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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10420

AMENDING THE SELECTIVE SERVICE REGULATIONS AND EXECUTIVE ORDER NO. 10363 OF JUNE 17, 1952 [1]

By virtue of the authority vested in me by Title I of the Universal Military Training and Service Act (62 Stat. 604), as amended, it is ordered as follows:

1. I hereby prescribe the following amendments of the Selective Service Regulations prescribed by Executive Orders No. 9988 [2] of August 20, 1948, No. 10001 [3] of September 17, 1948, No. 10008 [4] of October 18, 1948, No. 10167 [5] of October 11, 1950, No. 10202 [6] of January 12, 1951, No. 10258 [7] of June 26, 1951, No. 10292 [8] of September 25, 1951, and No. 10328 [9] of February 20, 1952, and constituting portions of Chapter XVI of Title 32 of the Code of Federal Regulations:

a. Paragraph (f) of § 1622.12 of Part 1622, *Classification Rules and Principles*, is amended to read as follows:

(f) Every registrant who, on or after June 24, 1948, has entered upon active duty in the armed forces, other than active duty for training only, and (1) who has been separated therefrom by honorable discharge or discharge under honorable conditions or by an equivalent type of release from service, except when such discharge or release was because of minority or erroneous enlistment or when the branch of the armed forces concerned certifies that such discharge or release was accomplished upon the application of the registrant and was based upon inadequate evidence of his status, or (2) who has been separated therefrom by honorable discharge or discharge under honorable conditions or by an equivalent type of release from service and transferred to a reserve component of the armed forces, or (3) who has been transferred to a reserve component of the armed forces. Each such registrant who has been transferrd to a reserve component of the armed forces shall be identified with the abbreviation "Res." in the manner provided in § 1622.65, and every other such registrant shall be identified with the abbreviation "Disc." in the manner provided in § 1622.64, and upon attaining an age beyond the maximum age of liability for military service under the provisions of the selective service law, all such registrants shall be reclassified in Class V–A.

b. Paragraph (a) of § 1622.14 of Part 1622 is amended to read as follows:

(a) In Class I–O shall be placed every registrant who would have been classified in Class I–A but for the fact that he has been found, by reason of religious training and belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces.

c. Paragraph (b) of § 1622.16 of Part 1622 is amended to read as follows:

(b) In Class I–W shall be placed any registrant who subsequent to being ordered by the local board to perform civilian work contributing to the maintenance of the national health, safety, or interest has been released from such work by the local board after satisfactorily performing the work for a period of twenty-four consecutive months or has been sooner released from such work by the Director of Selective Service under the provisions of § 1660.21 of this chapter. Each such registrant shall be identified on all records by following his classification with the abbreviation "Rel." and, upon attaining an age beyond the maximum age of liability for military service under the provisions of the selective service law, all such registrants shall be reclassified in Class V–A.

d. Section 1623.12 of Part 1623, *Classification Procedure*, is revoked.

e. Paragraph (b) of § 1624.2 of Part 1624, *Appearance Before Local Board*, is amended to read as follows:

(Continued on p. 11467)

[1] 17 F. R. 5449.
[2] 13 F. R. 4851.
[3] 13 F. R. 5473.
[4] 13 F. R. 6099.
[5] 15 F. R. 6873.
[6] 16 F. R. 381.
[7] 16 F. R. 6229.
[8] 16 F. R. 9843.
[9] 17 F .R. 1645.

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(b) At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. Such information shall be in writing, or, if oral, shall be summarized in writing by the registrant and, in either event, shall be placed in the registrant's file. The information furnished should be as concise as possible under the circumstances. The member or members of the local board before whom the registrant appears may impose such limitations upon the time which the registrant may have for his appearance as they deem necessary.

f. Section 1626.11 of Part 1626, *Appeal to Appeal Board*, is amended by redesignating paragraph (c) as paragraph (d) and by adding a new paragraph (c) to read as follows:

(c) Whenever an appeal to the appeal board involves a registrant whose current place of residence is located outside the appeal board area in which the local board having jurisdiction over the registrant is located and is located in the area of another appeal board and the written request referred to in paragraph (b) of this section has not been filed with the local board, the registrant, the Director of Selective Service, or the State Director of Selective Service may, at the time he files the notice of appeal, file with the local board a written request that the appeal be submitted to the appeal board having jurisdiction over the area in which is located the current place of residence of the registrant.

g. Section 1626.13 of Part 1626 is amended to read as follows:

§ 1626.13 *Local board to prepare appeal record and forward file.* (a) Immediately upon an appeal being taken to the appeal board by a person entitled to appeal, the local board shall prepare the Individual Appeal Record (SSS Form No. 120) in duplicate, attaching the original to the inside of the registrant's Cover Sheet (SSS Form No. 101) and placing the duplicate copy in the local board files. If either of the written requests referred to in paragraphs (b) and (c) of § 1626.11 has been filed, the local board shall enter on the Individual Appeal Record (SSS Form No. 120) a notation that such request has been filed together with the principal place of employment of the registrant or his current place of residence, whichever is applicable, and the address thereof. The local board shall carefully check the registrant's file to make certain that all steps required by the regulations in this chapter have been taken and that the record is complete. If any information considered by the local board does not appear in the written information in the file, other than information presented orally by the registrant or in his behalf at a personal appearance under the provisions of § 1624.2 of this chapter, the local board shall prepare and place in the file a written summary of such information.

