required by the agreements with the standards prescribed under section 3 (b) (2) hereof.

SEC. 6. (a) The Facilities Protection Board is transferred to the jurisdiction of the Chairman. Existing arrangements concerning the physical location of and administrative support for the Board may be continued.

(b) The Facilities Protection Board shall hereafter consist of one representative of each of the following agencies, namely, the Departments of Defense, Commerce, Interior, and Labor, the Atomic Energy Commission, the Federal Civil Defense Administration, and such other agencies as the Chairman may from time to time designate. Each such representative shall be designated by the head of the agency he is to represent. Each person who is now a member of the Board may continue as a member without the necessity of redesignation by reason of this order. The Chairman of the National Security Resources Board shall from time to time designate from among the members of the Board a Chairman of the Facilities Protection Board.

(c) The Board shall assist and advise the Chairman in carrying out the functions vested in him by this order. There is hereby terminated the now-existing Presidentially approved assignment of functions to the Board.

SEC. 7. (a) The programs and measures provided for in this order with respect to the physical security of facilities shall be supplementary to, and not in substitution for, similar or related activities carried on by state and local authorities and by private enterprise. This order shall not be deemed to place in the Federal Government the primary responsibility for the physical security of privately-owned facilities or of facilities owned by any state, any political subdivision of any state, or any intergovernmental body.

(b) This order shall not be deemed to govern activities with respect to the post-attack immediately essential emergency repair or restoration of damaged vital facilities (64 Stat. 1247; 50 U. S. C. App. 2252 (b)), except that the Federal Civil Defense Administration and the Chairman shall effect appropriate coordination of the said activities and functions carried out under this order.

(c) This order shall not extend to any facility of or under the cognizance of the Atomic Energy Commission, except those parts of any such facility which are not the responsibility of the said Commission.

(d) This order shall not extend to Federally-owned military posts, camps, stations, arsenals, or other comparable facilities under military command. The Chairman may exclude partly or wholly from the operation of this order any other facility under the cognizance of the Department of Defense, except that the Department shall advise and consult with the Chairman concerning the physical security of any facility so excluded. The provisions of this order shall not be deemed to apply to military defense or combat, except that the Chairman and the Secretary of Defense shall effect appropriate coordination of the functions carried out under this order and of operations of military defense or combat affecting facilities.

(e) Nothing in this order shall be deemed to confer on any Federal agency investigative functions exercised by any Federal agency represented in the Interdepartmental Intelligence Conference or to alter or modify any function of the said Conference.

(f) Nothing in this order shall be deemed to affect the responsibilities now assigned to the Interdepartmental Committee on Internal Security, except that there shall be governed by this order, (A) the Facilities Protection Board and the Industry Evaluation Board and their functions and supervision, (B) the prescription of standards of physical security of facilities, (C) the making of security ratings respecting facilities, and (D) the assignment of facilities to Federal agencies for the performance by them of physical security functions and the conduct by the said agencies of physical security functions respecting facilities assigned to them, respectively.

HARRY S. TRUMAN

THE WHITE HOUSE,
December 31, 1952.

[F. R. Doc. 52-13812; Filed, Dec. 31, 1952; 2:29 p. m.]

RULES AND REGULATIONS

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 22—APPEALS OF PREFERENCE ELIGIBLES UNDER THE VETERANS' PREFERENCE ACT OF 1944

APPLICABILITY OF REGULATIONS

1. The authority for the issuance of Part 22 is changed to read as follows:

AUTHORITY: §§ 22.1 to 22.11 issued under secs. 11, 19, 58 Stat. 390, 391; 5 U. S. C. 860, 868. Interpret or apply sec. 14, 58 Stat. 390, as amended by 61 Stat. 723; 5 U. S. C. and Sup. I 863. Other statutory provisions interpreted or applied are cited to text in parentheses.

2. Section 22.1 (a) (2) is amended as follows:

§ 22.1 *Applicability of regulations*—(a) *Coverage.* * * *

(2) *Preference eligible employees.* (i) The term "preference eligible employees" refers to those persons specified in section 2 of the Veterans' Preference Act of 1944, as amended.

(ii) Separation under "honorable conditions" as used in section 2 of the act means separation from active duty in any branch of the armed forces by transfer to inactive status, transfer to retired status, acceptance of a resignation, or issuance of a discharge, if such discharge was under honorable conditions.

(Sec. 11, 58 Stat. 390; 5 U. S. C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] C. L. EDWARDS,
Executive Director.

[F. R. Doc. 53-11; Filed, Jan. 2, 1953; 8:48 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; MISSOURI, NEW YORK, AND TEXAS

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units and investment limits for the counties identified below are determined to be as herein set forth. The average values and investment limits heretofore established for said counties, which appear in the tabulations of average values and investment limits under § 311.30, Chapter III, Title 6 of the Code of Federal Regulations, are hereby superseded by the average values and investment limits set forth below for said counties.

MISSOURI

County	Average value	Investment limit
Adair	$14,000	$12,000
Andrew	19,000	12,000
Atchison	19,000	12,000
Audrain	14,500	12,000
Barry	12,500	12,000
Barton	14,000	12,000
Bates	14,500	12,000
Benton	12,500	12,000
Bollinger	12,500	12,000
Boone	14,000	12,000
Buchanan	19,000	12,000
Butler	13,000	12,000
Caldwell	15,000	12,000
Callaway	14,000	12,000
Camden	12,500	12,000
Cape Girardeau	14,000	12,000
Carroll	16,500	12,000
Carter	12,500	12,000
Cass	17,000	12,000
Cedar	12,500	12,000
Chariton	15,000	12,000
Christian	12,500	12,000
Clark	14,500	12,000
Clay	19,000	12,000
Clinton	17,500	12,000
Cole	12,500	12,000
Cooper	14,000	12,000
Crawford	12,500	12,000
Dade	12,500	12,000
Dallas	12,500	12,000
Daviess	14,500	12,000
DeKalb	15,000	12,000
Dent	12,500	12,000
Douglas	12,500	12,000
Dunklin	18,500	12,000
Franklin	14,000	12,000

