary, distilled spirits of any proof may be removed in approved containers, including pipe lines, from any registered distillery (including registered fruit distilleries) or internal revenue bonded warehouse to any other registered distillery (including registered fruit distilleries) or internal revenue bonded warehouse for redistillation and removal as provided in (c): *Provided*, That in case of removals of distilled spirits to any registered distillery (including registered fruit distilleries) for redistillation, the receiving distiller shall undertake to assume liability for the payment of the tax on the spirits from the time they leave the warehouse or distillery, as the case may be: *Provided further*, That any such spirits of one hundred and sixty degrees of proof or greater may be removed without redistillation from any internal revenue bonded warehouse as provided in (c): *Provided further*, That such spirits may be stored in tanks in any internal revenue bonded warehouse: *Provided further*, That taxes on distilled spirits removed under the provisions of this paragraph, either before or after redistillation, if such distilled spirits or any portion thereof are lost, shall be remitted or refunded in the same manner and under the same conditions as the tax on alcohol would be remitted or refunded under the provisions of section 3113 of the Internal Revenue Code: *And provided further*, That sections 2836 and 2870 shall not apply to the production and removal, and such sections and sections 2800 (a) (5) and 3250 (f) (1) shall not apply to the redistillation and removal, of such spirits.

(e) *Transfer of spirits for redistillation.* Under regulations to be prescribed by the Commissioner and approved by the Secretary, and subject to the provisions of part II of subchapter C of this chapter, spirits of any proof may, without payment of tax and in bond, be removed in approved containers, including pipe lines, from registered distilleries (including registered fruit distilleries) and internal revenue bonded warehouses to industrial alcohol bonded warehouses and industrial alcohol plants for redistillation and removal for any tax-free purpose, or upon payment of tax for any purpose, authorized by said part II of subchapter C of this chapter: *Provided*, That when the spirits are so withdrawn, the tax liability on the producing distiller and the internal revenue bonded warehouseman, and the liens on the premises of the producing distiller shall cease, and the tax shall be the liability of, and the liens shall be transferred to the warehouse or plant of, the alcohol bonded warehuoseman or proprietor of industrial alcohol plant to whom the spirits are transferred: *Provided*, That any such spirits of one hundred and sixty degrees of proof or greater, so removed and stored in any alcohol bonded warehouse, may be removed from such warehouse without redistillation for any tax-free purpose, or upon payment of tax for any purpose, so authorized: *And provided further*, That sections 2836 and 2870 shall not apply to the production or removal of spirits of any proof for such redistillation. This subsection and subsection (d) shall cease to be in effect upon the termination of the unlimited national emergency proclaimed by the President on May 27, 1941.

Pursuant to the foregoing and other provisions of law relating to distilled spirits (including alcohol), the following regulations are hereby prescribed:

Removal of Unfinished Spirits to Other Distilleries and to Internal Revenue Bonded Warehouses for Redistillation

§ 171.50 *General.* Distilled spirits of any proof may be removed in approved containers, including pipe lines, as hereinafter provided, from any registered distillery, fruit distillery, or internal revenue bonded warehouse to any other registered distillery, fruit distillery, or internal revenue bonded warehouse for redistillation and removal (1) upon tax-payment for beverage purposes only, or (2) for the tax-free purposes specified in Section 3108, I.R.C. When removed for such purposes after redistillation, the spirits shall be of a proof of not less than 160 degrees. Where the spirits are removed to an internal revenue bonded warehouse for redistillation and are of a proof of 160 degrees or more, the spirits may be removed from the warehouse without redistillation (1) upon tax-payment for beverage purposes only, or (2) for the tax-free purposes specified in section 3108, I.R.C. (Secs. 2883 (d), 3176, I.R.C.)

§ 171.51 *Consent of surety, Form 1533.* Proprietors of registered distilleries and fruit distilleries in order to withdraw unfinished spirits for redistillation from other registered distilleries or fruit distilleries, or from internal revenue bonded warehouses, shall file consent of surety, Form 1533, on their distillery bond, Form 30 or 30½, as the case may be, extending the terms thereof to assume liability for payment of the tax on the unfinished spirits from the time they leave the premises of the distillery or warehouse from which they are removed. Where the distillery bond, Form 30 or 30½, is filed without surety, supported by consent of surety on the distiller's warehouse bond, Form 1571, the required consent shall extend the terms of both bonds to assume such liability. Where the distillery bond, Form 30 or 30½, as the case may be, is in less than the maximum penal sum and is insufficient to cover the tax on the unfinished spirits to be received for redistillation, plus the quantity of spirits that will be produced at the distillery during a period of 15 days, a new or additional bond in a sufficient penal sum shall be filed by the distiller. The consent of surety shall be in substantially the following form:

To extend the terms of said bond to assume liability for the payment of any tax that may become due on spirits removed for redistillation by the principal from registered distilleries, fruit distilleries, and internal revenue bonded warehouses, pursuant to section 2883 (d), I.R.C., and regulations, from the time the spirits leave the premises of the distillery or warehouse from which removed, including the transportation, redistillation, storage, and disposition, of the spirits as provided by law and regulations.

(Secs. 2883 (d), 3176, I.R.C.)

§ 171.52 *Approved containers and tanks.* Containers used for the removal for redistillation, storage, or withdrawal for the purposes authorized herein, weighing tanks used for gauging, tanks used for storage and pipe lines used for removal for redistillation or withdrawal as authorized herein, of spirits under this regulation, shall be those authorized by, and shall conform as to construction, security, marking, etc., to the provisions of, this regulation and Regulations 4, 5, and 10. (Secs. 2883 (a), (c), (d), 3176, I.R.C.)

§ 171.53 *Removal by tank trucks.* Spirits transferred between distilleries and warehouses, either before or after redistillation, as herein provided, may be transported in tank trucks in accordance with the rules and procedure prescribed in Treasury Decision 5121, which are hereby made applicable to such transportation. As provided in Treasury Decision 5121, such spirits may be transported in tank trucks when withdrawn after redistillation, or without redistillation from an internal revenue bonded warehouse by virtue of being 160

degrees or more of proof, pursuant to withdrawal permits on Form 1444 (Distilled Spirits) issued to the United States or any governmental agency thereof for use at arsenals, munitions plants, ordnance depots, and similar places, or for transfer in bond to a denaturing plant. (Secs. 2883 (a), (c), (d), 3176, I.R.C.)

§ 171.54 *Removal by pipe line.* Removal by pipe line for redistillation or for an authorized tax-paid or tax-free purpose may be made where the distillery, warehouse, or other premises to which the spirits are transferred is located in the immediate vicinity of the distillery or warehouse from which the spirits are removed, and such removal by pipe line has been approved by the Commissioner. Withdrawal upon tax payment for beverage purposes only may be made by pipe line to rectifying plants and tax-paid bottling houses, in accordance with the rules and procedure prescribed in Treasury Decision 5077 for the transfer of spirits of not over 159 degrees of proof from registered distilleries to rectifying plants by pipe line upon tax-payment. The Commissioner will determine from all the circumstances in each case whether the premises to which the spirits are to be transferred by pipe line are in the immediate vicinity of the distillery or warehouse from which the spirits are to be removed. The rules and procedure prescribed in Regulations 3, 4, 5, and 10, relative to the construction, approval and use of pipe lines for the transfer of spirits and alcohol between premises, shall be followed, insofar as applicable, in the construction, approval, and use of pipe lines under this regulation. (Secs. 2883 (a), (c), (d), 3105, 3176, I. R. C.)

§ 171.55 *Gauging.* When spirits are transferred by pipe lines between distilleries and warehouses, either before or after redistillation, as herein provided, the spirits shall be gauged in a weighing tank at the time of transfer, either in the premises from which the spirits are removed or in the premises to which the spirits are transferred, but the spirits need not be gauged in both premises: *Provided,* That where neither of the premises is equipped with a weighing tank, the spirits may be gauged by volume in accurately calibrated tanks in either of the premises. When so transferred by tank cars or tank trucks, the spirits must be gauged in a weighing tank in the shipping premises at the time of shipment and in the receiving premises at the time of receipt: *Provided further,* That where the shipping or receiving premises, or both, are not equipped with a weighing tank, the spirits may be weighed on railroad car or tank truck scales, located on the bonded premises, by weighing the railroad car or tank truck, as the case may be, both before and after after filling or emptying, or both, as the case may be: *And provided further,* That where the shipping or receiving premises, or both, are not equipped with a weighing tank, railroad car or tank truck scales, the spirits may be gauged by volume in accurately calibrated tanks before removal or after receipt, or both, as the case may be. When spirits are withdrawn from distilleries or warehouses by pipe line or by tank car for an authorized tax-paid or tax-free purposes, or by tank truck for an authorized tax-free purpose, other than for use of the United States or for denaturation, the spirits must be gauged by weight in a weighing tank in each instance. (Secs. 2808, 2883 (a), (c), (d), 3176, I.R.C.)

§ 171.56 *Marking containers.* Unfinished spirits removed from distilleries for redistillation shall, regardless of proof, be designated and marked "Unfinished Spirits" as to kind, followed by the name of the material from which produced, as "Unfinished Spirits—Grain," "Unfinished Spirits—Fruit," or "Unfinished Spirits—Cane." When such unfinished spirits are removed to a warehouse storage tank, pending redistillation, the tank shall be similarly marked. When such spirits are withdrawn from the warehouse without redistillation, by virtue of being 160 degrees or more of proof, the designation and marking of the spirits as to kind shall be changed to conform to Treasury Decision 5130. Spirits marked and warehoused under other designations as to kind and which are removed from the warehouse for redistillation under this regulation, shall be so removed under the original markings. The term "Unfinished Spirits" as used herein shall embrace such spirits. When redistilled to 160 degrees or more of proof, all such spirits shall likewise be marked as to kind in conformity with Treasury Decision 5130. When spirits produced from grain, fruit, and cane are mixed as herein authorized, such spirits shall, upon removal for redistillation or withdrawal for an authorized purpose, be marked in conformity with Treasury Decision 5130. When redistilled, the name of the redistiller shall be shown as the distiller of the spirits. When the spirits are withdrawn from warehouse without redistillation, by virtue of being 160 degrees or more of proof, the name of the producing distiller shall be shown as the distiller of the spirits: *Provided,* That where the spirits so withdrawn without redistillation have been commingled in the warehouse with spirits produced by other distillers, the name of the warehouseman shall be substituted for the name of the producing distiller. The containers of such spirits, both before and after redistillation, shall otherwise be marked in accordance with the Gauging Manual and Regulations 4, 5, and 10.

(a) *Transfer marks.*—Each package, tank car, or tank truck of spirits shipped for redistillation shall have attached to the Government head of the package, or route board of the tank car, or some place on the tank truck where it may readily be examined by Government officers, a tag or label showing that the spirits are shipped for redistillation, and giving the names, registry numbers and locations of the shipping and receiving premises. This tag or label shall be in substantially the following form:

Unfinished Spirits—Grain
Shipped by
John Doe Co.
D. 100, Frankfort, Ky.
to
Richard Roe Co.
D. 200, Louisville, Ky.
For Redistillation

(b) *Tax-free withdrawal marks.* Each package of spirits withdrawn for an authorized tax-free purpose shall have marked upon the Government head thereof the purpose for which withdrawn and the number of the permit under which the spirits are withdrawn, as "For denaturation, DP–302" or "For use of US, US–TF–71." When spirits are withdrawn in tank cars or tank trucks for an authorized tax-free purpose as provided herein, there shall be attached to the route board of the tank car or some place on the tank truck where it may readily be examined by Government officers, a tag or label giving the name, registry number, and location of the shipping distillery or warehouse, and the name, location, and permit number of the consignee. This tag or label shall be in substantially the following form:

Spirits—Grain
Shipped by
John Doe Co.
D. 100, Frankfort, Ky.
to
U. S. Navy Yard
Washington, D. C.
US–TF–71

(Secs. 2808, 2883 (a), (c), (d), 3105, 3108, 3176, I.R.C.; Sec. 5, 49 Stat. 981, (27 U.S.C., Supp. 205 (e)).)