(b) The file of a registrant who appeals or on whose behalf an appeal is taken shall be forwarded by the local board to the appeal board, or appropriate panel thereof, for the area in which the local board having jurisdiction over the registrant is located, unless either of the written requests referred to in paragraphs (b) and (c) of § 1626.11 has been filed with the local board. If the written request referred to in paragraph (b) of § 1626.11 has been filed, the file of the registrant shall be forwarded by the local board through the State Director of Selective Service to the appeal board having jurisdiction over the area in which is located the principal place of employment of the registrant, but if such principal place of employment is not located in the area of any appeal board the file of the registrant shall be forwarded to the appeal board, or appropriate panel thereof, for the area in which the local board having jurisdiction over the registrant is located. If the written request referred to in paragraph (c) of § 1626.11 has been filed and the written request referred to in paragraph (b) of that section has not been filed, the file of the registrant shall be forwarded by the local board through the State Director of Selective Service to the appeal board having jurisdiction over the area in which is located the current place of residence of the registrant, but if such current place of residence is not located in the area of any appeal board the file of the registrant shall be forwarded to the appeal board, or appropriate panel thereof, for the area in which the local board having jurisdiction over the registrant is located. The State Director of Selective Service may direct the channels through which the files of registrants shall be forwarded to the appeal boards in his State. When the appeal board to which a file is to be forwarded is located in another State he shall forward the file through the State Director of Selective Service for that State.

h. Section 1626.14 of Part 1626 is amended to read as follows:

§ 1626.14 *Time when record to be forwarded on appeal.* The registrant's file shall be forwarded to the appeal board, or appropriate panel thereof, immediately after the period provided in paragraph (c) of § 1626.2 for taking an appeal has elapsed and the local board has complied with the provisions of § 1626.13, but in no event shall the file be forwarded later than five days after the period for taking an appeal has elapsed. The local board shall enter in the Classification Record (SSS Form No. 102) the date it transmits the registrant's file to the appeal board or appropriate panel thereof.

i. Paragraph (b) of § 1628.3 of Part 1628, *Physical Examination*, is amended to read as follows:

(b) The medical advisor to the local board shall (1) give each registrant who presents himself for medical interview such examination as he deems necessary or (2) review each affidavit of a reputable physician or official statement of a representative of a Federal or State agency referred to him by the local board. From such examination or review, the medical advisor to the local board shall determine whether the registrant has one or more of the defects or conditions listed in Part 1629 of this chapter and shall record his findings in item 19 of section II of the Record of Induction (DD Form No. 47).

j. Subparagraph (1) of paragraph (a) of § 1632.5 of Part 1632, *Delivery and Induction*, is amended to read as follows:

(1) Prepare in quintuplicate a Delivery List (SSS Form No. 261) completing thereon the entries in columns (1) and (2) for each such registrant.

k. 1. Paragraph (c) of § 1650.11 of Part 1650, *Registration, Classification, Physical Examination, Selection, and Induction of Persons in Medical, Dental, and Allied Specialist Categories*, is amended to read as follows:

(c) Every special registrant shall be placed in Class I–A under the provisions of § 1622.10 of this chapter except that when grounds are established to place such registrant in one or more of the

classes listed in the following table, the special registrant shall be classified in the lowest class for which he is determined to be eligible, with Class I–A–O considered the highest class and Class I–C considered the lowest class according to the following table:

Class:		Class:	
	I–A–O		IV–B
	I–O		IV–C
	I–D		IV–D
	II–A		IV–F
	II–S		V–A
	III–A		I–W
	IV–A		I–C

2. Section 1650.11 of Part 1650 is further amended by redesignating paragraph (j) as paragraph (k), paragraph (k) as paragraph (l), paragraph (l) as paragraph (o), paragraph (m) as paragraph (p), and paragraph (n) as paragraph (q) and by adding three new paragraphs (j), (m), and (n) to read as follows:

(j) A special registrant shall be placed in Class II–S only if (1) he has been accepted for admission by a professional school of medicine, dentistry, or veterinary medicine to the class next commencing for a full-time course of instruction leading to a degree in a specialist category other than that in which he has previously received a degree and, if such class has commenced, has entered such school, or (2) he is a student in any such professional school and the school in which he is in attendance has certified that he is satisfactorily pursuing a full-time course of instruction leading to a degree in a specialist category other than that in which he has previously received a degree.

* * * * *

(m) A special registrant shall be placed in Class IV–B under the provisions of § 1622.41 of this chapter.