MISSOURI—Continued

County	Average value	Investment limit
Gasconade	$12,500	$12,000
Gentry	15,000	12,000
Greene	14,500	12,000
Grundy	14,500	12,000
Harrison	14,500	12,000
Henry	13,500	12,000
Hickory	12,500	12,000
Holt	19,000	12,000
Howard	14,500	12,000
Howell	12,500	12,000
Iron	12,500	12,000
Jackson	17,500	12,000
Jasper	14,000	12,000
Jefferson	13,000	12,000
Johnson	15,000	12,000
Knox	14,000	12,000
Laclede	12,500	12,000
Lafayette	17,500	12,000
Lawrence	14,000	12,000
Lewis	14,000	12,000
Lincoln	15,000	12,000
Linn	14,500	12,000
Livingston	15,000	12,000
McDonald	12,500	12,000
Macon	14,000	12,000
Madison	12,500	12,000
Maries	12,500	12,000
Marion	15,000	12,000
Mercer	14,000	12,000
Miller	12,500	12,000
Mississippi	19,000	12,000
Moniteau	12,500	12,000
Monroe	14,000	12,000
Montgomery	14,000	12,000
Morgan	12,500	12,000
New Madrid	19,000	12,000
Newton	12,500	12,000
Nodaway	19,000	12,000
Oregon	12,500	12,000
Osage	12,500	12,000
Ozark	12,500	12,000
Pemiscot	19,000	12,000
Perry	14,000	12,000
Pettis	14,000	12,000
Phelps	12,500	12,000
Pike	14,500	12,000
Platte	19,000	12,000
Polk	13,500	12,000
Pulaski	12,500	12,000
Putnam	14,000	12,000
Ralls	14,000	12,000
Randolph	14,000	12,000
Ray	16,500	12,000
Reynolds	12,500	12,000
Ripley	12,500	12,000
St. Charles	17,500	12,000
St. Clair	12,500	12,000
St. Francois	12,500	12,000
Ste. Genevieve	12,500	12,000
St. Louis	17,500	12,000
Saline	17,500	12,000
Schuyler	14,000	12,000
Scotland	14,000	12,000
Scott	16,500	12,000
Shannon	12,500	12,000
Shelby	14,000	12,000
Stoddard	16,500	12,000
Stone	12,500	12,000
Sullivan	13,500	12,000
Taney	12,500	12,000
Texas	12,500	12,000
Vernon	13,000	12,000
Warren	14,000	12,000
Washington	12,500	12,000
Wayne	12,500	12,000
Webster	12,500	12,000
Worth	15,000	12,000
Wright	12,500	12,000

NEW YORK

St. Lawrence	$9,500	$9,500
Saratoga	11,000	11,000
Washington	11,000	11,000

TEXAS

Bexar	$25,000	$12,000
Crosby	25,000	12,000
Fayette	15,000	12,000
Floyd	25,000	12,000
Gonzales	15,000	12,000
Lamb	25,000	12,000
Lavaca	16,000	12,000
Matagorda	20,000	12,000
Nueces	25,000	12,000
San Patricio	25,000	12,000
Wise	22,000	12,000

(Sec. 41 (i), 60 Stat. 1066; 7 U. S. C. 1015 (i). Interprets or applies secs. 3 (a), 44 (b), 60 Stat. 1074, 1069; 7 U. S. C. 1003 (a), 1018 (b))

Issued this 30th day of December 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 53-12; Filed, Jan. 2, 1953; 8:48 a. m.]

PART 311—BASIC REGULATIONS

SUBPART B—LOAN LIMITATIONS

AVERAGE VALUES OF FARMS AND INVESTMENT LIMITS; TEXAS

For the purposes of title I of the Bankhead-Jones Farm Tenant Act, as amended, the average value of efficient family-type farm-management units and the investment limit for the county identified below are determined to be as herein set forth; and § 311.30, Chapter III, Title 6 of the Code of Federal Regulations, is amended by adding said county, average value, and investment limit to the tabulations appearing in said section under the State of Texas.

TEXAS

County	Average value	Investment limit
Andrews	$25,000	$12,000

(Sec. 41 (i), 60 Stat. 1066; 7 U. S. C. 1015 (i). Interprets or applies secs. 3 (a), 44 (b), 60 Stat. 1074, 1069; 7 U. S. C. 1003 (a), 1018 (b))

Issued this 30th day of December 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 53-13; Filed, Jan. 2, 1953; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 813, Amdt. 8]

PART 813—SUGAR QUOTAS AND PRORATIONS OF QUOTA DEFICITS

DETERMINATION AND PRORATION OF AREA DEFICIT

Basis and purpose. This amendment is issued pursuant to the Sugar Act of 1948 for the purpose of prorating an additional deficit which is hereby determined in the quota for the Domestic Beet Area for sugar to be marketed in the continental United States in 1952. Section 204 (a) of the act provides that the Secretary shall from time to time determine whether any domestic area, the Republic of the Philippines, or Cuba will be unable to market its quota. If he so finds with respect to the Domestic Beet Area, the quotas for other domestic areas and Cuba are required to be revised by prorating to such areas an amount of sugar equal to any deficit so determined on the basis of their existing quotas.

The Sugar Act provides that the quota for any domestic area, the Republic of the Philippines, Cuba, or other foreign countries as established under the provisions of section 202 shall not be reduced by reason of any determination of a deficit and makes the proration of any such deficit to areas able to supply the additional sugar a mere mathematical computation. Hawaii is excluded from the proration because of deficits that have already been declared in its quota. The mainland cane area and the Virgin Islands are not expected to be able now to utilize additional quota in 1952 and are therefore not included in the proration of the 40,000 ton additional deficit prorated by this action although these areas did participate in the proration of the initial Domestic Beet Sugar deficit of 200,000 tons.

