near Chicago Harbor. Calumet-Sag Channel from junction with the Chicago Sanitary and Ship Canal to the Little Calumet River and along the Little Calumet and Calumet Rivers to turning basin 5, near the entrance to Lake Calumet, an additional 23.8 RMS. Total waterway distance approximately 350 RMs.

(13) Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

(14) Kaskaskia River: From junction with the Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

(15) Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

(16) Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

(17) Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.

(18) Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

(19) Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

(20) Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

(21) Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

(22) Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.

(23) Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

(24) Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

(25) Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Alabama.

(26) White River: From RM 9.8 to RM 255 at Newport, Arkansas.

(27) Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

[T.D. 7727, 45 FR 70861, Oct. 27, 1980. Redesignated by T.D. 8066, 51 FR 14, Jan. 2, 1986, as amended by T.D. 8659, 61 FR 10453, Mar. 14, 1996]

§ 48.4042–2 Special rules.

(a) *Dual use of liquid fuels*—(1) *Dual use by the propulsion engine.* The tax imposed by section 4042(a) applies to all taxable liquid used as a fuel in the propulsion system of the vessel, regardless of whether the engine (or other propulsion system) is used for a purpose other than propulsion of the vessel. For purposes of this section, any engines generating movement of a vessel (including bow thrusters used for steering) are part of the propulsion system. The tax does not apply to fuel consumed in engines which are not used to generate movement of a vessel. When the propulsion engine operates special equipment by means of a power take-off or power transfer, the tax applies to all liquid fuel consumed by that engine. For example, the tax applies to all fuel used in the engine operating an alternator, a generator, or pumps, if that engine is used to generate movement of a vessel.

(2) *Common tank.* If the liquid fuel consumed by a nonpropulsion engine is drawn from the same tank as fuel consumed by a propulsion engine, a reasonable determination of the quantity of fuel used in such a separate engine will be acceptable for purposes of excluding from taxation a portion of the fuel consumed by the vessel. The determination of the amount of fuel consumed by the nonpropulsion engine may be based primarily on the operating experience of the person using the fuel; however, in order to exclude fuel from taxation under the rule set out in this paragraph (a)(2), the taxpayer must maintain records which will support the allocation used.

(b) *Voyages crossing boundaries of the specified waterways.* Fuel consumed by a vessel traveling along the specified waterways is taxable only to the extent of fuel consumed for propulsion while on the specified waterways. Generally, the operator may calculate the amount of fuel consumed while on the

specified waterways during a particular voyage by mulitplying total fuel consumed in the propulsion engine by a fraction. The numerator of the fraction is the time spent operating on the specified waterways; the denominator is the total time spent operating on the specified and nonspecified waterways during the voyage. This calculation may not be used when it is unreasonable. It may be determined to be unreasonable by:

(1) Better evidence of fuel consumed (*e.g.*, readings from an accurate fuel gauge or records from similar voyages); or

(2) The existence of factors causing a substantial discrepancy between the rate of fuel consumption on the specified and nonspecified waterways.

(c) *Records required.* (1) All operators of vessels used in commercial waterway transportation must maintain records sufficient to establish to the satisfaction of the district director the amount of fuel used for taxable purposes. Those records may include, when relevant to establish liability:

(i) Quantity of fuel and date of acquisition of all liquid fuels acquired for both taxable and nontaxable purposes, whether delivered to storage tanks or tanks on a vessel;

(ii) Date and quantity of fuel pumped into tanks on each vessel;

(iii) Identification number or name of each vessel using fuel; and

(iv) Departure time, departure point, route traveled, destination, and arrival time for each vessel.

(2) Vessel operators seeking a tax exemption provided by section 4042(c) must maintain records which will support any exemption claimed. Where applicable, the records shall contain:

(i) The draft of the vessel on each voyage (for exemption under section 4042(c)(1));

(ii) The type of vessel in which fuel is consumed and the type of vessel in which cargo is transported (for exemption under section 4042(c) (1), (2) or (4); and

(iii) The ultimate use of cargo transported (for exemption under section 4042(c)(3)).

[T.D. 7727, 45 FR 70862, Oct. 27, 1980, as amended by T.D. 8442, 57 FR 48186, Oct. 22, 1992]

§ 48.4042–3 Certain types of commercial waterway transportation excluded.

(a) *Deep draft ocean-going vessels*—(1) *In general.* Under section 4042(c)(1), there is no tax imposed by section 4042(a) if:

(i) The vessel was designed primarily for use on the high seas; and

(ii) The vessel has a draft of more than 12 feet on the voyage for which the fuel tax exclusion is sought (*e.g.* 12 feet 1 inch).

(2) *Meaning of "designed primarily for use on the high seas."* Section 4042(c)(1) requires a determination of the primacy of the design features rendering the vessel useful for service on the high seas, as opposed to the features which render the vessel useful for service on all less turbulent waters. Thus, whether a ship is "designed primarily for use on the high seas" must be determined from all the facts, including structural features and equipment. If the predominant use of a vessel is on the high seas, it shall be presumed to be "designed primarily for use on the high seas." If the predominant use of a vessel is on waters other than the high seas, it shall be presumed not to be "designed primarily for use on the high seas."

(3) *Meaning of "high seas."* For purposes of this section, "high seas" shall mean waters other than the territorial waters of the United States or any other country. Thus, the high seas shall not include the internal waters of any country, the Great Lakes, harbors, or narrow coastal indentations.

(4) *Twelve foot draft*—(i) *Definition.* For purposes of section 4042(c)(1), "draft" shall mean the maximum vertical distance between the mean water line and the bottom of the keel. In cases where a vessel has a skeg or other appendage extending locally below the line of the keel, the draft shall be measured from the deepest appendage. A separage determination of draft must be made for each voyage when the vessel has its greatest load of cargo and fuel. For purposes of this determination, the term "voyage" means a round trip voyage. Therefore, if a vessel travels into the specified waterway system to pick up cargo and has a draft sufficient to qualify for the exclusion