§ 171.57 *Storage in tanks.* When unfinished spirits are removed to another distillery for redistillation, the spirits should be deposited in closed, locked tanks in the receiving distillery. When so removed to another distillery in packages, the contents of the packages should be dumped into closed, locked tanks, pending redistillation. When such spirits are removed to an internal revenue bonded warehouse, either before or after redistillation, they may be stored in the warehouse in storage tanks or in the containers in which they are transferred to the warehouse. Spirits transferred to distilleries or warehouses in packages, tank cars, or tank trucks, or by pipe line, either before or after redistillation, may be deposited in the same tanks. Spirits of different proof, or produced from different materials, or produced by different distillers, transferred to distilleries or warehouses, either before or after redistillation, may be deposited in the same tanks in the distillery or warehouse: *Provided,* That spirits produced from grain, cane, and fruit, so deposited in the same tank or otherwise mixed together, either before or after redistillation, may be withdrawn only for an authorized tax-free purpose or upon tax-payment for use in the manufacture of cordials, liqueurs, and specialties. Spirits may be withdrawn from the same warehouse storage tank for redistillation, or, if 160 degrees or more of proof, for the authorized tax-paid or tax-free purposes specified herein. Additional deposits may be made in a storage tank, after removals have been made therefrom, without the necessity of first emptying the tank. (Secs. 2883 (d), 3176, I.R.C.; Sec. 5, 49 Stat. 981 (27 U.S.C., Supp. 205 (e)).)

§ 171.58 *Redistillation.* Unfinished spirits removed for redistillation as herein provided may be redistilled separately or with other unfinished

spirits, including spirits of different proof or produced from different materials or produced by different distillers: *Provided*, That where spirits produced from grain, cane, and fruit are redistilled together, the redistilled spirits may be withdrawn only for an authorized tax-free purpose, or upon tax-payment for use in the manufacture of cordials, liqueurs, and specialties. Unfinished spirits so removed for redistillation may not be redistilled with spirits to be withdrawn for purposes other than those specified herein. (Secs. 2883 (d), 3176, I.R.C.; Sec. 5, 49 Stat. 981 (27 U.S.C., Supp. 205 (e)).)

§ 171.59 *Deficiencies in redistillation.* Deficiencies occurring in the redistillation of unfinished spirits under this regulation, will be treated as deficiencies in the process of manufacture, the same as deficiencies occurring during the process of manufacture or distillation at the distillery at which originally produced, and claims for remission of tax on such deficiencies will not be required. Where the deficiency is more than that usually ascribable to redistillation, proper inquiry in respect thereto will be made by the storekeeper-gauger, and explanatory statements relative to the deficiency will be made by both the distiller and the storekeeper-gauger in the proper records. (Secs. 2883 (d), 3176, I.R.C.)

§ 171.60 *Authorized withdrawals.* Unfinished spirits removed to another distillery or to an internal revenue bonded warehouse for redistillation, pursuant to this regulation, may be withdrawn after redistillation, or before redistillation from a bonded warehouse if of 160 degrees or more of proof, only for (1) beverage purposes upon tax-payment, and (2) the tax-free purposes specified in Section 3108, I.R.C. (Secs. 2883 (a), (c), (d), 3105, 3108, 3176, I.R.C.)

§ 171.61 *Tax-free withdrawals.* The rules and procedure prescribed in Treasury Decision 5111, relative to the withdrawal of spirits of 160 degrees or more of proof for the tax-free purposes specified in Section 3108, I.R.C., pursuant to proper withdrawal permits, and the amendment of basic permits and withdrawal permits to authorize such removals, including transportation and use, are hereby made applicable to spirits withdrawn after redistillation, or before redistillation from an internal revenue bonded warehouse by virtue of being 160 degrees or more of proof, pursuant to section 2883 (d), I.R.C., and this regulation. (Secs. 2883 (a), (c), (d), 3105, 3108, 3114 (a), 3176, I.R.C.)

§ 171.62 *Losses*—(a) *Before removal for redistillation.* Losses of spirits produced or removed under this regulation, which occur prior to removal for redistillation, will be subject to the provisions of Regulations 4, 5, and 10, and the Gauging Manual. Therefore, when spirits, which were not produced under this regulation and were therefore not marked "Unfinished Spirits" at the time of production and were not removed from the producing distillery for redistillation under this regulation, are removed from an internal revenue bonded warehouse for redistillation as authorized herein, the spirits will be regauged in accordance with the Gauging Manual and any losses disclosed by such regauge will be allowed or tax-paid in accordance with the provisions of the Gauging Manual and Regulations 10 relative to losses of spirits while on storage in internal revenue bonded warehouses. Likewise, when unfinished spirits, produced under this regulation, are lost in the producing distillery before removal therefrom for redistillation, the loss will be allowed or tax-paid in accordance with Regulations 4 and 5. Claims for remission of tax on such losses will be filed by the distiller or warehouseman responsible under his bond for the spirits at the time of the loss.

(b) *After removal for redistillation.* Losses of spirits removed for redistillation under this regulation, which occur after removal for redistillation, either before or after such redistillation, or both, will be subject to the provisions of Regulations 3 relative to losses of alcohol, which regulations are hereby made applicable to such losses. Therefore, losses of spirits, which have been removed from the producing distillery or from an internal revenue bonded warehouse for redistillation under this regulation, which occur in an internal revenue bonded warehouse after such removal, either before or after redistillation, or both, will be adjusted in accordance with the provisions of Regulations 3, rather than Regulations 10. Likewise, losses of such spirits, which occur after removal for redistillation, during transportation to or from a distillery or warehouse, either before or after such redistillation, or both, will be adjusted in accordance with the provisions of Regulations 3. Claims for remission of tax on such losses will be filed by the distiller or warehouseman responsible under his bond for the spirits at the time of the loss.

§ 171.63 *Records.* Spirits produced, removed for redistillation, redistilled, and withdrawn for an authorized purpose under this regulation, shall be reported and accounted for in accordance with the provisions of Regulations 4, 5, and 10. Removal of unfinished spirits, for redistillation, to another distillery, or to an internal revenue bonded warehouse not operated by the distiller on the same or contiguous premises, or from an internal revenue bonded warehouse to a distillery not operated by the warehouseman on the same or contiguous premises, shall be made pursuant to approved Form 236, in acordance with the procedure prescribed in Regulations 4, 5, and 10: *Provided*, That the district supervisor shall not approve Form 236 authorizing such removal to a distillery until the proprietor of such distillery has filed with him the consent of surety required by § 171.51: *Provided further*, That such removal from an internal revenue bonded warehouse to a distillery operated by the warehouseman on the same or contiguous premises, for which removal Form 236 is not required, shall not be made until the district supervisor has advised the storekeeper-gauger in charge at the warehouse that the required consent of surety on the distillery bond has been filed with him. (Secs. 2883 (d), 3176, I.R.C.)

§ 171.64 *Sunday and night-time operations.* The law provides that, under regulations, sections 2836 and 2870, I.R.C., shall not apply to the production and removal, and redistillation and removal, of spirits under section 2883 (d), I.R.C. The rules and procedure prescribed by Treasury Decision 5111 relative to the mashing and distilling of spirits of 160 degrees or more of proof between 11 p. m. Saturday and 1 a. m. Monday, and the withdrawal of such spirits between sundown and sunrise or on Sunday, pursuant to section 2883 (c), I.R.C., are hereby made applicable to the production, removal for redistillation, redistillation, and withdrawal of spirits pursuant to section 2883 (d), I.R.C., and this regulation. (Secs. 2883 (d), 3176, I.R.C.)

§ 171.65 *Exemption from rectification taxes.* The law provides that sections 2800 (a) (5) and 3250 (f) (1), I.R.C., levying commodity and occupational rectification taxes, shall not apply to the redistillation of spirits under Section 2883 (d), I.R.C., and this regulation. (Secs. 2883 (d), 3176, I.R.C.)

§ 171.66 *Establishment of denaturing plants.* Proprietors of registered distilleries, fruit distilleries, or internal revenue bonded warehouses, from which distilled spirits of 160 degrees or more of proof are withdrawn under section 2883 (d), I.R.C., and this regulation, may establish denaturing plants in accordance with Regulations 3. (Secs. 3102, 3105, 3176, I.R.C.)

Removal of Unfinished Spirits to Industrial Alcohol Plants and Industrial Alcohol Bonded Warehouses for Redistillation

§ 171.67 *General.* Distilled spirits of any proof may also be removed in approved containers or by pipe line, as hereinafter provided, from any registered distillery, fruit distillery, or internal revenue bonded warehouse to any industrial alcohol plant or industrial alcohol bonded warehouse for redistillation and removal (1) for the tax-free purposes specified in section 3108, I.R.C., or (2) upon tax-payment for any authorized purpose. When removed for such purposes after redistillation, the spirits must be of a proof of not less than 160 degrees. Where the spirits are removed to an industrial alcohol bonded warehouse for redistillation and are of a proof of 160 degrees or more, the spirits may be removed from the warehouse without redistillation for any lawful tax-free or tax-paid purpose for which alcohol may be withdrawn. (Secs. 2883 (e), 3105, 3108, 3176, I.R.C.)

§ 171.68 *Taxes and liens.* Section 2883 (e), I.R.C., provides that when spirits are removed from registered distilleries, fruit distilleries, and internal revenue bonded warehouses, for transfer to industrial alcohol plants and industrial alcohol bonded warehouses for redistillation, the tax liability on the producing distiller and the internal revenue bonded warehouseman, and the liens on the premises of the producing distiller, shall cease, and the tax shall be the liability

of, and the liens shall be transferred to the warehouse or plant of, the alcohol bonded warehouseman or proprietor of the industrial alcohol plant to which the spirits are transferred. (Sec. 3176, I.R.C.)

§ 171.69 *Consent of surety, Form 1533.* Proprietors of alcohol plants and alcohol warehouses in order to withdraw unfinished spirits for redistillation from registered distilleries, fruit distilleries, or internal revenue bonded warehouses, shall file consent of surety, Form 1533, on their bonds, Form 1432–A or 1435, extending the terms thereof to assume liability for payment of the tax on the unfinished spirits from the time they leave the premises of the distillery or warehouse from which they are removed. The consent of surety shall be in substantially the following form:

To extend the terms of said bond to assume liability for the payment of any tax that may become due on spirits removed for redistillation by the principal from registered distilleries, fruit distilleries, and internal revenue bonded warehouses, pursuant to Section 2833 (e), I.R.C., and regulations, from the time the spirits leave the premises of the distillery or warehouse from which removed, including the transportation, redistillation, storage, and disposition, of the spirits as provided by law and regulations.

(Secs. 2883 (e), 3105, 3176, I.R.C.)

§ 171.70 *Permits.* Proprietors of alcohol plants and alcohol warehouses in order to withdraw unfinished spirits for redistillation from registered distilleries, fruit distilleries, and internal revenue bonded warehouses, must file application on Form 1431 with the district supervisor of their district for amendment of their basic permits, Form 1433, to authorize the procurement of such unfinished spirits. Application for withdrawal permit should be made on Form 1437, properly modified, for removal either to the alcohol plant or the alcohol warehouse. District supervisors in issuing withdrawal permits on Forms 1436 and 1438 will modify such forms to specify "Unfinished Spirits" and withdrawal from a registered distillery, fruit distillery, or internal revenue bonded warehouse. When removals are to be made to alcohol plants, the withdrawal permit will be modified accordingly. Unfinished spirits may be shipped from registered distilleries, fruit distilleries, and internal revenue bonded warehouses to alcohol plants and alcohol warehouses, only pursuant to and upon receipt of proper withdrawal permit on Form 1436 or 1438 authorizing such shipment, in accordance with the procuredure prescribed in Regulations 3. (Secs. 2883 (e), 3105, 3114 (a), 3176, I.R.C.)

§ 171.71 *Approved containers and tanks.* Containers used for the removal for redistillation, storage, or withdrawal for the purposes authorized herein, weighing tanks used for gauging, tanks used for storage, and pipe lines used for removal for redistillation or withdrawal as authorized herein, of spirits under this regulation, shall be those authorized by and shall conform as to construction, security, marking, etc., to the provisions of, this regulation and Regulations 3, 4, 5, and 10. (Secs. 2883 (e), 3176, I.R.C.)