In order to afford sellers of sugar in affected areas an adequate opportunity to market the aditional sugar authorized by this amendment, and thereby protect the interest of consumers, it is essential that this amendment be made effective immediately. Therefore, it is hereby determined and found that compliance with the notice, procedure and effective date requirements of the Administrative Procedure Act is unnecessary, impracticable and contrary to the public interest and the amendment herein shall become effective when filed with the FEDERAL REGISTER.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948 (61 Stat. 922, 7 U. S. C. Sup., 1100) and the Administrative Procedure Act (60 Stat. 237) paragraphs (c) and (d) of Sugar Regulation 813, as amended (16 F. R. 13032, 17 F. R. 5691, 6758, 8449, 9617, 10498, 10801) are hereby amended to read as follows:

§ 813.33 *Determination and proration of area deficits.* * * *

(c) *Deficit in quota for the Domestic Beet Sugar Area.* It is hereby determined, pursuant to subsection (a) of section 204 of the act, that for the calendar year 1952 the Domestic Beet Sugar Area will be unable by an amount of 240,000 short tons of sugar, raw value, to market the quota established for that area in § 813.32.

(d) *Proration of deficit in quota for the Domestic Beet Sugar Area.* An amount of sugar equal to the deficit determined in paragraph (c) of this section is hereby prorated, pursuant to subsection (a) of section 204 of the act, as follows:

Area:	*Additional quota in terms of short tons raw value*
Mainland cane sugar	24,810
Puerto Rico	54,964
Virgin Islands	298
Cuba	159,928

STATEMENT OF BASES AND CONSIDERATIONS

Late data on marketings of beet sugar in 1952 indicate that the total is not likely to exceed 1,560,000 short tons, raw value. This amounts to an additional quota deficit for this area of 40,000 tons, which is prorated to Puerto Rico and Cuba by this action.

Exclusion of other domestic areas from the proration of deficit. The Mainland Cane Area, Hawaii and the Virgin Islands are not expected to be able to utilize additional 1952 quota and are excluded from the proration of the additional 40,000 tons of Domestic Beet Sugar Area deficit.

(Sec. 204, 61 Stat. 925; 7 U. S. C. Sup. 1114)

Done at Washington, D. C., this 31st day of December 1952. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN, *Secretary.*

[F. R. Doc. 52-13815; Filed, Dec. 31, 1952; 3:41 p. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[6th Gen. Rev. of Export Regs., Amdt. 26[1]]

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 376—PERIODIC REQUIREMENTS LICENSE

PART 380—AMENDMENTS, EXTENSIONS, TRANSFERS

MISCELLANEOUS AMENDMENTS

1. Section 372.2 *Applications for licenses* is amended in the following particulars:

The note following paragraph (f) *Second applications* is amended to read as follows:

NOTE: When an application has been returned without action to the applicant and is being resubmitted, a new application should ordinarily not be filled out. However, a new application should be submitted where the necessary alterations on the old application would be too difficult to make or would be illegible, or where the old application is on a form other than Form IT-419 (Revised April 1952). In those instances where a new application is submitted, the original OIT case number should be typed or written in ink in item 4 on the new application Form IT-419 (Revised April 1952). When a new application is submitted, the original application must be attached to the new application.

When an export license application has been returned without action with instructions that it is not to be resubmitted until a later date, the resubmission of the application must be in accordance with the requirements existing at the later date for the submission of a new application.

[1] This amendment was published in Current Export Bulletin No. 688, dated December 24, 1952, and in the reprint pages, dated December 24, 1952.

This part of the amendment shall become effective as of January 2, 1953.

2. Section 372.3 *How to file an application for export license* is amended in the following particulars:

a. The first unnumbered subparagraph of paragraph (c) *Information required* is amended to read as follows:

The following general provisions shall govern all applications for export licenses submitted on Form IT-419 (Revised April 1952), Application For Export License:

b. The first unnumbered paragraph of Note 1 following paragraph (c) *Information required* is amended to read as follows:

NOTE: 1. *Application forms.* Applications for validated licenses must be submitted on Form IT-419 (Revised April 1952), Application for Export License, accompanied by Form IT-116 (Revised October 1951), Acknowledgment Card. An application is incomplete and will be returned to the applicant unless accompanied by the acknowledgment card.

c. Note 2 *Preparation of Form IT-419 (Revised August 1949 and August 1950)* and Note 3 *Preparation of Form IT-419 (Revised September 10, 1951)* following paragraph (c) *Information required* are deleted.

d. Note 4 *Preparation of Form IT-419 (Revised April 1952)* is renumbered Note 2 and is amended by deleting the parenthetical reference beginning "See Notes 2 and 3 * * *" at the end of the first unnumbered paragraph.

e. Note 5 *Preparation of Form IT-116* is renumbered Note 3 and is amended by changing the first sentence of the second unnumbered paragraph to read as follows:

This card must be made out in the name of the applicant, as shown in item 5 of Form IT-419 (revised).

f. Note 6 *Assembly and submission of applications* and Note 7 *Inquiries and correspondence* are renumbered respectively Notes 4 and 5.

g. Note 8 *Clearance by teletype* is renumbered and amended to read as follows:

6. *Emergency clearance.* In case of emergency, the Office of International Trade will, upon approving an application for export license, authorize clearance by telephone, telegraph, or other special communication to the appropriate collector of customs. In such cases, the license is not sent to the licensee, but to the collector of customs with whom the clearance has been authorized by OIT.

This part of the amendment shall become effective as of January 2, 1953, except that Note 8, as above amended, shall become effective as of December 24, 1952.

3. Section 373.1 *Export licensing general policy,* paragraph (b) *Accepted orders: Evidence and certification* is amended in the following particulars:

Subdivision (i) of subparagraph (3) *Certification as to accepted order* is amended to read as follows:

(i) With respect to license applications covering diffusion pump oils (Schedule B No. 829980) and all the commodities listed in paragraph (h) of this section, signature on the application by the applicant, his officer or duly authorized agent, constitutes a certification that the applicant holds an accepted order for one or more of these commodities covered in the application.

This part of the amendment shall become effective as of January 2, 1953.

4. Section 373.11 *Special provisions for ferrous or nonferrous commodities, including ores, concentrates, or unrefined products* is amended in the following particulars:

The Schedule B Nos. mentioned in paragraph (a) *Containing lead, molybdenum, and vanadium* are amended to read as follows: "* * * and classified under Schedule B Nos. 650406, 664550, 664586, 664587, and 664588, respectively, * * *"

This part of the amendment shall become effective as of December 24, 1952.