(n) A special registrant shall be placed in Class IV–C only if he is an alien and has departed from the United States. Such alien shall be placed in Class IV–C even though he is a delinquent but this classification shall in no way relieve him from liability for prosecution for violation of the selective service law. If any registrant so classified under this paragraph returns to the United States, his classification shall be reopened and he shall be classified anew.

l. Paragraphs (a) and (b) of § 1650.30 of Part 1650 are amended to read as follows:

(a) Except as otherwise provided in this section, the provisions of Part 1628 of this chapter shall be applicable with respect to the physical examination of special registrants except that special registrants shall not be given the medical interview as provided in that part.

(b) Whenever a special registrant who is in Class I–A, Class I–A–O, or Class I–O claims that he has one or more of the disqualifying obvious defects or manifest conditions listed in Part 1629 of this chapter, or whenever the local board is of the opinion that such a special registrant has one or more of such defects or conditions, the local board shall prepare an original and three copies of the Record of Induction (DD Form No. 47), by completing all of section I except item 2, and item 18 of section II thereof, and send the original together with all documents in the registrant's file relating to his physical or mental condition to the medical advisor to the local board. The medical advisor after reviewing the written evidence which he receives shall state in item 19 of section II of the Record of Induction (DD Form No. 47) whether or not he believes that the registrant actually has any disqualifying defect or condition. If the medical advisor states that he believes that the registrant has any such defect or condition, the local board shall send the original of the Record of Induction (DD Form No. 47) together with all written evidence relating to the registrant's condition to the State Director of Selective Service who shall obtain a determination from the commanding general of the appropriate army as to whether the registrant shall be forwarded for armed forces physical examination. If the medical advisor states that he does not believe that the registrant has any such defect or condition, the registrant shall be forwarded for armed forces physical examination.

m. Paragraph (d) of § 1660.21 of Part 1660, *Civilian Work in Lieu of Induction*, is amended to read as follows:

(d) The Director of Selective Service is authorized to release, or to provide for the release of, any registrant from civilian work in lieu of induction at any time before the registrant has performed such work for a period of twenty-four consecutive months whenever the Director of Selective Service deems such release to be advisable.

n. Paragraph (c) of § 1660.31 of Part 1660 is amended to read as follows:

(c) When the local board receives the cover sheet of the registrant from the Director of Selective Service or the State Director of Selective Service together with the letter stating that the registrant has satisfactorily completed his period of civilian work or a written notification that the registrant has been sooner released from such work by the Director of Selective Service under the provisions of § 1660.21, the local board shall mail the registrant a certificate evidencing his satisfactory completion of and release from civilian work and shall retain him in Class I–W and identify him on all records by following his classification with the abbreviation "Rel." until such time as he attains an age beyond the maximum age of liability for military service.

2. Paragraph 3 of Executive Order No. 10363 of June 17, 1952, prescribing amendments of the Selective Service Regulations is hereby amended, effective as of June 17, 1952, by substituting for the designation "paragraph (b) of § 1622.30" appearing therein the designation "paragraph (c) of § 1622.30".

HARRY S. TRUMAN

THE WHITE HOUSE,
December 17, 1952.

[F. R. Doc. 52–13463; Filed, Dec. 17, 1952; 4:36 p. m.]

RULES AND REGULATIONS

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 45]

PART 608—DANGER AREAS

ALTERATION

The danger area alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and is adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required. Part 608 is amended as follows:

In § 608.55, the Port Angeles, Washington, area (D–407), published on May 20, 1952 in 17 F. R. 4558, and amended on July 4, 1952 in 17 F. R. 6024, is further amended by changing the "Description by Geographical Coordinates" column to read: "That portion of the following described area lying within the territorial limits of the United States: A sector of a circle of 12.5 statute mile radius centered on lat. 48°23'12" N., long. 123°28'37" W., and limited by the radii drawn from the center through the Race Rocks Lighthouse at lat. 48°17'53" N., long. 123°31'48" W., and drawn from the center through the Trial Island Lighthouse at lat. 48°23'42" N., long. 123°18'12" W."

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on December 23, 1952.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 52–13346; Filed, Dec. 18, 1952; 8:45 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

IMMIGRATION AND NATIONALITY REGULATIONS

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER of November 6, 1952 (17 F. R. 9989), and in which there were stated in full the details of the proposed issuance of rules implementing the Immigration and Nationality Act (66 Stat. 163). As a result of the representations which were received concerning the proposed rules, numerous amendments to those rules have been made. The amendatory rules, as set out below, are hereby adopted. The general basis and purpose of the adopted rules is the implementation of the Immigration and Nationality Act. The rules stated below shall become effective on December 24, 1952. Compliance with the delayed effective date provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) is impracticable and contrary to the public interest in this instance, since such compliance would unduly delay and impede the administration and enforcement of the Immigration and Nationality Act which becomes effective on December 24, 1952.

NOTE: The record-keeping and reporting requirements of these regulations have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

JAMES P. MCGRANERY,
Attorney General.

DECEMBER 17, 1952.