§ 171.72 *Removal by tank trucks.* Spirits transferred between distilleries, alcohol plants, and warehouses, either before or after redistillation, as herein provided, may be transported in tank trucks in accordance with the rules and procedure prescribed in Treasury Decision 5121, which are hereby made applicable to such transportation. As provided in Treasury Decision 5121, such spirits may be transported in tank trucks when withdrawn after redistillation, or without redistillation from an industrial alcohol bonded warehouse by virtue of being 160 degrees or more of proof, pursuant to withdrawal permits on Form 1444 issued to the United States or any governmental agency thereof for use at arsenals, munition plants, ordnance depots, and similar places, or for transfer in bond to a bonded warehouse or denaturing plant. (Secs. 2883 (e), 3105, 3108, 3124 (a) (2), 3176, I.R.C.)

§ 171.73 *Removal by pipe line.* Removal by pipe line for redistillation or for an authorized tax-paid or tax-free purpose may be made where the alcohol plant, warehouse, or other premises to which the spirits are transferred is located in the immediate vicinity of the distillery, alcohol plant, or warehouse from which the spirits are removed, and such removal by pipe line has been approved by the Commissioner. Withdrawal upon tax-payment may be made by pipe line to rectifying plants and tax-paid bottling houses, in accordance with the rules and procedure prescribed in Treasury Decision 5076 for the transfer of alcohol to rectifying plants by pipe line upon tax-payment. The Commissioner will determine from all the circumstances in each case whether the premises to which the spirits are to be transferred by pipe line are in the immediate vicinity of the distillery or warehouse from which the spirits are to be removed. The rules and procedure prescribed in Regulations 3, 4, 5, and 10, relative to the construction, approval and use of pipe lines for the transfer of spirits and alcohol between premises, shall be followed, insofar as applicable, in the construction, approval, and use of pipe lines under this regulation. (Secs. 2883 (e), 3105, 3108, 3124 (a) (2), 3176, I.R.C.)

§ 171.74 *Gauging.* When spirits are transferred by pipe line between distilleries, alcohol plants, and warehouses, either before or after redistillation, as herein provided, the spirits must be gauged at the time of transfer in a weighing tank, either in the premises from which the spirits are removed or in the premises to which the spirits are transferred, but the spirits need not be gauged in both premises: *Provided,* That where neither of the premises is equipped with a weighing tank, the spirits may be gauged by volume in accurately calibrated tanks in either of the premises. When so transferred by tank cars or tank trucks, the spirits must be gauged in a weighing tank in the shipping premises at the time of shipment and in the receiving premises at the time of receipt: *Provided further,* That where the shipping or receiving premises, or both, are not equipped with a weighing tank, the spirits may be weighed on railroad car or tank truck scales, located on the bonded premises, by weighing the railroad car or tank truck, as the case may be, both before and after filling or emptying, or both, as the case may be: *And provided further,* That where the shipping or receiving premises, or both, are not equipped with a weighing tank, railroad car or tank truck scales, the spirits may be gauged by volume in accurately calibrated tanks before removal or after receipt, or both, as the case may be. When spirits are withdrawn from alcohol plants and alcohol warehouses by pipe line or by tank car for an authorized tax-paid or tax-free purpose, or by tank truck for an authorized tax-free purpose, other than for use of the United States or for denaturation, the spirits must be gauged by weight in a weighing tank in each instance. (Secs. 2808, 2883 (e), 3105, 3108, 3176, I.R.C.)

§ 171.75 *Marking containers.* Unfinished spirits removed from distilleries for redistillation shall, regardless of proof, be designated and marked "Unfinished Spirits" as to kind, followed by the name of the material from which produced, as "Unfinished Spirits—Grain," "Unfinished Spirits—Fruit," or "Unfinished Spirits—Cane." When such unfinished spirits are removed to an alcohol warehouse storage tank, pending redistillation, the tank shall be similarly marked. When such spirits are withdrawn from an alcohol warehouse without redistillation, by virtue of being 160 degrees or more of proof, the designation and marking of the spirits as to kind shall be changed to "Alcohol." When redistilled at alcohol plants to 160 degrees or more of proof, such spirits shall likewise be marked "Alcohol." Containers of such spirits when removed from distilleries and internal revenue bonded warehouses for transfer to alcohol plants and alcohol bonded warehouses, for redistillation, in adddition to being marked "Unfinished Spirits," followed by the name of the material from which produced, shall otherwise be marked in accordance with the Gauging Manual and Regulations 4, 5, and 10. Upon redistillation at an alcohol plant to 160 degrees or more of proof, or withdrawal from an alcohol bonded warehouse without redistillation, by virtue of being 160 degrees or more of proof, the containers of the spirits, in addition to being marked "Alcohol," shall otherwise be marked in accordance with Regulations 3 and the Gauging Manual.

(a) *Transfer marks.* Each package, tank car, or tank truck of spirits shipped for redistillation shall have attached to the Government head of the package, or route board of the tank car, or some place on the tank truck where it may readily be examined by Government officers, a tag or label showing that the spirits are shipped for redistillation, and giving the name, registry numbers and

locations of the shipping and receiving premises. This tag or label shall be in substantially the following form:

Unfinished Spirits—Grain
Shipped by
John Doe Co.
D. 100, Frankfort, Ky.
to
Roe Alcohol Co.
I. A. P. 300, New Orleans, La.
For Redistillation.

(Secs. 2808, 2883 (e), 3105, 3176, I.R.C.; Sec. 5, 49 Stat. 981, (27 U.S.C., Sup. 205 (e)))

§ 171.76 *Storage in tanks.* When unfinished spirits are removed to an alcohol plant for redistillation, the spirits should be deposited in closed, locked tanks in the alcohol plant. When so removed to an alcohol plant in packages, the contents of the packages must be dumped into closed, locked tanks, pending redistillation. When such spirits are removed to an alcohol warehouse, pending redistillation, they may be stored in the warehouse in storage tanks or in the containers in which they are transferred to the warehouse. Spirits transferred to alcohol plants or alcohol warehouses in packages, tank cars, tank trucks, or by pipe line, may be deposited in the same tanks. Spirits of different proof, or produced from different materials, or produced by different distillers, transferred to alcohol plants or alcohol warehouses, may be deposited in the same tanks in the alcohol plant or warehouse: *Provided*, That spirits produced from grain, cane, and fruit, so deposited in the same tank or otherwise mixed together, either before or after redistillation, may not be withdrawn for tax-paid beverage purposes other than for use in the manufacture of cordials, liqueurs, and specialties. Spirits may be withdrawn from the same warehouse storage tank for redistillation, or, if 160 degrees or more of proof, for the authorized tax-paid or tax-free purposes specified herein. Additional deposits may be made in a storage tank, after removals have been made therefrom, without the necessity of first emptying the tank. (Secs. 2883 (e), 3105, 3176, I.R.C.; Sec. 5, 49 Stat. 981, (27 U.S.C., Sup. 205 (e))

§ 171.77 *Redistillation.* Unfinished spirits removed for redistillation as herein provided may be redistilled separately or with alcohol or other unfinished spirits, including spirits of different proof or produced from different materials or produced by different distillers: *Provided*, That where spirits produced from grain, cane, and fruit are redistilled together, the redistilled spirits may not be withdrawn for tax-paid beverage purposes other than for use in the manufacture of cordials, liqueurs, and specialties. (Secs. 2883 (e), 3105, 3176, I.R.C.; Sec. 5, 49 Stat. 981 (27 U.S.C., Sup. 205 (e)))

§ 171.78 *Authorized withdrawals.* Unfinished spirits removed to an alcohol plant or alcohol warehouse for redistillation, pursuant to this regulation, may be withdrawn after redistillation, or before redistillation from the warehouse if of 160 degrees or more of proof, for any tax-paid or tax-free purpose for which alcohol may be withdrawn. Such withdrawals shall be made in accordance with the provisions of Regulations 3, relative to withdrawal permits, etc. (Secs. 2883 (e), 3176, I.R.C.)

§ 171.79 *Losses or deficiencies of unfinished spirits.* Losses of spirits produced or removed under this regulation, which occur prior to removal for redistillation, will be subject to the provisions of Regulations 4, 5, and 10, and the Gauging Manual, and will be adjusted in accordance with § 171.62 (a). Losses of such spirits, which occur after removal for redistillation, either before or after such redistillation, or both, will be subject to the provisions of Regulations 3 relative to losses of alcohol. Deficiencies in redistillation will be treated as deficiencies in the process of original manufacture, and claims for remission of tax on such deficiencies will not be required. Where the deficiency is more than that usually ascribable to redistillation, proper inquiry in respect thereto will be made by the storekeeper-gauger, and explanatory statements relative to the deficiency will be made by both the proprietor of the alcohol plant and the storekeeper-gauger in the proper records. Claims for remission of tax on losses of unfinished spirits, which occur after removal for transfer to an alcohol plant or alcohol warehouse, will be filed by the proprietor of the alcohol plant or alcohol warehouse in accordance with Regulations 3. (Secs. 2883 (e), 3176, I.R.C.)

§ 171.80 *Records.* Unfinished spirits produced and removed to alcohol plants or alcohol warehouses for redistillation shall be reported and accounted for in accordance with the provisions of Regulations 4, 5, and 10. At the time of removal the storekeeper-gauger at the distillery or internal revenue bonded warehouse from which the spirits are shipped will prepare Form 1439, properly modified, reporting the shipment, and forward one copy to the supervisor-consignor, one copy to the supervisor-consignee, and one copy to the storekeeper-gauger at the receiving alcohol plant or alcohol warehouse. Upon receipt of the spirits the storekeeper-gauger at the receiving alcohol plant or alcohol warehouse will execute the certificate of receipt on the copy of Form 1439 received by him and forward it to the supervisor-consignor at the address specified in Part III of the form. The receipt of the spirits at the alcohol plant or alcohol warehouse, and the redistillation, storage and withdrawal of the spirits as alcohol, shall be reported and accounted for in accordance with Regulations 3. (Secs. 2883 (e), 3176, I.R.C.)

§ 171.81 *Sunday and night-time operations.* The law provides that, under regulations, sections 2836 and 2870, I.R.C., shall not apply to the production and removal to an alcohol plant or alcohol warehouse of spirits produced and removed under section 2883 (e), I.R.C., for redistillation. The rules and procedure prescribed by Treasury Decision 5111 relative to the mashing and distilling of spirits of 160 degrees or more of proof between 11 p. m. Saturday and 1 a. m. Monday, and the withdrawal of such spirits between sundown and sunrise or on Sunday, pursuant to section 2883 (c), I.R.C., are hereby made applicable to the production and removal of spirits for redistillation pursuant to section 2883 (e), I.R.C., and this regulation. (Secs. 2883 (e), 3176, I.R.C.)

General

§ 171.82 *Additional procedure.* In addition to the procedure prescribed herein, the procedure prescribed in Regulations 3, 4, 5, and 10, the Gauging Manual, and Treasury Decision 5111, shall apply insofar as applicable to spirits produced, removed for redistillation, redistilled, and withdrawn pursuant to this regulation. (Secs. 2883 (a), (c), (d), (e), 3105, 3176, I.R.C.)

§ 171.83 *Section 2883 (c), I.R.C. (T.D. 5111) Spirits.* Treasury Decision 5111, as amended by Treasury Decision 5130, shall continue to apply to spirits withdrawn pursuant to section 2883 (c), I.R.C.: *Provided*, That when such spirits are withdrawn for an authorized tax-free purpose, the containers shall bear the withdrawal marks prescribed in § 171.56 (b) of this regulation, in addition to the marks required by Treasury Decision 5111, as amended by Treasury Decision 5130: *Provided further*, That when such spirits are transferred from distilleries to internal revenue bonded warehouses, or from one such warehouse to another, prior to withdrawal for an authorized tax-paid or tax-free purpose, the spirits may be transported in tank trucks in accordance with the rules and procedure prescribed in Treasury Decision 5121, which are hereby made applicable to such transportation. (Secs. 2808, 2883 (a), (c), 3176, I.R.C.)