5. Section 373.16 *Special provisions for certain commodities: Evidence of availability* is amended in the following particulars:

a. The parenthetical reference at the end of paragraph (b) *Nature of evidence of availability required from producers* is amended to read as follows: "(See Note 2 following § 372.3 (c) of this subchapter with respect to item 13 of Form IT-419.)

b. In paragraph (c) *Nature of evidence of availability required from nonproducers,* subparagraphs (1) and (2) the reference to "Item 11 of Form IT-419" is amended to read: "Item 13 of Form IT-419".

This part of the amendment shall become effective as of January 2, 1953.

6. Section 373.24 *Statement of past participation in exports for certain commodities,* paragraph (b) *Commodities requiring statement of past participation* is amended in the following particulars:

The headnote of subparagraph (6) *Cobalt-chromium dental alloys and dental alloys and amalgams containing cobalt, Schedule B Nos. 664529 and 915590* is amended to read as follows: "(6) *Cobalt dental alloys, Schedule B No. 664526 (formerly 664529 and 915590).*"

This part of the amendment shall become effective as of December 17, 1952.

7. Section 373.29 *Special provisions for certain totally allocated commodities* is amended in the following particulars:

The following commodity entry is deleted from the table set forth in paragraph (a) *Commodities included:*

Commodity	Relevant NPA order	Required NPAF form
Tungsten, except pure	M-80	114

This part of the amendment shall become effective as of December 24, 1952.

8. Section 376.51 *Supplement 1: Commodities subject to periodic requirements license* is amended by adding thereto the following commodities:

Dept. of Commerce Schedule B No.	Commodity
730810	Parts, n. e. c., specially fabricated for underground loading machines.
769100	Alloy steel ball bearings, and specially fabricated parts except balls (see § 373.7 of this subchapter).
769100	Carbon steel ball bearings, and specially fabricated parts except balls (see § 373.7 of this subchapter).
769200	Alloy steel roller bearings, and specially fabricated parts except rollers (see § 373.7 of this subchapter).
769200	Carbon steel roller bearings, and specially fabricated parts except rollers (see § 373.7 of this subchapter).
769310	Alloy steel balls for bearings (see § 373.7 of this subchapter).
769310	Carbon steel balls for bearings (see § 373.7 of this subchapter).
769315	Alloy steel rollers for bearings (see § 373.7 of this subchapter).
769315	Carbon steel rollers for bearings (see § 373.7 of this subchapter).

This part of the amendment shall become effective as of December 24, 1952.

9. Section 380.2 *Amendments or alterations of licenses*, paragraph (c) *Procedure for submitting requests for amendments* is amended in the following particulars:

a. Subparagraph (4) *Telegraphic requests* is amended to read as follows:

(4) *Telegraphic requests.* Under emergency conditions, a request for amendment may be made by telegram, and the licensee may include therein a request that the amendment, if approved, be forwarded to the collector of customs by special communication. In such instances, the telegram must include the same information required to complete Form IT-763, and, in addition, full information as to the necessity for such type of service, including deadline dates. If the request is submitted by mail on Form IT-763, but emergency clearance is requested, a letter setting forth full details as to the necessity for such service, including deadline dates, must accompany the request.

b. The last sentence of the first paragraph of Note 1 *Licenses held by collectors* following subparagraph (4) *Telegraphic requests* is amended to read as follows: "Upon request, and where warranted, advice of an amendment action will be dispatched by collect wire to the applicant and (in the case of approved requests) by special communication to the collector of customs; copies of Form IT-763 then will be mailed in the usual manner and serve as confirmation of wire advices."

This part of the amendment shall become effective as of December 24, 1952.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Office of International Trade.

[F. R. Doc. 53-38; Filed, Jan. 2, 1953; 8:58 a. m.]

[6th Gen. Rev. of Export Regs. Amdt. P. L. 23 [1]]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

CARBON STEEL PRODUCTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

The following are changed from R to RO commodities:

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required	Commodity lists
769100	Carbon steel ball bearings, and specially fabricated parts except balls (see § 373.7 of this subchapter).[1]	--------	GIEQ 3---	25	RO	A
769200	Carbon steel roller bearings, and specially fabricated parts except rollers (see § 373.7 of this subchapter).[1]	--------	GIEQ 3---	25	RO	A
769310	Carbon steel balls for bearings (see § 373.7 of this subchapter).[1]	--------	GIEQ 3---	25	RO	A
769315	Carbon steel rollers for bearings (see § 373.7 of this subchapter).[1]	--------	GIEQ 3---	25	RO	A

[1] The commodities included in this Positive List entry are added to the commodities subject to the IC/DV procedure (see § 373.34 of this subchapter), effective Feb. 7, 1953, as indicated in the column headed "Commodity Lists."

This amendment shall become effective as of 12:01 a. m., December 31, 1952.

Shipments of any commodities removed from general license to Country Group O destinations as a result of changes set forth in this amendment which were on dock, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a. m., December 31, 1952, may be exported under the previous general license provisions up to and including January 23, 1953. Any such shipment not laden aboard the exporting carrier on or before January 23, 1953, requires a validated license for export.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Office of International Trade.

[F. R. Doc. 53-37; Filed, Jan. 2, 1953; 8:57 a. m.]

[1] This amendment was published in Current Export Bulletin No. 688, dated December 24, 1952.

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

[Regs. 119]

PART 324—EXCISE TAX ON DIESEL FUEL

On August 1, 1952, notice of proposed rule making regarding regulations relating to the tax on diesel fuel under chapter 20 of the Internal Revenue Code, as added by section 441 (a) of the Revenue Act of 1951 (82d Congress), approved October 20, 1951, was published in the FEDERAL REGISTER (17 F. R. 7055). After consideration of all relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

AUTHORITY: §§ 324.0 to 324.47 issued under 53 Stat. 467, 65 Stat. 452; 26 U. S. C. 3791, 2455.