Recommended:

ARGYLE R. MACKEY,
Commissioner of Immigration and Naturalization.

Chapter I, Title 8 of the Code of Federal Regulations, is hereby amended to read as follows:

Subchapter A—General Provisions

Part
1. General.
2. Service records: fees.
3. Immigration bonds.
4. Lawful admission for permanent residence: special classes: when presumed.
5. Revocation of certificates, documents, or records issued or made by administrative officers.
6. Board of Immigration Appeals: appeals; reopening and reconsideration.
7. Assistant Commissioner, Inspections and Examinations Division; appeals.
8. Reopening and reconsideration.
9. Authority of Commissioner and Assistant Commissioners.
10. Applications and petitions.

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204. Petition for immigrant status as a minister or as a person whose services are needed urgently.
205. Petition for immigrant status as relative of United States citizen or lawful resident alien.
206. Revocation of approval of petitions.
211. Documentary requirements: immigrants; waivers.
212. Documentary requirements for nonimmigrant: admission of certain inadmissible aliens; parole.
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214a. Admission of nonimmigrants: foreign government official.
214b. Admission of nonimmigrants: temporary visitor for business or pleasure.
214c. Admission of nonimmigrants: transit aliens.
214d. Admission of nonimmigrants: crewmen.
214e. Admission of nonimmigrants: treaty trader.
214f. Admission of nonimmigrants: students.
214g. Admission of nonimmigrants: foreign government representatives to international organizations.
214h. Admission of nonimmigrants: temporary services, labor or training.
214i. Admission of nonimmigrants: representatives of information media.
214j. Admission of nonimmigrants: exchange aliens.
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235. Inspection of aliens applying for admission.
236. Exclusion of aliens.
237. Deportation of excluded aliens.
238. Entry through or from foreign contiguous territory and adjacent islands.
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242. Aliens: apprehension, custody and determination of deportability.
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244. Suspension of deportation and voluntary departure.
245. Adjustment of status of nonimmigrant to that of a person admitted for permanent residence.
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247. Adjustment of status of certain resident aliens.
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249. Creation of record of lawful admission for permanent residence.
250. Removal of aliens who have fallen into distress.
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252. Landing of alien crewmen.
252a. Seamen or airmen: special classes.
253. Hospital treatment of afflicted crewmen.
254. Control of alien crewmen.
256. Payoff or discharge of alien crewmen.
262. Registration of aliens in the United States.
263. Registration of aliens in the United States: provisions governing special groups.
264. Registration of aliens in the United States: forms and procedure.
265. Registration of aliens in the United States: notices of address.
280. Imposition and collection of fines.
282. Printing of reentry permits: forms for sale to public.
287. Field officers; powers and duties.
292. Enrollment and disbarment of attorneys and representatives.
306. Special classes of persons who may be naturalized: Virgin Islanders.
310. Requisition of forms by clerks of court.

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Part
312. Educational requirements for naturalization.
316. Good moral character.
316a. Residence, physical presence and absence.
317. Temporary absence of persons performing religious duties.
319. Special classes of persons who may be naturalized: spouses of United States citizens.
322. Special classes of persons who may be naturalized: children of citizen parent.
323. Special classes of persons who may be naturalized: children adopted by United States citizens.
324. Special classes of persons who may be naturalized: women who have lost United States citizenship by marriage.
325. Special classes of persons who may be naturalized: nationals but not citizens of the United States.
327. Special classes of persons who may be naturalized: persons who lost United States citizenship through service in armed forces of foreign country during World War II.
328. Special classes of persons who may be naturalized: persons with three years service in armed forces of the United States.
329. Special classes of persons who may be naturalized: veterans of the United States armed forces who served during World War I or World War II.
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Subchapter A—General Provisions

PART 1—GENERAL

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
1.1 Definitions.
1.2 Prior regulations.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 1.1 and 1.2 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 332, 66 Stat. 166, 252.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 1.1 *Definitions*—(a) *Terms used in this chapter.* (1) The terms defined in section 101 of the Immigration and Nationality Act have the same meanings ascribed to them in that section and as supplemented, explained, and further defined in this chapter.

(2) The term "Act" means the "Immigration and Nationality Act" (66 Stat. 163).

(3) The term "attorney" means a person licensed to practice law in the Federal, State, territorial, or insular courts.

(4) Unless the context otherwise requires, the term "case" means any proceeding arising under the immigration laws, Executive orders and Presidential proclamations, except that for the purposes of Part 292 of this chapter, a proceeding under Part 332 of this chapter shall not be regarded as a case.

(5) The term "Central Office" means the headquarters office of the Service at Washington, D. C.

(6) The term "day," when computing the period of time provided in this chapter for the taking of any action, means any day other than a Sunday or a legal holiday.

(7) The term "district" or "immigration district" when used in a geographical sense means that portion of the territory of the United States comprising each of the various major subdivisions of the Service defined and delineated in the section of Notices pertaining to the organizational structure of the Service.