§ 171.84 *Termination of regulations.* These regulations shall cease to be effective upon the termination of the unlimited national emergency proclaimed by the President on May 27, 1941. (Secs. 2883 (d), (e), 3176, I.R.C.)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: April 1, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-2934; Filed, April 2, 1942; 11:47 a. m.]

[T.D. 5133]

PART 182—INDUSTRIAL ALCOHOL

FORMULAS AMENDED[1]

Pursuant to authority in sections 3070 (a), 3105 (a), 3124 (a) (6), and 3176 (a), Internal Revenue Code, completely denatured alcohol Formula Nos. 12, 13, and 14, as set forth in the Appendix to Regulations No. 3, approved December 29, 1938 (Appendix to Part 182, Code of Federal Regulations), as amended by T.D.

[1] Amendment of Appendix to Regulations No. 3, Revised 1938.

5095, approved October 30, 1941, are amended to read as follows:

Formula No. 12

To every 100 gallons of ethyl alcohol of not less than 160° proof add:
4.0 gallons of ST–115 or a compound similar thereto.
1.0 gallon of Dehydrol-O or a compound similar thereto.
0.5 gallon of acetaldol (hydroxy-butyraldehyde), or 1.5 gallons of methyl isobutyl ketone.
1.0 gallon of kerosene.

Formula No. 13

To every 100 gallons of ethyl alcohol of not less than 160° proof add:
4.0 gallons of ST–115 or a compound similar thereto.
1.5 gallons of methyl isobutyl ketone.
0.25 gallon of acetaldol (hydroxy-butyraldehyde).
1.0 gallon of kerosene.

Formula No. 14

To every 100 gallons of ethyl alcohol of not less than 160° proof add:
3.0 gallons of Dehydrol-0 or a compound similar thereto.
1.75 gallons of methyl isobutyl ketone.
1.5 gallons of kerosene.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: April 1, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-2935; Filed, April 2, 1942; 11:47 a. m.]

[T.D. 5130]

PART 186—GAUGING MANUAL

GAUGING MANUAL AMENDED

Pursuant to the provisions of sections 2808 and 3176, Internal Revenue Code, subparagraph (b) of paragraph 60 of the Gauging Manual, approved November 21, 1938 (§ 186.60, Title 26, CFR), as amended by Treasury Decision 5117, approved February 17, 1942, is hereby further amended to read as follows:

PAR. 60 (b)–(1). Spirits hereafter distilled at or above 160 degrees and less than 190 degrees of proof, if not to be branded in accordance with subparagraphs (b–4), (c), (d), (e), (f), and (g) hereof, and spirits hereafter distilled at or above 190 degrees of proof shall be branded "Spirits—Grain," "Spirits—Cane," or "Spirits—Fruit": *Provided, however,* That—

(A) If such spirits are to be used for the purposes authorized by the Act of January 24, 1942 (section 2883 (c)), Internal Revenue Code) (taxpaid for beverage purposes, or removed for tax free purposes), they must have been withdrawn from cisterns at 160 degrees or more of proof.

(B) If such spirits are distilled from fruit and are intended for the fortification of wines, the words "Spirits—Fruit" shall be followed by the name of the fruit from which produced.

(2) If spirits are branded in accordance with subparagraphs (b) (1) (B) and (f), they may be used for beverage and taxpaid non-beverage purposes only; and if branded in accordance with subparagraphs (c), (d), (e), and (g), they may be used for beverage purposes only, except that if they are distilled below 160 degrees of proof, they may be used for beverage and taxpaid non-beverage purposes: *Provided,* That spirits branded in accordance with subparagraphs (b–1–B) and (f), if not less than 160 degrees of proof, may also be withdrawn for the tax free purposes authorized by the Act of January 24, 1942 (section 2883 (c), Internal Revenue Code), if rebranded "Spirits—Fruit."

(3) If spirits of any proof less than 190 degrees are so distilled or so treated in the process of distillation as to lack the taste, aroma, and other characteristics of whiskey, brandy, rum, or other potable beverage spirits, they shall be branded "Spirits—Grain," "Spirits—Cane," or "Spirits—Fruit," as the case may be, followed by the word "Processed": *Provided, however,* That—

(A) If such spirits are reduced to 159 degrees or less of proof, they may be withdrawn from cisterns for beverage purposes, except that "Spirits—Fruit—Processed" may be withdrawn at any proof for beverage and taxpaid non-beverage purposes.

(B) If such spirits are distilled at 160 degrees or less of proof, they may be withdrawn for beverage and taxpaid non-beverage purposes.

(C) If such spirits are withdrawn from cisterns at 160 degrees or more of proof, they may be withdrawn for the purposes authorized by the Act of January 24, 1942 (section 2883 (c), Internal Revenue Code) except that "Spirits—Fruit—Processed" may also be withdrawn for taxpaid non-beverage purposes.

(D) Such spirits of any proof may be removed under the Act of March 27, 1942 (section 2883 (d), Internal Revenue Code), for redistillation.

(4) All spirits hereafter removed from cisterns at any proof, under the Act of March 27, 1942 (section 2883 (d), Internal Revenue Code), for redistillation shall be branded "Unfinished Spirits—Grain," "Unfinished Spirits—Cane," or "Unfinished Spirits—Fruit."

(5) When spirits which were removed to distilleries or internal revenue bonded warehouses for redistillation are withdrawn for beverage or tax free purposes, pursuant to the Act of March 27, 1942 (section 2883 (d), Internal Revenue Code), they shall be branded "Spirits—Grain," "Spirits—Cane," or "Spirits—Fruit": *Provided, however,* That—

(A) Such spirits shall be redistilled to or be withdrawn from an internal revenue bonded warehouse without redistillation at not less than 160 degrees of proof.

(B) Spirits distilled from fruit if withdrawn for beverage or taxpaid non-beverage purposes, shall be branded in accordance with subparagraphs (b–1–B) and (f).

(C) When grain, cane, or fruit spirits are mixed with each other prior to withdrawal or redistillation, the product shall be branded "Spirits."

(6) When spirits which were transferred to alcohol plants or bonded warehouses for redistillation are redistilled to 160 degrees or more of proof, or are withdrawn from an alcohol bonded warehouse without redistillation by virtue of being 160 degrees or more of proof, such spirits shall be branded "Alcohol."

This regulation shall cease to be effective upon termination of the unlimited National Emergency proclaimed by the President on May 27, 1941.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: April 1, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-2932; Filed, April 2, 1942; 11:46 a. m.]

TITLE 27—INTOXICATING LIQUORS

Chapter I—Bureau of Internal Revenue

[T.D. 5134]

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

MODIFICATION OF STANDARD OF IDENTITY FOR NEUTRAL SPIRITS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

1. By virtue of and pursuant to section 5 (e) of the Federal Alcohol Administration Act, as amended (U.S.C. Sup., Title 27), section 3170 of the Internal Revenue Code (53 Stat., part 1), and Section 161 of the Revised Statutes (U.S.C., Title 5, sec. 22), section 21, Class 1 of Regulations No. 5, Relating to Labeling and Advertising of Distilled Spirits (27 CFR 5.21 (a)), as amended by Treasury Decision 5116,[1] approved February 17, 1942, is amended to read as follows:

§ 5.21 *The standards of identity*—(a) *Class 1—Neutral Spirits or alcohol.* "Neutral spirits" or "alcohol" are distilled spirits distilled from any material at or above 190° proof, whether or not such proof is subsequently reduced. During the period of the unlimited national emergency proclaimed by the President on May 27, 1941, the term "neutral spirits" shall also include any spirits distilled at less than 190° proof, which are so distilled, or so treated in the process of distillation, or so refined by other processes after distillation, as to lack the taste, aroma and other characteristics of whiskey, brandy, rum or other potable beverage spirits, but the containers of such product shall not be labeled as "alcohol."

* * * * *

[SEAL] STEWART BERKSHIRE,
Deputy Commissioner of Internal Revenue.

Approved: March 31, 1942,

GUY T. HELVERING,
Commissioner of Internal Revenue.

April 1, 1942,

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-2986; Filed, April 2, 1942; 11:48 a. m.]

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[1] 7 F.R. 1084.

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

PART 604—CIVILIAN EMPLOYEES

[Amendment No. 31, 2d Ed.]

As Director of Selective Service, I hereby amend the Selective Service Regulations, Second Edition, Part 604, by deleting paragraph (d) of section 604.21 and substituting therefor the following:

604.21 *Appointment and tenure.*

* * * * *

(d) Before any compensation is paid to any local board employee or before any local board employee's rate of compensation is changed, a report must be executed, in quintuplicate, by the local board on Report of Employment, Separation, or Status Change for Local Board Employee (Form 250) and shall be distributed as follows: The original and all four copies shall be forwarded to the State Director of Selective Service, who, if he approves the employment or change of status, will endorse his approval on the original and each of the four copies, forward the original and one copy to the manager of the appropriate civil service district, two copies to the local board, and retain one copy in his files; the local board shall attach one copy to the next Time Report (Form 80) affected and retain one copy in its files; and the manager of the civil service district will forward the original to the Director of Selective Service. (54 Stat. 885; 50 U.S.C., Sup. 301–318, inclusive; E.O. 8545, 5 F.R. 3779)

* * * * *

Effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

FEBRUARY 25, 1942.

[F. R. Doc. 42-2907; Filed, April 1, 1942; 3:30 p. m.]

PART 607—PAYMENT FOR PERSONAL SERVICES

[Amendment No. 32, 2d Ed.]

As Director of Selective Service, I hereby amend the Selective Service Regulations, Second Edition, Part 607, in the following respects:

1. By changing the titles of §§ 607.1 and 607.5 in the table of contents to read, respectively: "Payroll covering field personnel" and "Pay period."

2. By adding the titles of two new sections to the table of contents, as follows:

607.6 Time Report.
607.7 Pay-roll vouchers.

3. By deleting §§ 607.1 and 607.5 and substituting therefor the following:

§ 607.1 *Pay roll covering field personnel.* All pay-roll vouchers covering field personnel of the Selective Service System shall be prepared at the respective State Headquarters for Selective Service from Time Reports (Form 80) received from the several field units.

* * * * *

§ 607.5 *Pay period.* The pay period shall be the calendar month. The Director of Selective Service, upon the recommendation of the State Director of Selective Service, may authorize two pay periods for each calendar month, the first period to be from the first to the fifteenth, inclusive, and the second period to be from the sixteenth to the last day of the month, inclusive.

4. By adding two new sections to this part, to read as follows:

§ 607.6 *Time Report.* (a) Every local board, board of appeal, medical advisory board, and State Headquarters for Selective Service shall prepare a Time Report (Form 80), in duplicate, for each determined pay period.

(b) The original Time Report (Form 80) of a local board, board of appeal, or medical advisory board shall be certified by the chairman of the board or by a member of the board designated as the certifying officer for such purpose in a resolution regularly adopted by the board. When a local board employee is appointed, separated, or his status is changed, there shall be attached to such local board's first Time Report (Form 80) affected a properly executed copy of a Report of Employment, Separation, or Status Change for Local Board Employee (Form 250).

(c) The original Time Report (Form 80) of each local board, board of appeal, and medical advisory board shall be forwarded to the State Headquarters for Selective Service, and the copy shall be retained in the files of the board.

(d) The Time Report (Form 80) for the State Headquarters for Selective Service shall be certified by the State Director of Selective Service or by an individual duly designated by him for that purpose.

§ 607.7 *Pay-roll vouchers.* Pay-roll vouchers covering each pay period shall be prepared in the State Headquarters for Selective Service. The original of each pay-roll voucher shall be certified to and approved by the State Director of Selective Service or the State procurement officer. (54 Stat. 885; 50 U.S.C., Sup. 301–318, inclusive; E.O. 8545, 5 F.R. 3779)

Effective upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

FEBRUARY 25, 1942.

[F. R. Doc. 42-2908; Filed, April 1, 1942; 3:30 p. m.]