SUBPART A—INTRODUCTORY PROVISIONS

§ 324.0 *Scope of regulations.* (a) Sections 324.0 to 324.47, inclusive, apply to the excise tax imposed by chapter 20 of the Internal Revenue Code, relating to diesel fuel. These sections deal with the determination of tax liability, the computation of the tax, the manner of its application, the collection and return of tax, the imposition of penalties, credits and refunds, tax-free sales, and related matters.

(b) The statutory references are to the Internal Revenue Code, unless otherwise stated.

SUBPART B—GENERAL PROVISIONS

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 or 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.

SUBPART B—DEFINITIONS

§ 324.10 *Meaning of terms.* (a) As used in this part the terms defined in the applicable provisions of law shall have the meanings so assigned to them.

(b) The term "sale" includes any agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership) in goods to the buyer for a consideration called the price, which may consist of money, services, or other things.

(c) The term "diesel-powered highway vehicle" has reference to the type of vehicle and not to the use which is made of the vehicle. The term includes any vehicle powered or propelled by a diesel motor or engine and of the type which is capable of general use upon public highways, such as automobile trucks, busses, highway tractors, etc. The term does not, however, include equipment designed primarily for off-highway use, such as road graders, bulldozers, power shovels, earth movers, farm tractors, etc.

(d) The term "taxable liquid" includes any liquid which is sold or used as a fuel in a diesel-powered highway vehicle but does not include a product taxable under the provisions of section 3412 of the Code, relating to the tax on gasoline.

(e) The term "Territory of the United States" means the territories of Alaska and Hawaii.

SUBPART C—TAX ON DIESEL FUEL

SEC. 2450. TAX ON DIESEL FUEL (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

There is hereby imposed a tax of 2 cents a gallon upon any liquid (other than any product taxable under section 3412)—

(1) Sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle, or

(2) Used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under clause (1).

On and after April 1, 1954, the tax imposed by this section shall be 1½ cents a gallon in lieu of 2 cents a gallon.

SEC. 441 (b) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951

(b) *Effective date.* The amendment made by subsection (a) shall take effect on the first day of the first month which begins more than ten days after the date of the enactment of this act.

§ 324.20 *Effective period.* The tax imposed by section 2450 is effective with respect to the sale or use of any taxable liquid as a fuel in a diesel-powered highway vehicle on and after November 1, 1951.

§ 324.21 *Application of the tax on sale of taxable liquid.* (a) The tax imposed by clause (1) of section 2450 of the Code applies to the sale of any taxable liquid to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such a vehicle. It is immaterial whether the vehicle is actually employed in highway or off-highway use.

Example. The M Corporation is engaged in the construction of a power dam at a site removed from all public highways. Part of its construction equipment consists of diesel-powered shovels, bulldozers, and highway type dump trucks. The diesel fuel used in the highway type dump trucks is subject to tax even though such trucks are operated entirely within the bounds of the construction project. No tax is payable with respect to the diesel fuel used in the power shovels and bulldozers since none of this equipment is a vehicle which may be operated in general use over a public highway.

(b) For purposes of the tax, the sale of a taxable liquid to an owner, lessee, or other operator of a diesel-powered highway vehicle shall be considered a taxable sale of such liquid (1) where the liquid is delivered by the vendor into the fuel supply tank of the vehicle, or (2) where not so delivered, the vendee indicates in writing to the vendor prior to or at the time of the sale that the entire quantity of the liquid covered by the sale is for use by him as a fuel in a diesel-powered highway vehicle. If such a written statement is not furnished by the vendee, he shall be liable for the tax on that quantity of the liquid which is used by him as fuel in a diesel-powered highway vehicle (see § 324.22), or which is sold by him in a taxable transaction. For provisions relating to credit or refund where any liquid purchased tax paid is used by the vendee otherwise than as a fuel in a diesel-powered highway vehicle, see § 324.44.

(c) A sale to a dealer for resale is not subject to tax even though it is known at the time of the sale that the liquid will be resold by such dealer for use as a fuel in a diesel-powered highway vehicle.

(d) The tax is payable by the person who makes the taxable sale. Where a taxable liquid is consigned to a person for sale and the consignor retains ownership in such liquid until it is disposed of by the consignee, the consignor is the person liable for the tax when a taxable sale of the liquid is made by the consignee. In the event the consignor does not retain ownership in the taxable liquid, the consignee is the person liable for the tax upon the taxable sale of such liquid.

(e) In the case of a taxable sale on credit, the tax applies whether or not the purchase price of the liquid is actually collected from the vendee.

§ 324.22 *Application of the tax on use of taxable liquid.* (a) If a person acquires a taxable liquid by any means other than through a transaction subject to tax under clause (1) of section 2450 and uses it as a fuel in a diesel-powered highway vehicle, he shall be liable for tax under clause (2) of section 2450 on the quantity of such liquid so used. The tax is applicable regardless of whether the vehicle is actually employed in highway or off-highway use.

(b) The quantity of such taxable liquid placed by the taxpayer-user in the fuel supply tank of a diesel-powered highway vehicle shall be presumed to be used as a fuel in such vehicle, and therefore subject to tax, unless the taxpayer establishes by competent evidence that a portion of the quantity placed in such fuel supply tank was used otherwise than as a fuel in such vehicle. If such fact is established the tax shall apply only to the quantity of the taxable liquid actually used as a fuel in a diesel-powered highway vehicle.

§ 324.23 *Rate of tax.* For the period November 1, 1951 through March 31, 1954, the rate of tax is 2 cents a gallon. For the period beginning April 1, 1954, the rate of tax is 1½ cents a gallon.

SUBPART D—GENERAL EXEMPTIONS

SEC. 2453. TAX-FREE SALES AND USES (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Under regulations prescribed by the Secretary, no tax under this chapter shall be imposed with respect to the sale of any liquid for the exclusive use of any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as fuel in a diesel-powered highway vehicle.

§ 324.30 *Sales to States or political subdivisions thereof, etc.* (a) The tax imposed by section 2450 does not apply in the case of a sale of any taxable liquid by any person to a State, Territory of the United States or any political subdivision thereof, or the District of Columbia, for its exclusive use, or in the case of the use of any taxable liquid by any State, Territory of the United States, or any political subdivision thereof, or the District of Columbia, as a fuel in a diesel-powered highway vehicle.