(8) The term "district director" means the officer duly appointed to the titular position as the Service officer in charge of a district, whose appointment has not terminated, and includes the officer or employee of the Service who has been designated to act as district director in the absence of the district director.

(9) The term "immigration officer" means—

(i) Any officer or employee of the Service who, on December 24, 1952, was serving under appointment theretofore made to the position of immigrant inspector, patrol inspector, investigator, naturalization examiner, or any other officer of the Service of a higher grade, whose appointment has not terminated, or who hereafter is appointed to such position; and

(ii) Any person designated by the Commissioner to perform the duties and exercise the powers of an immigration officer as set forth in the Immigration and Nationality Act.

(10) The term "officer in charge" means the Service officer in charge of the Service office having administrative jurisdiction over a case. It does not include a district director.

(11) The term "practice" means the act of an attorney or representative in appearing in any case, either in person or through the filing of a brief or other document, paper, application or petition on behalf of a client before an officer of the Service or the Board.

(12) The term "representative" means a person representing a religious, charitable, social service or similar organization established in the United States and recognized as such by the Board, or a person described in § 292.1 (b) (2) and (3) of this chapter.

(b) *Terms used in Subchapter B of this chapter.* (1) The terms—

"arriving at ports of the United States" as used in sections 232, 234, and 235 of the Immigration and Nationality Act; and

"arrival at a port of the United States" as used in section 233 of the Immigration and Nationality Act; and

"arrival in a port of the United States" as used in section 253 of the Immigration and Nationality Act,

mean any coming to any port of the United States from a foreign port or place, from an outlying possession of the United States, or from Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, except:

(i) That any person (including a crewman) coming to a port in the United States from a foreign port or place, from an outlying possession of the United States, or from Hawaii, Alaska, Guam, Puerto Rico, and the Virgin Islands of the United States, by vessel or aircraft, whose examination under sections 234 and 235 of the Immigration and Nationality Act is not completed at the first port of call in the United States of such vessel or aircraft shall be considered as coming from a foreign port or place, an outlying possession of the United States, or from Hawaii, Alaska, Guam, Puerto Rico, and the Virgin Islands of the United States at each subsequent port of call in the United States of such vessel or aircraft until such examination is completed;

(ii) That any person (including a crewman) passing through the Canal Zone on board a vessel which does not enter and clear at any port in the Canal Zone for a purpose other than to transit the Zone, to refuel, or to land passengers for medical treatment, shall not be regarded as coming from a foreign port or place solely by reason of such passage through the Canal Zone.

(2) The terms—

"arriving in the United States" as used in section 256 of the Immigration and Nationality Act; and

"bringing an alien to, or providing a means for an alien to come to, the United States" as used in section 271 of the Immigration and Nationality Act; and

"bring to the United States" as used in section 272 of the Immigration and Nationality Act,

mean any coming from a foreign port or place, from an outlying possession of the United States, or from Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States to or into the United States or the territorial waters or overlying airspace thereof, except:

(i) That any person (including a crewman) coming to the United States from a foreign port or place, from an outlying possession of the United States, or from Hawaii, Alaska, Guam, Puerto Rico, and the Virgin Islands of the United States, by vessel or aircraft, whose examination under sections 234 and 235 of the Immigration and Nationality Act is not completed at the first port of call in the United States of such vessel or aircraft shall be considered as coming from a foreign port or place, an outlying possession of the United States, or from Hawaii, Alaska, Guam, Puerto Rico, and the Virgin Islands of the United States at each subsequent port of call in the United States of such vessel or aircraft until such examination is completed;

(ii) That any person (including a crewman) passing through the Canal Zone on board a vessel which does not enter and clear at any port in the Canal Zone for a purpose other than to transit the Zone, to refuel, or to land passengers for medical treatment, shall not be regarded as coming from a foreign port or place solely by reason of such passage through the Canal Zone.

(3) The terms—

"arrival of any person by water or by air at any port within the United States from any place outside the United States" as used in section 231 of the Immigration and Nationality Act; and

"bring to the United States from any place outside thereof" as used in section 273 (a) of the Immigration and Nationality Act,

mean any coming from a foreign port or place or from an outlying possession of the United States to any port of the United States, except:

(i) That any person (including a crewman) coming from a foreign port or place or from an outlying possession of the United States to a port in the United States, by vessel or aircraft, whose examination under sections 234 and 235 of the Immigration and Nationality Act is not completed at the first port of call in the United States of such vessel or aircraft shall be considered as

coming from a foreign port or place or from an outlying possession of the United States at each subsequent port of call in the United States of such vessel or aircraft until such examination is completed;

(ii) That any person (including a crewman) passing through the Canal Zone on board a vessel which does not enter and clear at any port in the Canal Zone for a purpose other than to transit the Zone, to refuel, or to land passengers for medical treatment, shall not be regarded as coming from a foreign port or place solely by reason of such passage through the Canal Zone;

(iii) Solely for the purposes of section 231 of the Immigration and Nationality Act, if it is established to the satisfaction of the district director or officer in charge having administrative jurisdiction over the place of arrival that the coming of any vessel or aircraft to a port of the United States was wholly involuntary, not intended, or not reasonably to be expected, no person on board such vessel or aircraft shall be regarded as arriving from any place outside the United States.