Chapter IX—War Production Board

Subchapter B—Division of Industry Operations

PART 976—MOTOR TRUCKS, TRUCK TRAILERS, AND PASSENGER CARS

AMENDMENT NO. 5 TO LIMITATION ORDER L–1–a

Section 976.1 (General Limitation Order L–1–a, as amended by Amendment No. 3,[1] issued January 23, 1942) is hereby further amended by changing paragraph (a) of said Amendment No. 3 to read as follows:

§ 976.1 *General Limitation Order—*(a) *Definitions.* For the purposes of this Order:

(1) "Medium and/or heavy motor truck" means a complete motor truck or truck-tractor with a maximum gross vehicle weight rating of 9,000 pounds or more, as certified to the Office of Production Management by the Producer's Engineering Department and as specified in a published rating in effect prior to August 1, 1941) or the chassis therefor.

(2) "Producer" means any individual, partnership, association, corporation or other form of business enterprise engaged in the manufacture of medium and/or heavy motor trucks and Off-the-Highway motor vehicles.

(3) "Off-the-highway motor vehicle" means a motor truck, truck-tractor and/or trailer, operating off the public highway, normally on rubber tires and specially designed to transport materials, property or equipment on mining, construction, logging or petroleum development projects. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

This Amendment shall take effect immediately. Issued this 2nd day of April, 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-2923; Filed, April 2, 1942; 10:56 a. m.]

[1] 7 F.R. 514.

PART 976–MOTOR TRUCKS, TRUCK TRAILERS, AND PASSENGER CARS

AMENDMENT NO. 6 TO LIMITATION ORDER L–1–a

Section 976.1 (Limitation Order L–1–a, as amended) is hereby further amended by inserting at the end of paragraph (b) (1) of Amendment No. 4[1] to said Order, the following:

(iv) *Production of vehicles under 16,000 pounds gross vehicle weight for Army, Navy and others.* Nothing in this Order shall prevent a producer from producing trucks, in either knock-down or built-up form, from materials for quotas authorized for March 1942 production, in semi-fabricated or fabricated condition, for vehicles under 16,000 but not less than 9,000 pounds gross vehicle weight, as reported to the Automotive Branch as of February 28, 1942: *Provided,* Such production shall be made only to fill contracts and orders for delivery to or for the account of (1) the Army, Navy and other agencies listed in paragraph (4) below, and (2) persons to whom export licenses are issued by the Board of Economic Warfare. Vehicles produced under authority of this paragraph may not be equipped with tires, casings and tubes by the producer from his stocks, but such equipment may be mounted on

[1] 7 F.R. 1719.

such vehicles by the producer when the same is supplied by the Army, Navy or other persons for whom the vehicles are being produced. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

This Amendment shall take effect immediately. Issued this 2d day of April 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-2924; Filed, April 2, 1942; 10:56 a. m.]

PART 976—MOTOR TRUCKS, TRUCK TRAILERS, AND PASSENGER CARRIERS

AMENDMENT NO. 3 TO LIMITED PREFERENCE RATING ORDER P-54

Section 976.2 (*Limited Preference Rating Order P-54*)[1] is hereby amended by adding to subparagraph (a), *Definitions*, the following:

(vi) "Off-the-Highway Motor Vehicle" means a motor truck, truck-tractor and/or trailer operating off the public highway, normally on rubber tires and specially designed to transport materials, property or equipment on mining, construction, logging or petroleum development projects. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, Jan. 26, 1942, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

This amendment shall take effect immediately. Issued this 2d day of April, 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-2925; Filed, April 2, 1942; 10:57 a. m.]

PART 976—MOTOR TRUCKS, TRUCK TRAILERS AND PASSENGER CARRIERS

SUPPLEMENTARY LIMITATION ORDER L-1-f

Section 976.1 (*Limitation Order L-1*), as amended:

§ 976.16 *Supplementary Limitation Order L-1-f*—(a) *Extension of time for production of February quotas.* Irrespective of the terms of Amendment No. 2 to Limitation Order L-1-a (establishing quotas for February 1942 production of medium and/or heavy motor trucks) or any other Order heretofore issued, the production of medium and/or heavy motor trucks on quotas heretofore authorized to be produced in February 1942 may be produced up to and including April 30, 1942.

(b) *Extension of time for production of March quotas.* Irrespective of the terms of Amendment No. 3 to Limitation Order L-1-a (establishing quotas for March 1942 production of medium and/or heavy motor trucks) or any other Order heretofore issued, the production of medium and/or heavy motor trucks on quotas heretofore authorized to be produced in March 1942 may be produced up to and including May 31, 1942. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

This Order shall take effect immediately. Issued this 2d day of April 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-2928; Filed, April 2, 1942; 10:58 a. m.]

PART 1086—O. D. WOOL CLIPS, O. D. WOOL RAGS AND O. D. WOOL WASTES

AMENDMENT NO 1 TO GENERAL PREFERENCE ORDER M-87

Section 1086.1 (*General Preference Order M-87*)[1] is hereby amended in the following respect:

Paragraph (b) (3) is hereby amended to read as follows:

(b) * * * (3) "O. D. Wool Wastes" means wool wastes of any type that are O. D. in color, resulting from any phase in the manufacture of O. D. wool products, excepting card strips, spinner's fly, brush waste, sweeps and fulling mill flocks, napper flocks and shear flocks. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

This amendment shall take effect immediately. Issued this 2d day of April 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-2927; Filed, April 2, 1942; 10:57 a. m.]

PART 1153—FLUORESCENT LIGHTING FIXTURES

GENERAL LIMITATION ORDER L-78

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of various materials for defense, for private account, and for export, which are used in the production of fluorescent lighting fixtures; and the following Order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1153.1 *General Limitation Order L-78*—(a) *Definitions.* For the purpose of this Order:

(1) "Fluorescent lighting fixture" means any lighting fixture or device (whether portable or not) of a type which produces light by means of the passage of electricity through vaporized mercury including, but not limited to, the following:

(i) Cold cathode (high voltage) fluorescent lighting fixtures,

(ii) Rectified fluorescent lighting fixtures,

(iii) Cooper-Hewitt type fixtures and

(iv) Mercury H type fixtures.

"Fluorescent lighting fixture" does not include any tube or bulb which contains mercury, nor is any such tube or bulb to be considered a component part of a fuorescent lighting fixture.

(2) "Maintenance" means the minimum upkeep necessary to the continued safe operation of any fluorescent lighting fixture.

(3) "Repair" means the restoration of any fluorescent lighting fixture to a sound working condition after wear and tear, damage, destruction, or failure of any part has made it unfit or unsafe for service.

(b) *Restrictions*—(1) *Manufacture.* On and after the date of issuance of this Order, notwithstanding any contract or agreement to the contrary, no person shall manufacture or assemble any fluorescent lighting fixture or any component part of any fluorescent lighting fixture, except:

(i) Fluorescent lighting fixtures or component parts thereof, manufactured or assembled pursuant to an order or contract which bears a preference rating of A-2, or better,

(ii) Fluorescent lighting fixtures or component parts thereof, manufactured or assembled wholly from materials or parts which may hereafter be acquired on orders or contracts bearing a preference rating of A-2, or better, or bearing any preference rating assigned under the Production Requirements Plan,

(iii) Fluorescent lighting fixtures or component parts thereof, the manufacture or assembly of which had been begun on or before the date of issuance of this Order, pursuant to an order or contract accepted prior to the date of issuance of this Order, and

(iv) That, within twenty days after the date of issuance of this Order, any person may manufacture or assemble any fluorescent lighting fixture or any component part of any fluorescent lighting fixture which shall be composed wholly of parts or materials which had already been delivered to him on or before the date of issuance of this Order.

(2) *Sale and delivery.* On and after the 61st day following the date of issuance of this Order, notwithstanding any contract or agreement to the contrary, no person shall sell, deliver, ship or transfer any fluorescent lighting fixture or any component part of any fluorescent lighting fixture, except:

(i) Any fluorescent lighting fixture and any component part of any fluorescent lighting fixture which is sold, delivered, shipped or transferred pursuant to an order or contract bearing a preference rating of A-2 or better, or

(ii) Any component part of any fluorescent lighting fixture, which is sold, delivered, shipped or transferred for the purposes of maintenance or repair.

[1] F. R. 1792.

[1] 7 F.R. 1854.

(c) *Avoidance of excessive inventories.* No person shall accumulate an inventory of any material (whether raw, semi-processed or processed) for manufacture into any fluorescent lighting fixture in excess of the minimum amount of such material necessary to maintain production of fluorescent lighting fixtures to the extent permitted by this Order.

(d) *Records.* All persons affected by this Order shall keep and preserve for not less than two (2) years accurate and complete records concerning inventories, production and sales.

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

(f) *Reports.* Each person to whom this Order applies shall execute and file with the War Production Board such reports and questionnaires as said Board shall from time to time request.

(g) *Violations or false statements.* Any person who violates this Order, or who wilfully falsifies any records which he is required to keep by the terms of this Order, or by the Director of Industry Operations, or otherwise wilfully furnishes false information to the Director of Industry Operations or to the War Production Board may be deprived of priorities assistance or may be prohibited by the Director of Industry Operations from obtaining any further deliveries of materials subject to allocation. The Director of Industry Operations may also take any other action deemed appropriate, including the making of a recommendation for prosecution under Section 35A of the Criminal Code (18 U.S.C. 80).

(h) *Appeals.* Any person affected by this Order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a serious problem of unemployment in the community, or that compliance with this Order would disrupt or impair a program of conversion from nondefense to defense work, may apply for relief by addressing a letter to the War Production Board, setting forth the pertinent facts and the reasons why such Person considers that he is entitled to relief. The Director of Industry Operations may thereupon take such action as he deems appropriate.

(i) *Applicability of Priorities Regulation No. 1.* This Order and all transactions affected thereby are subject to the provisions of Priorities Regulation No. 1, as amended from time to time, except to the extent that any provision hereof may be inconsistent therewith, in which case the provisions of this Order shall govern.

(j) *Applicability of other orders.* Insofar as any other Order issued by the Director of Industry Operations, or to be issued by him hereafter, limits the use of any material to a greater extent than the limits imposed by this Order, the restrictions of such other Order shall govern, unless otherwise specified therein.

(k) *Routing of correspondence.* Reports to be filed and other communications concerning this Order shall be addressed to the War Production Board, Washington, D. C.; Ref. L–78.

(l) *Effective date.* This Order shall take effect upon the date of the issuance thereof and shall continue in effect through June 30, 1942, unless otherwise ordered by the Director of Industry Operations. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

Issued this 2nd day of April 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42–2926; Filed, April 2, 1942; 10:57 a. m.]

PART 1173—RUBBER YARN AND ELASTIC THREAD

AMENDMENT NO. 1 TO CONSERVATION ORDER M–124

Section 1173.1 (Conservation Order M–124 [1]) is hereby amended as follows:

By substituting a semi-colon for the period at the end of paragraph (c) and adding to such paragraph the following:

(c) * * * *Provided, however,* That such restrictions shall not apply to rubber yarn and elastic thread which, prior to 12:01 o'clock A. M., March 29, 1942, had been placed on a knitting machine, braider or loom, or which had been removed from the vendor's container, wrapping, packing or "put-up" and placed on quills, cones, cops, spools, bobbins, tubes, beams or warps prior to 12:01 o'clock A. M., March 29, 1942.

This Amendment shall take effect immediately. (P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561, E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong.)

Issued this 1st day of April, 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42–2911; Filed, April 1, 1942; 4:05 p. m.]

Chapter XI—Office of Price Administration

PART 1351—FOODS AND FOOD PRODUCTS

AMENDMENT NO. 3 TO REVISED PRICE SCHEDULE NO. 91 [2]—TEA

A statement of the considerations involved in the issuance of this Amendment has been prepared and is issued simultaneously herewith.[3]

Section 1351.261 (b) is amended, to add China teas of the following grades, and a new § 1351.260a (d) is added, as set forth below.