(b) Any vendor claiming exemption under this section shall be prepared to produce evidence which will establish the right to exemption from the tax imposed by section 2450. Generally, clearly identified orders or contracts of a State, Territory of the United States, or a political subdivision thereof, or the

District of Columbia, when signed by an authorized officer thereof will be accepted in support of the exemption. However, in the absence of such orders or contracts, a statement signed by such an authorized officer that the liquid sold was purchased for the exclusive use of a State, Territory of the United States, or political subdivision thereof, or the District of Columbia, will be acceptable.

EXPORTS, AND SHIPMENTS TO POSSESSIONS OF THE UNITED STATES

SEC. 2454. APPLICABILITY OF ADMINISTRATIVE PROVISIONS (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2700 shall, insofar as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 2705. EXPORTATION.

Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the tax imposed under section 2700 (a) shall not apply in respect of articles sold or leased for export or for shipment to a possession of the United States and in due course so exported or shipped. * * *.

§ 3.31 *Sales for export.* (a) Except in the case of a taxable sale where the liquid is delivered into the fuel supply tank of a diesel-powered highway vehicle, the tax imposed by section 2450 does not apply to a sale to an owner, lessee, or other operator of a diesel-powered highway vehicle of any taxable liquid for export. To be exempt from tax on such a sale for export, it is necessary that the vendor establish (1) the liquid was sold by him for export, and (2) that the liquid was exported in due course.

(b) In order to establish exemption from tax in the case of a sale of taxable liquid for export it is necessary that the vendor maintain adequate records that the liquid was sold by him for export and have in his possession documentary evidence showing that such liquid was in fact exported.

§ 324.32 *Proof of exportation.* Exportation may be evidenced by (a) a copy of the export bill of lading issued by the delivering carrier, or (b) a certificate by the agent or representative of the export carrier showing actual exportation of the liquid, or (c) a certificate of landing signed by a customs officer of the foreign country to which the article is exported, or (d) a statement of the foreign consignee showing receipt of the liquid.

§ 324.33 *Shipments to possessions of the United States.* (a) The same provisions as relate to sales for export and proof of exportation will apply to sales for shipment to a possession of the United States. (See §§ 324.31 and 324.32.)

(b) The term "possession of the United States" includes the Panama Canal Zone, the Virgin Islands, Guam, Puerto Rico, American Samoa, Wake, and the Midway Islands.

(c) This exemption does not apply with respect to sales of any taxable liquid for shipment to the Territories of Alaska and Hawaii for the reason that these Territories are by definition included in the term "United States". (See § 3797 (a) (9).)

SUBPART E—ADMINISTRATIVE PROVISIONS

SEC. 2451. RETURNS AND PAYMENT (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Requirement.* Every person liable for tax under this chapter shall make returns and pay the taxes due 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 Secretary may by regulations prescribe.

(b) *Interest.* The tax shall, without assessment or notice, be due and payable to the collector at the time prescribed 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 per centum per annum from the time when the tax became due until paid.

SEC. 2454. APPLICABILITY OF ADMINISTRATIVE PROVISIONS (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2700 shall, insofar as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 2711. 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 subchapter.

SEC. 2709. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this subchapter, 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. 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.

(2) *Persons in charge of exports and drawbacks.* Every collector of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal revenue laws.

(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 exclusive enumeration of the persons who may administer such oaths or affirmations.

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.

* * * * *

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.

* * * * *

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.

§ 324.40 *Returns.* (a) Every person liable for the payment of the tax imposed by section 2450 of the Code shall file on or before the last day of each month a return showing the tax due for the preceding month on Form 725 in accordance with the instructions thereon. The return shall be filed with the director of internal revenue for the district in which is located the principal place of business of the person required to make the return. If such person has no principal place of business in the United States, the return shall be filed with the Director of Internal Revenue, Baltimore, Maryland.

(b) When the last day of the month in which a return and payment are due falls on Sunday or a legal holiday, the return may be filed and payment made on the next secular or business day. A return shall be filed with the director for each month whether or not any liability has been incurred for that month. If a person ceases the operation of a business for which a return must be filed, the last return shall be marked "Final return".

§ 324.41 *Payment of taxes.* All taxes are due and payable to the director of internal revenue, without assessment by the Commissioner or notice from the director, 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 per cent per annum from the time the tax became due to the actual date of payment or assessment, whichever is prior. For provisions with respect to interest generally, including interest on assessments, see § 324.45.

§ 324.42 *Records.* (a) Every person required to file a return and pay tax on the sale or use of any taxable liquid as a fuel in a diesel-powered highway vehicle, shall keep on file at his principal place of business, or some other convenient or safe location, accurate records and accounts of all taxable transactions. Evidence with respect to sales on which no tax is due, such as sales for export, or shipment to a possession of the United States, or sales to States and Territories of the United States or political subdivisions thereof, must be maintained.

(b) The records shall contain sufficient information to enable the Commissioner to determine whether the correct amount of tax has been paid. Such records shall at all times be open for inspection by internal-revenue officers, and shall be maintained for a period of at least four years from the date the tax became due or, in the case of tax-free sales, for a period of at least four years from the last day of the month following the month in which the sale was made.

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.

§ 324.43 *Jeopardy assessment.* (a) Whenever, in the opinion of the director, it becomes necessary to protect the interests of the Government by effecting immediate collection of the tax, 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 director shall, without delay, issue a notice and demand for payment thereof in full.

(b) The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the director a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the director 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.

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

SEC. 2452. CREDITS AND REFUNDS (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Non-taxable use or sale by vendee.* A credit against tax under this chapter, or a refund, may be allowed or made to a person in the amount of tax paid by him under this chapter with respect to his sale of any liquid to a vendee for use as fuel in a diesel-powered highway vehicle, if such person establishes, in accordance with regulations prescribed by the Secretary, that—

(1) The vendee used such liquid otherwise than as fuel in such a vehicle or resold such liquid, and

(2) Such person has repaid or agreed to repay the amount of such tax to such vendee, or has obtained the consent of the vendee to the allowance of the credit or refund.

No interest shall be allowed with respect to any amount of tax credited or refunded under the provisions of this subsection.