(4) The terms—

"arrival of any vessel or aircraft in the United States from any place outside the United States" as used in section 251 of the Immigration and Nationality Act; and

"arriving in the United States from any place outside thereof" as used in section 254 of the Immigration and Nationality Act; and

"arriving at the United States from any place outside thereof" as used in section 273 (d) of the Immigration and Nationality Act,

mean any coming from a foreign port or place or from an outlying possession of the United States to or into the United States or the territorial waters or overlying airspace thereof, except:

(i) That if the examination under sections 234 and 235 of the Immigration and Nationality Act of any person (including a crewman) on board such vessel or aircraft is not completed at the first port of call in the United States of such vessel or aircraft, the vessel or aircraft shall be regarded as coming from a foreign port or place, or an outlying possession of the United States, at each subsequent port of call in the United States of such vessel or aircraft until such examination is completed;

(ii) That a vessel not otherwise within this definition shall not be regarded as falling within the terms thereof solely by reason of passage through the Canal Zone: *Provided*, That if in connection with such passage any vessel enters and clears at any port in the Zone for a purpose other than to transit the Zone, to refuel, or to land passengers for medical treatment, it shall be regarded as arriving in the United States from a place outside thereof;

(iii) Solely for the purposes of section 251 (a) of the Immigration and Nationality Act, with respect to any coming which is established to the satisfaction of the district director or the officer in charge having administrative jurisdiction over the place of arrival to have been wholly involuntary, not reasonably to be expected, or not intended;

(iv) Solely for the purposes of section 251 (a) of the Immigration and Nationality Act, with respect to aircraft coming directly to the continental United States or Alaska on a trip which originated in Canada or the French Islands of St. Pierre or Miquelon.

(5) The term "beneficiary" means an alien in whose behalf a petition is filed under section 204, 205 or 214 (c) of the Immigration and Nationality Act.

(6) The term "Board" means the Board of Immigration Appeals.

(7) The term "continental United States" means the 48 States and the District of Columbia.

(8) Except as otherwise provided in §§ 214a.1 and 214g.1 of this chapter, the term "immediate family" means a close alien relative by blood or by marriage who is regularly residing in the household of the person in whose family membership is alleged.

(9) The term "passport"—

(i) When used with reference to the documentation of immigrant aliens, means a document defined in section 101 (a) (30) of the Immigration and Nationality Act which is unconditionally valid for the bearer's entry into a foreign country at least 60 days beyond the expiration date of his immigrant visa.

(ii) When used with reference to the documentation of a nonimmigrant alien, means a document defined in section 101 (a) (30) of the Immigration and Nationality Act, which document is valid for a minimum period of 6 months from the date of the expiration of the initial period of the bearer's admission or contemplated initial period of stay authorizing the bearer to return to the country from which he came or to proceed to and enter some other country during such period, except that in the case of a nonimmigrant who is applying for admission as a member of any of the classes described in section 102 of the Immigration and Nationality Act, the period of such validity shall not be required to extend beyond the date of the application of such nonimmigrant for admission to the United States if he is admitted in that status.

(10) The term "permit to enter" includes an Immigrant Visa, Nonimmigrant Visa, Border Crossing Identification Card and a Reentry Permit, but does not include a Passport.

(11) The term "special inquiry officer" means any immigration officer who has been designated and appointed a special inquiry officer in accordance with the provisions of § 9.1 (b) of this chapter and who has a certificate of designation and appointment issued under that section.

(12) The term "western hemisphere" means North, Central, and South America and the islands immediately adjacent thereto including the places named in section 101 (b) (5) of the Immigration and Nationality Act.

(c) *Terms used in section 101 (a) (30) of the Immigration and Nationality Act.* (1) The term "competent authority" means an official duly authorized by the national governments of his own or some other country to issue passports or to authenticate other documents which are cognizable as passports.

(d) *Terms used in Chapter 7 of Title II of the Immigration and Nationality Act and Parts 262 to 266 inclusive of this chapter.* (1) The term "alien" includes, but is not limited to, any person who, because of doubt as to the applicability of the registration requirement, applies for registration or is registered as a matter of precaution, and any person who is registered upon the application of another person acting in his behalf under the provisions of Chapter 7 of Title II of the Immigration and Nationality Act.

(2) The term "registration" or "register" or "registered" includes fingerprinting in the case of aliens 14 years of age or over.

(3) The term "alien registration receipt card" means any card, certificate or document issued to an alien pursuant to the registration requirements of chapter 7 of Title II of the Immigration and Nationality Act or Title III of the Alien Registration Act, 1940.