§ 1351.261 *Appendix A: Maximum prices for tea.*

* * * * *

(b) The maximum prices for tea shall be as follows:

	Cents per pound ex dock New York City		
	Common	Medium	Fine
* * * * *			
CHINA			
Young Hyson	27½	35½	45½
Congou	41	45	57
Gun Powder #1		48	
Gun Powder #2		41	
Gun Powder #3		38	
Gun Powder #4		35	
Gun Powder #5		32½	
Gun Powder #6		31½	
Gun Powder #7		29	
Gun Powder #8		27½	
First Imperial		33½	
Second Imperial		30½	
Third Imperial		27½	

§ 1351.260a *Effective dates of amendments.*

* * * * *

(d) Amendment No. 3 (§§ 1351.261 (b) and 1351.260a (d)) to Revised Price Schedule No. 91 shall become effective April 2, 1942. Until such date, Revised Price Schedule No. 91 continues in effect as if not amended by Amendment No. 3. (Pub. Law 421, 77th Cong.)

Issued this 2d day of April 1942.

JOHN E. HAMM,
Acting Administrator.

[F. R. Doc. 42–2914; Filed, April 2, 1942; 9:47 a. m.]

PART 1410—WOOL

CORRECTION TO REVISED PRICE SCHEDULE NO. 58, AS AMENDED [1]—WOOL AND WOOL TOPS AND YARNS

The sentence "1¼¢ per count for each count from 2/31s to 2/40s" appearing in § 1410.64 (a) (1) (i) should read "1½¢ per count for each count from 2/31s to 2/40s."

The price for Foreign 50s French spinning yarns of "$1.875" appearing in the table in § 1410.64 (c) should read "$1.775".

§ 1410.60 *Effective dates of amendments.*

* * * * *

(b) This correction (§ 1410.64 (a) (1) (i), § 1410.64 (c) to Revised Price Schedule No. 58, as amended, shall become effective as of March 27, 1942. (Pub. Law 421, 77th Cong.)

Issued this 1st day of April 1942.

JOHN E. HAMM,
Acting Administrator.

[F. R. Doc. 42–2915; Filed, April 2, 1942; 9:47 a. m.]

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[1] 7 F.R. 2472.

[2] 7 F.R. 1378, 1857, 2108, 2153.

[3] Filed with the Division of the Federal Register; requests for copies should be addressed to the Office of Price Administration.

[1] 7 F.R. 2397.

TITLE 46—SHIPPING

Chapter I—Coast Guard: Inspection and Navigation

[T. D. 50592]

Subchapter A—Documentation, Entrance and Clearance of Vessels, Etc.

COASTWISE LAWS WAIVED TO EXTENT NECESSARY TO PERMIT CERTAIN VESSELS TO ENGAGE IN THE COASTWISE OR INTERCOASTAL TRADE WHILE UNDER FOREIGN FLAG

MARCH 31, 1942.

By virtue of the authority vested in me by section 501 of the Second War Powers Act, 1942 (Public Law 507, 77th Congress), I hereby waive compliance with the provisions of section 8 of the Act of June 19, 1886, as amended (46 U.S.C. 289) and section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), to the extent necessary to permit any or all vessels the use or the title to which has been acquired by either the United States Maritime Commission or the War Shipping Administration, pursuant to the Act of June 6, 1941 (46 U.S.C.A. note prec. 1101), to engage in the coastwise or intercoastal trade while under foreign flag, when operated by the War Shipping Administration directly or through agents or while chartered or leased by either of such agencies to any persons. I deem that such action is necessary in the conduct of the war.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 42-2905; Filed, April 1, 1942; 3:20 p. m.]

Notices

WAR DEPARTMENT.

[Civilian Exclusion Order No. 1]

HEADQUARTERS WESTERN DEFENSE COMMAND AND FOURTH ARMY, PRESIDIO OF SAN FRANCISCO, CALIFORNIA

PERSONS OF JAPANESE ANCESTRY EXCLUDED FROM PORTION OF MILITARY AREA NO. 1

MARCH 24, 1942.

1. Pursuant to the provisions of Public Proclamations Nos. 1[1] and 2[2], this headquarters, dated March 2, 1942, and March 16, 1942 respectively, it is hereby ordered that all persons of Japanese ancestry, including aliens and non-aliens, be excluded from that portion of Military Area No. 1, described as "Bainbridge Island," in the State of Washington, on or before 12 o'clock noon, P. W. T., of the 30th day of March, 1942.

2. Such exclusion will be accomplished in the following manner:

(a) Such persons may, with permission, on or prior to March 29, 1942, proceed to any approved place of their choosing beyond the limits of Military Area No. 1 and the prohibited zones established by said proclamations or hereafter similarly established, subject only to such regulations as to travel and change of residence as are now or may hereafter be prescribed by this headquarters and by the United States Attorney General. Persons affected hereby will not be permitted to take up residence or remain within the region designated as Military Area No. 1 or the prohibited zones heretofore or hereafter established. Persons affected hereby are required on leaving or entering Bainbridge Island to register and obtain a permit at the Civil Control Office to be established on said Island at or near the ferryboat landing.

(b) On March 30, 1942, all such persons who have not removed themselves from Bainbridge Island in accordance with Paragraph 1 hereof shall, in accordance with instructions of the Commanding General, Northwestern Sector, report to the Civil Control Office referred to above on Bainbridge Island for evacuation in such manner and to such place or places as shall then be prescribed.

(c) A responsible member of each family affected by this order and each individual living alone so affected will report to the Civil Control Office described above between 8 a. m. and 5 p. m. Wednesday, March 25, 1942.

3. Any person affected by this order who fails to comply with any of its provisions or who is found on Bainbridge Island after 12 o'clock noon, P. W. T., of March 30, 1942, will be subject to the criminal penalties provided by Pub. Law No. 503, 77th Cong. approved March 21, 1942, entitled "An Act to Provide a Penalty for Violation of Restrictions or Orders with Respect to Persons Entering, Remaining in, Leaving, or Committing Any Act in Military Areas or Zone", and alien Japanese will be subject to immediate apprehension and internment.

[SEAL] J. L. DEWITT,
Lieutenant General, U. S. Army, Commanding.

Confirmed:
J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 42-2938; Filed, April 2, 1942; 11:54 a. m.]

DEPARTMENT OF THE NAVY.

United States Coast Guard.

[Inspection Circular No. 3]

LIFESAVING DEVICES APPROVED

MARCH 21, 1942.

By virtue of the authority vested in me by Executive Order 9083, dated February 28, 1942 (7 F.R. 1609), and pursuant to Coast Guard General Order No. 8 (7 F.R. 1981), the following lifesaving suits are approved:

Morner lifesaving suit, with Morner life preserver jacket secured therein, submitted by The Watertight Slide Fastener Corporation, New York, N. Y.

Vaco lifesaving suit, in conjunction with approved life preserver jacket, submitted by Vaco, Inc., New York, N. Y. (R.S. 4405, 4417a, 4482, 4488, 4491, 49 Stat. 1544; 46 U.S.C. 375, 391a, 475, 481, 489, 367; and E.O. 9083, Feb. 28, 1942, 7 F.R. 1609)

R. R. WAESCHE,
Commandant, U. S. Coast Guard.

[F. R. Doc. 42-2920; Filed, April 2, 1942; 9:56 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-193]

IN THE MATTER OF W. R. NALL, CODE MEMBER

ORDER POSTPONING HEARING

The above-entitled matter having been heretofore scheduled for hearing on April 4, 1942, at a hearing room of the Division at the Federal Court Room, Federal Building, Grand Junction, Colorado; and

It appearing to the Acting Director that it is advisable to postpone said hearing;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be, and the same is hereby postponed to a date and at a hearing room to be hereafter designated by an appropriate Order.

Dated: April 1, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-2910; Filed, April 1, 1942; 3:54 p. m.]

[Docket No. A-1037]

PETITION OF TAYLOR CABLE, A CODE MEMBER IN DISTRICT NO. 8, FOR REVISION OF THE EFFECTIVE MINIMUM PRICE FOR FORKED COAL PRODUCED FROM THE CABLE COAL MINE (MINE INDEX NO. 3299), FOR TRUCK SHIPMENT, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER RESCHEDULING HEARING

A hearing in the above-entitled matter was scheduled for November 13, 1941, at 10 o'clock in the forenoon of that day at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. The original petitioner did not appear and the Examiner referred the matter to the Director for his further action.

It appearing advisable that the hearing in the above-entitled matter should be rescheduled;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be held at 10 o'clock in the forenoon of April 7, 1942, at a hearing room of the Bituminous Coal Division, at the City Hall, Winchester, Kentucky, before Charles S. Mitchell, in place of the officer heretofore designated.

Dated: April 1, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-2909; Filed, April 1, 1942; 3:54 p. m.]

[1] 7 F.R. 2320.
[2] 7 F.R., 2405.

[Docket No. B-222]

IN THE MATTER OF FRED NOETH, REGISTERED DISTRIBUTOR, REGISTRATION NO. 6880

ORDER POSTPONING HEARING

The above-entitled matter by Order dated March 13, 1942, having been scheduled for hearing at 10 a. m. on April 17, 1942, at a hearing room of the Bituminous Coal Division at the Coronado Hotel, St. Louis, Missouri; and

The Acting Director deeming it advisable that said hearing should be postponed;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be postponed from 10 a. m. on April 17, 1942, to a time and place and before an Examiner to be hereafter designated by a proper order of the Division.

Dated: April 1, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-2916; Filed, April 2, 1942; 10:10 a. m.]

[Docket No. B-20]

IN THE MATTER OF EZRA WILLIAMS, DEFENDANT

ORDER APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE EXAMINER, AND ORDER TO CEASE AND DESIST

This proceeding having been instituted upon a complaint filed with the Bituminous Coal Division, pursuant to section 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 9 alleging that Ezra Williams, defendant, a code member producer in District 9, wilfully violated provisions of the Bituminous Coal Code or the rules and regulations thereunder, and requesting that the Division either cancel and revoke the defendant's code membership, or, in its discretion, direct the defendant to cease and desist from violations of the Code, or the rules and regulations thereunder;

A hearing having been held before Charles S. Mitchell, a duly designated examiner of the Division at a hearing room thereof in Owensboro, Kentucky, November 24, 1941;

The Examiner having made and entered his Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations in this matter dated February 25, 1942, in which it was recommended that an Order be entered directing the defendant to cease and desist from violating the Act, the Code, the Schedule of Effective Minimum Prices for District No. 9 For Truck Shipments, and the Marketing Rules and Regulations;

An opportunity having been afforded to all parties to file exceptions to the Examiner's Report and supporting briefs and no such exceptions or supporting briefs having been filed;

The undersigned having determined after a consideration of the record that the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations of the Examiner should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

Now, therefore, it is ordered, That the Proposed Findings of Fact, and Proposed Conclusions of Law of the Examiner be and the same are hereby approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

It is further ordered, That the defendant, Ezra Williams, his representatives, agents, servants, employees, and attorneys and all persons acting or claiming to act on his behalf or interest, cease and desist and they are hereby permanently enjoined and restrained from selling or offering to sell coal produced by the defendant at less than the applicable effective minimum prices established therefor, contrary to the provisions of section 4 II (e) of the Act and any rules and regulations promulgated thereunder, the Bituminous Coal Code, the Marketing Rules and Regulations, and the Schedule of Effective Minimum Prices for District 9 for Truck Shipments.

It is further ordered, That upon the failure or neglect of the defendant to comply with this Order, the Division may forthwith apply to the Circuit Court of Appeals of the United States where such defendant carries on business, or to the United States Circuit Court of Appeals for the District of Columbia for the enforcement thereof, or may take any other appropriate action.

Dated: April 1, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-2917; Filed; April 2, 1942; 10:10 a. m.]