(b) *Proof required in case of certain overpayments.* No overpayment of tax under this chapter shall be credited or refunded (otherwise than under subsection (a)) in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Secretary, (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has repaid the amount of the tax to the ultimate purchaser of the article, or files with the Secretary written consent of such ultimate purchaser to the allowance of the credit or refund.

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, APD REFUNDS.

(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.

(3) *Date of allowance.* Where the Commissioner has signed a schedule of overassessments in respect of any internal revenue tax imposed by this title, the Revenue Act of 1932, or any prior revenue act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

(4) *Credit of overpayment of one class of tax against another class of tax due.* Notwithstanding any provision of law to the contrary, the Commissioner may, in his discretion, in lieu of refunding an overpayment of tax imposed by any provision of this title, credit such overpayment against any tax due from the taxpayer under any other provision of this title.

(5) *Delegation of authority to collectors to make refunds.* The Commissioner, with the approval of the Secretary, is authorized to delegate to collectors any authority, duty, or function which the Commissioner is authorized or required to exercise or perform under paragraph (1), (2), * * * or (4) of this subsection, * * * where the amount involved (exclusive of interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000.

* * * * *

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, and except as otherwise provided by law in the case of employment taxes under subchapters A and D of chapter 9, 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, and other than such employment 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.

(c) *Additional assessment defined.* As used in this section the term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924, 43 Stat. 253, or by any subsequent Revenue Act.

* * * * *

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.

* * * * *

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.

* * * * *

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.

§ 324.44 *Nontaxable use or sale by vendee.* Where a vendor who has paid tax upon the sale of a taxable liquid for use as a fuel in a diesel-powered highway vehicle establishes that his vendee used such liquid otherwise than as a fuel in a diesel-powered highway vehicle or resold such liquid, he may under the provisions of section 2452 (a) of the Internal Revenue Code take a credit for such tax paid by him against the tax shown to be due on any subsequent monthly return or he may file a claim for refund of such tax on Form 843. If a refund is claimed, Form 843 shall be completed in accordance with the instructions thereon and, in addition, there shall be attached to such form evidence showing (a) the name and address of the vendee, (b) that the taxable liquid was used otherwise than as a fuel in a diesel-powered highway vehicle or was resold by the vendee, (c) the date the tax on the sale of the liquid was paid to the United States, (d) the amount of such tax, (e) that the person claiming the refund has repaid or agreed to repay the amount of such tax to such vendee or has secured the written consent of the vendee to the allowance of the refund. A credit taken on a return shall be supported by the same evidence. No interest shall be allowed on any tax credited or refunded under the provisions of section 2452 (a).

§ 324.45 *Credit or refund generally.* (a) Where a person (vendor or user) has made an overpayment of the tax due, he may under the provisions of section 3770 of the Internal Revenue Code, either file a claim for refund on Form 843 or take credit for such overpayment against the tax due on a subsequent monthly return. A complete statement of the facts involving the overpayment shall be attached either to the claim or to the return on which the credit is claimed. Every claim for refund shall be supported by evidence showing the name and address of the taxpayer, the date of payment of the tax, and the amount of such tax. A credit taken on a return shall be supported by evidence of the same character.

(b) Where the overpayment of tax is made by a vendor with respect to his taxable sales of a taxable liquid no credit or refund shall be allowed whether in pursuance of a court decision or otherwise, unless the taxpayer files a statement explaining satisfactorily the reason for claiming the credit or refund and establishing (1) that he has not included the tax in the price of the liquid with respect to which it was imposed, or collected the amount of the tax from the purchaser, or (2) that he has either repaid the amount of the tax to the ultimate purchaser of the liquid, or has secured the written consent of such purchaser to the allowance of the credit or refund. In the latter case, the written consent of the purchaser shall accompany the statement filed with the credit or refund claim. For the purpose of the credit or refund claimed under section 3770 the "ultimate purchaser" is the person who acquired the liquid for consumption and not for resale. The statement supporting the credit or refund claim shall also show whether any previous claim for credit or refund covering the amount involved, or any part thereof, has been filed with the director or the Commissioner.

(c) A complete and detailed record of each overpayment must be kept by the taxpayer for a period of at least four years from the date any credit is taken or refund is claimed.

SEC. 3760. CLOSING AGREEMENTS.

(a) *Authorization.* The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) *Finality.* If such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

SEC. 2451. RETURNS AND PAYMENT (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(b) *Interest.* The tax shall, without assessment or notice, be due and payable to the collector at the time prescribed 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 per centum per annum from the time when 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 case 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; except that in the case of income, estate or gift taxes, such penalties shall not apply and the interest for nonpayment of tax shall be such as is specifically provided by law with respect to such taxes.

* * * * *

SEC. 2707. PENALTIES.

(a) Any person who willfully fails to pay, collect, or truthfully account for and pay over the tax imposed by section 2700 (a), 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.

(b) Any person required under this subchapter 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 subchapter who willfully fails to pay such tax, make such returns, 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.

(c) Any person required under this subchapter to collect, account for and pay over any tax imposed by this subchapter, 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 subchapter 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.

(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.

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.

* * * * *

(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. 286 OF TITLE 18 OF THE UNITED STATES CODE

CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

SEC. 287 OF TITLE 18 OF THE UNITED STATES CODE

FALSE, FICTITIOUS OR FRAUDULENT CLAIMS

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 1001 OF TITLE 18 OF THE UNITED STATES CODE

STATEMENTS OR ENTRIES GENERALLY

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 3325. PENALTIES FOR FALSE STATEMENTS TO PURCHASERS REGARDING TAX.

Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment not exceeding one year, or both.

§ 324.46 *Penalties and interest.* (a) In the 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 reasonable cause and not to willful neglect. Where reasonable cause is not shown 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 failure continues, not to exceed 25 percent in the aggregate.

(b) 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, from the due date of the return to the actual date of payment or assessment, whichever is prior.

(c) Where assessment is made, and payment is not made within 10 days after the issuance of the first notice and demand for payment thereof, 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 such notice and demand until date of payment. Where assessment is settled by partial payments, interest is computed at the above-prescribed rate from the date of the first 10-day notice through the date of first payment and on the balance from the next succeeding day to the date of the next payment until the assessment is paid in full.