§ 1.2 *Prior regulations.* Regulations under Chapter I of this title, which were in effect on the effective date of the promulgation of these regulations, shall continue to be effective insofar as may be applicable and necessary under the provisions of section 405 of the Immigration and Nationality Act and, as to the control of the departure of persons, under the act of May 22, 1918, as amended and extended by section 1 (a) (30) of Public Law 450, 82d Congress.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 2—SERVICE RECORDS: FEES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

2.1 Authority of officers to release information and to certify records.
2.2 Certification of nonexistence of record.
2.3 Remittance of fees.
2.4 Copies of Service records and information; fees.
2.5 Fees for service, documents, papers, and records, not specified in the Immigration and Nationality Act.
2.6 Designation of Application Receiving Offices.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 2.1 to 2.6 issued under sec. 501, 65 Stat. 290, sec. 103, 66 Stat. 173; 5 U. S. C., Sup., 140. Interpret or apply secs. 281, 332, 343, 344, 405, 66 Stat. 230, 252, 263, 264, 280.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 2.1 *Authority of officers to release information and to certify records.* The Commissioner, the General Counsel of the Service, District Directors, or such other officers of the Service as may be designated by the Commissioner, upon application, may furnish to any person entitled thereto, copies of immigration and naturalization records, or information therefrom, and may certify that any official file, document, or record in the custody or control of the Service is a true file, document, or record, or that

a copy of such file, document or record is a true copy.

§ 2.2 *Certification of nonexistence of record.* The chief of the Records Administration Branch of the Central Office may certify the nonexistence in the records of the Service of an official file, document, or record pertaining to a specified person or subject.

§ 2.3 *Remittance of fees*—(a) *When submitted.* Fees required to be submitted with, or on account of, any of the various applications or petitions prescribed in this chapter shall be attached to and submitted with such application or petition and shall be in the amount prescribed by the Immigration and Nationality Act or other applicable statute or regulation. All remittances shall be accepted subject to collection, and no receipt issued by an officer of the Service for any such remittance shall be binding if the instrument of remittance is found uncollectible. Such fees shall not be accepted in the form of postage stamps.

(b) *Payee.* Remittances shall be made payable to the "Treasurer of the United States", except that in the case of applicants residing in the Virgin Islands of the United States, the remittances shall be made payable to the "Commissioner of Finance of the Virgin Islands," and except that in the case of applicants residing in Guam, the remittances shall be made payable to the "Treasurer, Guam". The address of the payee shall not be included in that part of the form of remittance intended solely for the designation of the payee. Whenever it shall be necessary to indicate on a form of remittance the place at which the remittance is collectible or payable, there shall be used the name of the city or town and the State in which is located the Service office to which the application is to be sent.

§ 2.4 *Copies of Service records and information; fees.* (a) Except as otherwise provided by law or regulations, there shall be paid in advance for furnishing any person or agency (other than an officer or agency of the United States or of any State or any subdivision thereof for official use in connection with the official duties of such officers or agencies) copies, certified or uncertified, of any part of, or information from, the records of the Service, a fee of 25 cents per folio of one hundred words or fraction thereof, with a minimum fee of 50 cents for any such service. Application for the desired service shall be made on Form N-585 and submitted to the Service in accordance with the instructions contained therein. The applicant shall be advised if any fee in addition to the minimum is required for the requested service.

(b) Whenever the information requested in an application is contained in several files relating to one person, group, or thing, the furnishing of such information to one party shall be regarded as one service, and the information may be furnished in one letter or statement at the said rate per folio; but whenever the information requested in cases of this character is to be furnished to two or more persons, the furnishing of each letter or statement shall be regarded as a separate and distinct service, and an additional fee, or fees, shall be charged for each such additional service.

(c) Whenever the information requested in an application is contained in one or more files relating, respectively, to two or more persons, groups, or things the furnishing of such information from the file or files relating, respectively, to each such person, group, or thing, shall, in each instance, be regarded as a separate and distinct service, and separate letters or statements, each embodying collectively the information requested as to each person, group, or thing, shall be prepared, and an additional fee or fees shall be charged for each such additional service.

(d) Whenever additional uncertified copies of documents or written information from the record are applied for in order to meet the needs of applicants, the fees for such additional copies or advices or statements shall be at the rate of 25 cents per folio of one hundred words or fraction thereof, with a minimum of 50 cents for each such additional copy.

(e) Whenever it is desired that a copy of a document or written information from the records be officially certified under seal, a fee of $1.00 shall be charged for each such certification, in addition to the fees hereinabove provided.