[Docket No. B-16]

IN THE MATTER OF E. L. YOUNG AND CLARENCE YOUNG, A PARTNERSHIP, Y. & Y. COAL COMPANY, DEFENDANTS

ORDER APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE EXAMINER, AND ORDER TO CEASE AND DESIST

This proceeding having been instituted upon a complaint filed with the Bituminous Coal Division on September 3, 1941, pursuant to section 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 8 alleging that E. L. Young and Clarence Young, code member producers in District 8, operating the Y. & Y. Coal Company, a partnership, wilfully violated the provisions of the Bituminous Coal Code or the Rules and Regulations thereunder, and requesting that the Division either cancel and revoke the defendant's code membership, or, in its discretion, direct the defendant to cease and desist from violations of the Code or the rules and regulations thereunder;

A hearing having been held before Charles S. Mitchell, a duly designated Examiner of the Division at a hearing room thereof in London, Kentucky, on December 10, 1941;

The Examiner having made and entered his Report, Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations in this matter dated February 25, 1942, in which it was recommended that an order be entered directing the defendant to cease and desist from violating the Act, the Code, the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments, and the Marketing Rules and Regulations;

An opportunity having been afforded to all parties to file exceptions to the Examiner's Report and supporting briefs and no such exceptions or supporting briefs having been filed;

The undersigned having determined after a consideration of the record that the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations of the Examiner should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

Now, therefore, it is ordered, That the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner be and the same are hereby approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

It is further ordered, That the defendants, E. L. Young and Clarence Young, partners doing business as Y. & Y. Coal Co., their representatives, agents, servants, employees, and attorneys and all persons acting or claiming to act in their behalf or interest, cease and desist and they are hereby permanently enjoined and restrained from selling or offering to sell coal produced by the defendants at less than the applicable effective minimum prices established therefor, contrary to the provisions of section 4 II (e) of the Act and any rules and regulations promulgated thereunder, the Bituminous Coal Code, the Marketing Rules and Regulations, and the Schedule of Effective Minimum Prices for District 8 for Truck Shipments.

It is further ordered, That upon the failure or neglect of the defendants to comply with this Order, the Division may forthwith apply to the Circuit Court of Appeals of the United States where such defendants carry on business, or to the United States Circuit Court of Appeals for the District of Columbia for the enforcement thereof, or may take any other appropriate action.

Dated, April 1, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-2919; Filed, April 2, 1942; 10:10 a. m.]

[Docket No. B-17]

IN THE MATTER OF MINTON WILBURN, DEFENDANT

ORDER APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE EXAMINER, AND ORDER TO CEASE AND DESIST

This proceeding having been instituted upon a complaint filed with the Bituminous Coal Division, pursuant to section 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 8 alleging that Minton Wilburn, Defendant,

a code member producer in District 8, willfully violated the provisions of the Bituminous Coal Code or the rules and regulations thereunder, and requesting that the Division either cancel and revoke defendant's code membership, or, in its discretion, direct the defendant to cease and desist from violations of the Code or the rules and regulations thereunder;

A hearing having been held before Charles S. Mitchell, a duly designated Examiner of the Division at a hearing room therof in London, Kentucky, December 8, 1941;

The Examiner having made and entered his Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations in this matter dated February 25, 1942, in which it was recommended that an Order be entered directing the defendant to cease and desist from violating the Act, the Code, the Schedule of Effective Minimum Prices for District No. 8 For Truck Shipments and the Marketing Rules and Regulations;

An opportunity having been afforded to all parties to file exceptions to the Examiner's Report and supporting briefs and no such exceptions or supporting briefs having been filed;

The undersigned having determined after a consideration of the record that the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations of the Examiner should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

Now, therefore, it is ordered, That the proposed Findings of Fact, and Proposed Conclusions of Law of the Examiner be and the same are hereby approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned;

It is further ordered, That the defendant, Minton Wilburn, his representatives, agents, servants, employees, and attorneys and all persons acting or claiming to act on his behalf or interest, cease and desist and they are hereby permanently enjoined and restrained from selling or offering to sell coal produced by the defendant at less than the applicable effective minimum prices established therefor, contrary to the provisions of section 4 II (e) and any rules and regulations promulgated thereunder, the Bituminous Coal Code, the Marketing Rules and Regulations, and the Schedule of Effective Minimum Prices for District 8 For Truck Shipments.

It is further ordered, That upon the failure or neglect of the defendant to comply with this Order, the Division may forthwith apply to the Circuit Court of Appeals of the United States where such defendant carries on business, or to the United States Circuit Court of Appeals for the District of Columbia for the enforcement thereof, or may take any other appropriate action.

Dated: April 1, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-2918; Filed, April 2, 1942; 10:10 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Marketing Administration.

NOTICE OF REPORT AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO AMENDMENTS TO A TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND A MARKETING ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE SIOUX CITY, IOWA, MARKETING AREA

Pursuant to § 900.12 (a), General Regulations, Surplus Marketing Administration, notice is hereby given of the filing with the hearing clerk of this report of the Administrator of the Agricultural Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to the tentatively approved marketing agreement, as amended, and to the marketing order, as amended, regulating the handling of milk in the Sioux City, Iowa, marketing area. Interested parties may file exceptions to this report with the Hearing Clerk, Room 0312, South Building, United States Department of Agriculture, Washington, D. C., not later than the close of business on the 10th day after publication of this notice in the FEDERAL REGISTER.

The proceedings leading to amendment began with the filing of specific proposals for amendment and a written application for a hearing by the Sioux City Milk Producers' Cooperative Association. The proposals were made to increase the prices of all classes in the marketing area, to more closely relate the butterfat differential to the price of butter, and to advance the date of announcement of prices. After consideration and investigation, the conclusion was apparent that a hearing should be held and notice of a hearing was issued on February 20, 1942, to convene on February 26, 1942.

The major issue developed at the hearing was concerned with the necessity for increasing prices to producers and the levels at which such prices should be fixed.

It was concluded from the record that it is necessary to fix prices, under section 8c (18) of the act, so as to reflect the economic conditions which affect market supply of and demand for milk in the marketing area, maintain an adequate supply of pure and wholesome milk, and be in the public interest.

The proposed amendments are recommended as the detailed means by which these conclusions may be carried out.

This report filed at Washington, D. C., the 1st day of April 1942.

[SEAL] ROY F. HENDRICKSON,
Administrator.

PROPOSED AMENDMENTS TO THE MARKETING ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE SIOUX CITY, IOWA, MARKETING AREA

These proposed amendments are prepared by the Administrator pursuant to § 900.12 (a) of the General Regulations, Surplus Marketing Administration, and have not received the approval of the Secretary of Agriculture.

It is found, upon the evidence introduced at the public hearing held in Sioux City, Iowa, on February 26, 1942, such findings being in addition to the findings made upon the evidence introduced at prior public hearings on the order (which findings are hereby ratified and affirmed save only as such findings are in conflict with the findings hereinafter set forth):

Findings

1. That the prices calculated to give milk produced for sale in the marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8 (e) (50 Stat. 246; 7 U.S.C., 1940 ed. 602, 608e), are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk, and that the minimum prices set forth in this order, as amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

2. That the order, as amended, regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement, as amended, upon which a hearing has been held; and

3. That the issuance of these amendments to the order, as amended, and all its terms and conditions, as so amended, tend to effectuate the declared policy of the act.

Provisions

1. Delete in subparagraph (1) of § 948.4 (a) wherever it occurs the date "1942" and substitute therefor the following: "1943."

2. Delete subparagraph (2) of § 948.4 (a) and substitute therefor the following:

(2) Class II milk—$2.30 per hundredweight during delivery periods prior to May 1, 1943, and $1.90 per hundredweight during delivery periods thereafter: *Provided,* That in no event shall the Class II price be less than the Class III price, plus 25 cents.

3. Delete subparagraphs (3) of § 948.4 (a) and substitute therefor the following:

(3) Class III milk—For each current delivery period the price per hundredweight computed by the market administration as follows: deduct 5 cents from the average of the basic or field prices per hundredweight ascertained to have been paid for milk of 3.5 percent butterfat content received during the next preceding delivery period at the plants listed in this subparagraph: *Provided,* That if the price so computed is less than the price computed by the market administrator in accordance with the following formula, such formula price shall be the price for such delivery period: multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market as reported by the United

States Department of Agriculture for the delivery period during which such milk was received, add 20 percent thereof, and add 10 cents.

Concern	*Location of plants*
Carnation Milk Co.	Northfield, Minn.
Carnation Milk Co.	Waverly, Iowa.
Borden Milk Products Co.	Sterling, Ill.
Libby, McNeill & Libby	Morrison, Ill.

4. Delete paragraph (b) of § 948.4

5. Delete § 948.6 and substitute therefor the following:

§ 948.6 *Application of provisions.* (a) *Handlers who are also producers.* (1) The provisions of §§ 948.4, 948.7, 948.8, and 948.9 shall not apply to a handler who purchases or receives no milk from producers or new producers other than milk of his own production.

(2) In the case of a handler who is also a producer and who purchases or receives milk from other producers, the market administrator before making the computations pursuant to § 948.7 shall (i) exclude from Class I milk, Class II milk, and Class III milk, the milk purchased or received by such handler in the respective classes from other handlers, and (ii) exclude pro rata from the remaining Class I milk, Class II milk, and Class III milk, the milk received from such handler's own production.

(b) *Purchases of milk from a handler who is also a producer.* In the case of a handler who purchases or receives milk in bulk from a handler who is also a producer, the market administrator, in making the computations pursuant to § 948.7 for such purchasing handler, shall add an amount equal to the difference between the value of such milk (i) at the price for the class in which such milk was classified and (ii) at the price for Class III milk.

(c) *Payments for excess butterfat.* In the case of a handler who disposes of butterfat in excess of the butterfat which, on the basis of his reports, has been received, the market administrator, in making the computations pursuant to § 948.7, shall add an amount equal to the value of such butterfat in accordance with its classification.

6. Delete paragraph (a) of § 948.7 and substitute therefor the following:

(a) *Computation of the amount to be paid producers by each handler.* For each delivery period the market administrator shall compute, subject to the provisions of § 948.6, the amount to be paid producers by each handler for milk received from them, by (i) multiplying the hundredweight of such milk in each class by the price applicable pursuant to § 948.4, (ii) adding together the resulting values of each class, and (iii) adding any amounts pursuant to § 948.6 (b) and (c).

7. Delete in subparagraph (6) of § 948.7 (b) the term "6th" and substitute therefor the following: "7th."

8. Delete paragraph (b) of § 948.8 and substitute therefor the following:

(b) *Butterfat differential.* If any handler has purchased or received from any producer or new producer milk having an average butterfat content other than 3.5 percent, such handler, in making the payments pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, shall add for each one-tenth of 1 percent of average butterfat content in milk above 3.5 percent not less than, or shall deduct for each one-tenth of 1 percent of average butterfat content in milk below 3.5 percent not more than:

(1) Three cents per hundredweight when the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, is less than 30 cents;

(2) Three and one-half cents per hundredweight when such average price of 92-score butter is 30 cents or more but less than 35 cents;

(3) Four cents per hundredweight when such average price of 92-score butter is 35 cents or more, but less than 40 cents;

(4) Four and one-half cents per hundredweight when such average price of 92-score butter is 40 cents or more, but less than 45 cents; and

(5) Five cents per hundredweight when such average price of 92-score butter is 45 cents or more.

PROPOSED MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE SIOUX CITY, IOWA, MARKETING AREA, PREPARED BY THE ADMINISTRATOR OF THE AGRICULTURAL MARKETING ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE

This proposed marketing agreement, as amended, is prepared by the Administrator pursuant to § 900.12 (a) of the General Regulations, Surplus Marketing Administration, and has not received the approval of the Secretary of Agriculture.

Whereas the parties hereto, in order to effectuate the declared policy of the said act, desire to enter into this marketing agreement, as amended.

Now, therefore, the parties hereto agree as follows:

1. The terms and provisions of § 948.1 through § 948.10 of Order No. 48, as amended, Regulating the Handling of Milk in the Sioux City, Iowa, Marketing Area, issued, effective October 2, 1941, and as amended by Amendment No. 2 to said order, as amended, issued effective ———— —, 1942, shall be the terms and provisions of this marketing agreement, as amended, with the exception that wherever the word "order" is used the words "marketing agreement" shall be substituted therefor; and

2. The following sections shall also be a part of the marketing agreement, as amended, in addition to § 948.1 through § 948.10 of said order, as amended:

§ 948.11 *Liability*—(a) *Liability of handlers.* The liability of handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

§ 948.12 *Counterparts and additional parties*—(a) *Counterparts of marketing agreement, as amended.* This marketing agreement, as amended, may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute when taken together, one and the same instrument, as if all such signatures were obtained in one original.