(d) If a claim for abatement is filed with the director 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 stay the collection of interest, which continues to run for the full period that intervenes between the date of the first notice and demand and the date of payment.

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

(f) Any person who willfully fails to pay any tax due, file return, keep records, or supply information, or who willfully attempts in any manner to evade or defeat the tax, or who fraudulently makes a return or affidavit required by these regulations, is subject to a fine of $10,000, or imprisonment, or both, with costs of prosecution; and may also be liable to a penalty equal to the amount of the tax not paid. These penalties apply to an 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 a person who fails or refuses to perform any of the duties imposed by the Code, i. e., pay the tax, file returns, keep records, supply information, etc.

SEC. 2455. RULES AND REGULATIONS (AS ADDED BY SECTION 441 (a) OF THE REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

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

§ 324.47 *Promulgation of regulations.* In pursuance of the provisions of the law the regulations of this part are made and promulgated.

[SEAL] JOHN S. GRAHAM,
Acting Commissioner of Internal Revenue.

Approved: December 29, 1952.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 53-25; Filed, Jan. 2, 1953; 8:53 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Munitions Board

Subchapter B—Miscellaneous Regulations and Policies

PART 122—UNIFORM INSPECTION AND ACCEPTANCE STAMPS

§ 122.1 *Uniform inspection and acceptance stamps.* (a) Common designs for Department of Defense inspection and acceptance stamps have been authorized, by a Department of Defense Directive, dated October 20, 1952, for use by designated personnel of the military departments. These stamps will replace the various stamps now in use by the Air Force, Navy and the technical services of the Army. Use of these stamps is authorized as of the date of the Directive and shall be in full use in lieu of all other stamps as soon as practicable and in any event by July 1, 1953.

(b) The design showing an eagle within a circle shall be used to identify material which has undergone only a partial inspection but has been found by the inspector to be acceptable to the extent that it has been inspected.

(c) The design showing an eagle within a square shall be used to indicate that the items to which it has been applied have been accepted by the inspector as being in conformance with the inspection requirements of the contract or order.

(d) For steel stamps, standard sizes specified are ⅛, ¼, ⅜, and ½ inch. The square outline of the steel acceptance stamp shall have radii at the four corners.

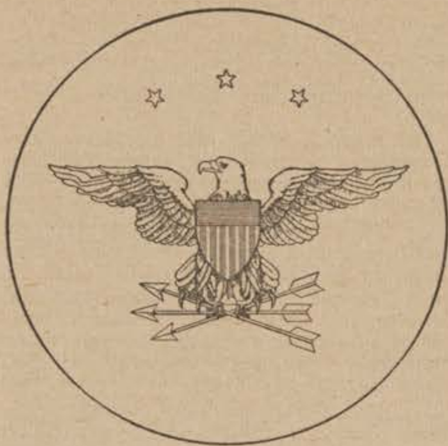
(e) For rubber stamps, standard sizes are ¼, ½, 1, and 2½ inch.

(f) For stencils, standard sizes are 1½, 2, and 3½ inch.

(g) Unauthorized reproduction of Department of Defense inspection and acceptance stamps is prohibited.

(Pub. Law 436, 82d Cong.)

J. W. FOWLER,
Rear Admiral, U. S. N. (Ret.), Director, Defense Supply Management Agency.



[F. R. Doc. 53-54; Filed, Jan. 2, 1953; 8:59 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 30, Amdt. 2 to Supplementary Regulation 8]

CPR 30—MACHINERY AND RELATED MANUFACTURED GOODS

SR 8—ADJUSTMENT OF PRICING FORMULAS UNDER SECTION 402 (d) (4) OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

EXTENSION OF DATE

Extension of date on and after which manufacturers covered by Supplementary Regulation 8 to Ceiling Price Regulation 30 may not sell formula priced commodities or services at ceiling prices established either under Supplementary Regulation 4 or 5 to Ceiling Price Regulation 30.

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this amendment to Supplementary Regulation 8 to Ceiling Price Regulation 30 is hereby issued.

STATEMENT OF CONSIDERATIONS

Amendment 1 to SR 8 to CPR 30 extended the deadline date on and after which manufacturers of formula priced commodities and services covered by SR 8 to CPR 30 could not sell these commodities or services at ceiling prices determined under SR 4 or 5 to CPR 30 to December 31, 1952. The reason for that amendment was that the method described in the statement of considerations to SR 8 to CPR 30 to permit the computation of an average overhead adjustment factor, in those cases in which formula priced commodities were in the same product line or category as stock items, which was to be incorporated into SR 4 to CPR 30, had been delayed. However, because of the further delay of the issuance of the above-described amendment to SR 4, this amendment extends the December 31, 1952, date to January 31, 1953.

In view of the technical nature of the changes made by this amendment, and the desirability of immediate action, the Director of Price Stabilization has found that special circumstances have rendered consultation with industry representatives, including trade association representatives, impracticable.

AMENDATORY PROVISIONS

Subparagraph (2) of section 9 (b) of SR 8 to CPR 30 is amended to read as follows:

(2) *Relation to Supplementary Regulations 4 and 5 to CPR 30.* This supplementary regulation supersedes and replaces SR 4 and SR 5 to CPR 30 with respect to the establishment of adjusted ceiling prices for formula priced commodities and services covered by this supplementary regulation. On and after January 31, 1953, you may not sell any formula priced commodity or service covered by this supplementary regulation at a ceiling price established either under SR 4 or SR 5 to CPR 30. In addition, your application for adjustment under this supplementary regulation may be made separately from your application for adjustment under SR 4 or SR 5 to CPR 30, and your adjusted ceiling prices determined under this supplementary regulation may be made effective separately from your adjusted ceiling prices determined under SR 4 or SR 5 to CPR 30.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment is effective December 31, 1952.

JOSEPH H. FREEHILL,
Director of Price Stabilization.

DECEMBER 31, 1952.

[F. R. Doc. 52-13809; Filed, Dec. 31, 1952; 12:25 p. m.]