(b) *Additional parties to the marketing agreement, as amended.* After this marketing agreement, as amended, first takes effect, any handler may become a party to this marketing agreement, as amended, if a counterpart hereof is executed by him and delivered to the Secretary. This marketing agreement, as amended, shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this marketing agreement, as amended, shall then be effective as to such new contracting party.

§ 948.13 *Record of milk handled and authorization to correct typographical errors*—(a) *Record of milk handled.* The undersigned certifies that he handled during the month of February 1942, ———— hundredweight of milk covered by this marketing agreement, as amended, and disposed of within the marketing area.

(b) *Authorization to correct typographical errors.* The undersigned hereby authorizes the Chief, Dairy and Poultry Branch, Agricultural Marketing Administration, to correct any typographical errors which may have been made in this marketing agreement, as amended.

§ 948.14 *Signature of parties.* In witness whereof, the contracting handlers, acting under the provisions of the act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

[F. R. Doc. 42-2912; Filed, April 1, 1942; 4:47 p. m.]

NOTICE OF REPORT AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO AMENDMENTS TO A TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND A MARKETING ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE OMAHA-COUNCIL BLUFFS MARKETING AREA

Pursuant to § 900.12 (a), General Regulations, Surplus Marketing Administration, notice is hereby given of the filing with the Hearing Clerk of this report of the Administrator of the Agricultural Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to a tentatively approved marketing agreement, as amended, and to a marketing order, as amended, regulating the handling of milk in the Omaha-Council Bluffs marketing area. Interested parties may file exceptions to this report with the Hearing Clerk, Room 0312, South Building, United States Department of Agriculture, Washington, D. C., not later than the close of business on the 10th day after publication of this notice in the FEDERAL REGISTER.

The proceedings leading to amendment began with the filing of specific proposals for amendment and a written application for a hearing by the Nebraska-Iowa Non-Stock Cooperative Milk Association. The proposals were made to increase the prices of all classes in the marketing area. After consideration and investigation, the conclusion was apparent that a hearing should be held and notice of a hearing was issued on February 17, 1942, to convene on February 25, 1942.

The major issue developed at the hearing was concerned with the necessity for increasing prices to producers and the levels at which such prices should be fixed.

It was concluded from the record that it is necessary to fix prices, under section 8c (18) of the act, so as to reflect the economic conditions which affect market supply of and demand for milk in the marketing area, maintain an adequate supply of pure and wholesome milk, and be in the public interest.

The proposed amendments are recommended as the detailed means by which these conclusions may be carried out.

This report filed at Washington, D. C., the 1st day of April 1942.

[SEAL] ROY F. HENDRICKSON,
Administrator.

PROPOSED AMENDMENTS TO THE MARKETING ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE OMAHA-COUNCIL BLUFFS MARKETING AREA

These proposed amendments are prepared by the Administrator pursuant to § 900.12 (a) of the General Regulations, Surplus Marketing Administration, and have not received the approval of the Secretary of Agriculture.

It is found, upon the evidence introduced at the public hearing held in Omaha, Nebraska, on February 25, 1942, such findings being in addition to the findings made upon the evidence introduced at prior public hearings on the order (which findings are hereby ratified and affirmed save only as such findings are in conflict with the findings hereinafter set forth):

Findings

1. That the prices calculated to give milk produced for sale in the marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8 (e) (50 Stat. 246; 7 U.S.C., 1940 ed. 602, 608e), are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk, and that the minimum prices set forth in this order, as amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

2. That the order, as amended, regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement, as amended, upon which a hearing has been held; and

3. That the issuance of these amendments to the order, as amended, and all its terms and conditions, as so amended, tend to effectuate the declared policy of the act.

Provisions

1. Delete § 935.4 and substitute therefor the following:

§ 934.4 *Minimum prices*—(a) *Class prices.* Each handler shall pay, at the time and in the manner set forth in § 935.8, not less than the following prices for milk received at such handler's plant including the milk of producers which a cooperative association caused to be delivered to a plant from which no milk was disposed of in the marketing area:

(1) Class I milk—$2.75 per hundredweight during delivery periods prior to May 1, 1943, and $2.25 per hundredweight during delivery periods thereafter: *Provided,* That with respect to Class I milk disposed of by a handler under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be $2.28 per hundredweight during delivery periods prior to May 1, 1943, and $1.80 per hundredweight during delivery periods thereafter.

(2) Class II milk—$2.40 per hundredweight during delivery periods prior to May 1, 1943, and $1.90 per hundredweight during delivery periods thereafter: *Provided,* That in no event shall the Class II price be less than the Class III price plus 20 cents per hundredweight.

(3) Class III milk—For each delivery period a price per hundredweight which shall be calculated by the market administrator as follows: multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture, for the delivery period during which such milk is received, plus or minus 0.95 cent per hundredweight for each 1 cent that such average price of butter is above or below 20 cents, add 21 cents, and add a figure determined as follows: add 3 cents per hundredweight for each full one-half cent that the price of dry skim milk for human consumption, delivered at Chicago, is above 7 cents per pound. For purposes of determining the above computation, the price per pound of dry skim milk to be used shall be the average of the carlot prices for dry skim milk for human consumption delivered at Chicago, as published by the United States Department of Agriculture during the delivery period, including in such average the quotations published for any fractional part of the preceding delivery period which were not published and available for the price determination of such dry skim milk for the previous delivery period.

2. Delete § 935.6 and substitute therefor the following:

§ 935.6 *Application of provisions*—(a) *Handlers who are also producers.* (1) In the case of a handler who is also a producer and who purchases or receives no milk from other producers, the market administrator shall exclude from the computations made pursuant to § 935.7 the quantity of milk disposed of by such handler.

(2) In the case of a handler who is also a producer and who purchases or receives milk from other producers, the market administrator shall, before making the computations pursuant to § 935.7, (i) exclude from the Class I milk, Class II milk, and Class III milk, the milk purchased or received by such handler in the respective classes from other handlers, and (ii) exclude pro rata from the remaining Class I milk, Class II milk, and Class III milk, the milk received from such handler's own production.

(b) *Purchases of milk from a handler who is also a producer.* In the case of a handler who purchases or receives milk in bulk from a handler who is also a producer, the market administrator, in making the computations pursuant to § 935.7 for such purchasing handler, shall add an amount equal to the difference between the value of such milk (i) at the price for the class in which such milk was classified, and (ii) at the price for Class III milk.

(c) *Payments for excess butterfat.* In the case of a handler who disposes of butterfat in excess of the butterfat which, on the basis of his reports, has been received, the market administrator, in making the computations pursuant to § 935.7, shall add an amount equal to the value of such butterfat in accordance with its classification.

3. Delete paragraph (a) of § 935.7 and substitute therefor the following:

(a) *Computation of the amount to be paid producers by each handler.* For each delivery period the market administrator shall compute, subject to the provisions of § 935.6, the amount to be paid producers by each handler for milk received from them including the milk of producers which a cooperative association caused to be delivered to a plant from which no milk is disposed of in the marketing area by (i) multiplying the hundredweight of such milk in each class by the price applicable pursuant to § 935.4, (ii) adding together the resulting values of each class, and (iii) adding any amounts pursuant to § 935.6 (b) and § 935.6 (c).

4. Delete paragraph (b) of § 935.7.

5. Delete in subparagraph (1) of § 935.7 (c) the phrase "paragraphs (a) and (b)" and substitute therefor the following: "paragraph (a)."

6. Redesignate paragraph "(c)" of § 935.7 as paragraph "(b)."

7. Delete in paragraph (a) of § 935.8 the phrase "§ 935.7 (c)" and substitute therefor the following: "§ 935.7 (b)."

PROPOSED MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE OMAHA-COUNCIL BLUFFS MILK MARKETING AREA PREPARED BY THE ADMINISTRATOR OF THE AGRICULTURAL MARKETING ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE

This proposed marketing agreement, as amended, is prepared by the Administrator pursuant to § 900.12 (a) of the General Regulations, Surplus Marketing

Administration, and has not received the approval of the Secretary of Agriculture.

Whereas the parties hereto, in order to effectuate the declared policy of the said act, desire to enter into this marketing agreement, as amended.

Now, therefore, the parties hereto agree as follows:

1. The terms and provisions of § 935.1 through § 935.11 of Order No. 35, as Amended, Regulating the Handling of Milk in the Omaha-Council Bluffs Marketing Area, issued, effective October 2, 1941, and as amended by Amendment No. 3 to said order, as amended, issued effective ————————, 1942, shall be the terms and provisions of this marketing agreement, as amended, with the exception that wherever the word "order" is used the words "marketing agreement" shall be substituted therefor; and

2. The following sections shall also be a part of the marketing agreement, as amended, in addition to § 935.1 through § 935.11 of said order, as amended:

§ 935.12 *Counterparts and additional parties*—(a) *Counterparts of marketing agreement, as amended.* This marketing agreement, as amended, may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute when taken together, one and the same instrument, as if all such signatures were obtained in one original.

(b) *Additional parties to the marketing agreement, as amended.* After this marketing agreement, as amended, first takes effect, any handler may become a party to this marketing agreement, as amended, if a counterpart hereof is executed by him and delivered to the Secretary. This marketing agreement, as amended, shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this marketing agreement, as amended, shall then be effective as to such new contracting party.

§ 935.13 *Record of milk handled and authorization to correct typographical errors*—(a) *Record of milk handled.* The undersigned certifies that he handled during the month of February 1942, ———— hundredweight of milk covered by this marketing agreement, as amended, and disposed of within the marketing area.

(b) *Authorization to correct typographical errors.* The undersigned hereby authorizes ————————, Chief, Dairy and Poultry Branch, Agricultural Marketing Administration, to correct any typographical errors which may have been made in this marketing agreement, as amended.

§ 935.14 *Signature of parties.* In witness whereof, the contracting handlers, acting under the provisions of the act, for the purposes and subject to the limitations herein contained, and not otherwise, have hereunto set their respective hands and seals.

[F. R. Doc. 42-2913; Filed, April 1, 1942; 4:47 p. m.]

DEPARTMENT OF COMMERCE.

Office of the Secretary.

[Order No. 231]

EXAMINATION OF EXPORT DECLARATIONS AT MEXICAN BORDER PORTS

At the request of the Mexican government, this Department had advised the State Department, by letter dated March 30, 1942, that the previous arrangement which existed between the United States and Mexico, permitting accredited officials of the Mexican government at Mexican border ports to examine export declarations, may be renewed. This privilege is granted with the understanding that similar rights to examine copies of export declarations on file at Mexican customhouses will be granted to representatives of this government.

Instructions to Collectors of Customs at Mexican border ports may be issued accordingly.

[SEAL] ROBERT H. HINCKLEY,
Acting Secretary of Commerce.

APRIL 2, 1942.

[F. R. Doc. 42-2941; Filed, April 2, 1942; 12:07 p. m.]

CIVIL AERONAUTICS BOARD.

[Docket Nos. 623 and 716]

FAIR AND REASONABLE RATES OF COMPENSATION FOR THE TRANSPORTATION OF MAIL BY AIRCRAFT, THE FACILITIES USED AND USEFUL THEREFOR AND THE SERVICES CONNECTED THEREWITH, BEING PAID TO PAN-AMERICAN-GRACE AIRWAYS, INC.

NOTICE OF HEARING

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 406 and 1001 of said Act, in the above-entitled proceeding, that hearing is hereby assigned to be held on April 6, 1942, at 10 a. m. (eastern standard time) in Room 1851 Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before Examiner Francis W. Brown.

Dated at Washington, D. C., April 2, 1942.

[SEAL] FRANCIS W. BROWN,
Examiner.

[F. R. Doc. 42-2922; Filed, April 2, 1942; 11:11 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4319]

IN THE MATTER OF MORTON SALT COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of March, A. D. 1942.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U.S.C.A., section 41), and (49 Stat. 1526, U. S. C. A., section 13, as amended),

It is ordered, That James A. Purcell, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 13, 1942, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 42-2921; Filed, April 2, 1942; 11:01 a. m.]