§ 2.5 *Fees for service, documents, papers, and records, not specified in the Immigration and Nationality Act.* In addition to the fees enumerated in sections 281 and 344 of the Immigration and Nationality Act, the following fees and charges are fixed and established:

(1) For filing application for United States citizen border crossing identification card	$5.00
(2) For filing application for verification of entry of an alien for use in connection with issuance of Immigration Visa to relatives	3.00
(3) For filing application for the benefits of secs. 316 (b) or 317 of the Immigration and Nationality Act	10.00
(4) For filing an appeal from a decision in an exclusion or deportation proceeding	25.00
(5) For filing an appeal from any decision under the Immigration and Nationality Act, except from a decision in an exclusion or deportation proceeding	10.00
(6) For filing a motion to reopen or a motion to reconsider in any case arising under the Immigration and Nationality Act	5.00
(7) For filing application for Alien Registration Receipt Card in lieu of one lost, mutilated, or destroyed, or in changed name	5.00
(8) For filing application for approval of school	25.00
(9) For filing application for permission to reapply in the case of excluded or deported aliens, aliens who have fallen into distress and have been removed, aliens who have been removed as alien enemies, or aliens who have been removed at Government expense in lieu of deportation	5.00
(10) For filing application for discretionary relief under sec. 212 (c) of the Immigration and Nationality Act	25.00
(11) For filing application for discretionary relief under sec. 212 (d) (3) of the Immigration and Nationality Act, except in emergency cases	$35.00
(12) For filing application for Alien Laborer's Identification Card in lieu of one lost, mutilated or destroyed	1.00
(13) For filing application for waiver of passport or visa of an individual alien at time he applies for temporary admission to the United States. (This fee shall not be applicable to an admissible alien who is officially engaged in activities in connection with any multipartite treaty organization of which the United States is signatory or who is a member of the armed forces of any foreign government.)	[1] 10.00
(14) For a special search of an arrival record where information is for personal benefit	3.00
(15) For filing application for Certificate of Citizenship—Hawaiian Islands	5.00
(16) For annual subscription for "Passenger Travel Reports via Sea and Air"	10.00
(17) For annual tables on "Passenger Travel Reports via Sea and Air"	[2] .20
(18) Annual reports—Immigration and Naturalization Service	3.00
(19) For special statistical tabulations	5.00
(20) For filing application for waiver of grounds for exclusion contained in sec. 212 (a) (14) of the Immigration and Nationality Act	10.00

[1] Plus communication costs.
[2] Per table or $1 per set of 6.

§ 2.6 *Designation of Application Receiving Offices.* Offices of the Service located in the following places are designated as Application Receiving Offices:

Fresno, Calif.	Omaha, Nebr.
Los Angeles, Calif.	Reno, Nev.
Sacramento, Calif.	Newark, N. J.
San Diego, Calif.	Albany, N. Y.
San Francisco, Calif.	Buffalo, N. Y.
Denver, Colo.	New York, N. Y.
Hartford, Conn.	Cincinnati, Ohio.
Washington, D. C.	Columbus, Ohio.
Miami, Fla.	Toledo, Ohio.
Boise, Idaho.	Portland, Oreg.
Chicago, Ill.	Philadelphia, Pa.
Hammond, Ind.	Pittsburgh, Pa.
Portland, Maine.	Providence, R. I.
Baltimore, Md.	El Paso, Tex.
Boston, Mass.	San Antonio, Tex.
Springfield, Mass.	Salt Lake City, Utah.
Detroit, Mich.	St. Albans, Vt.
Flint, Mich.	Seattle, Wash.
Duluth, Minn.	Spokane, Wash.
St. Paul, Minn.	Tacoma, Wash.
Kansas City, Mo.	Milwaukee, Wis.
St. Louis, Mo.	Honolulu, Hawaii.

SUBPART B—PROCEDURAL AND OTHER NON-SUBSTANTIVE PROVISIONS [RESERVED]

PART 3—IMMIGRATION BONDS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
3.1 Immigration bonds.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 3.1 *Immigration bonds*—(a) *Acceptable sureties.* In cases other than those in which cash or postal money orders are deposited pursuant to this chapter, the following shall be the only acceptable sureties on a bond furnished in connection with the administration of the Immigration and Nationality Act:

(1) A company holding a certificate from the Secretary of the Treasury under Title 6, Sections 6-13, United States Code, as an acceptable surety on Federal bonds;

(2) A surety who deposits United States bonds or notes of the class described in section 15 of Title 6, United States Code, and Treasury Department regulations issued pursuant thereto, which bonds or notes are not redeemable within one year from the date on which they are offered for deposit; or

(3) Sureties shall be two in number, each of whom shall justify separately in real property not exempted from levy and sale upon execution, which real property is actually valued, over and above all encumbrances, at double the amount of the bond, and each of whom shall, in addition to making such justification, satisfactorily establish to the immigration officer authorized to approve the bond that his net worth, over and above all obligations and liabilities of any kind, secured or unsecured, is equal to double the amount of the bond.

(b) *Approval; extension agreements; consent of surety; collateral security.* Regardless of the section of law or regulations under which a bond is required, district directors and officers in charge are authorized, either directly or through officers or employees designated by them to approve bonds which are prepared on a form approved by the Commissioner, provided no substantial change is made in the conditions printed on such form. Such officers are also authorized to approve formal agreements by which a surety consents to an extension of his liability on any such bond and to approve any power of attorney executed on Form I-312 or Form I-313 which purports to authorize the delivery after its release of collateral deposited to secure the performance of any such bond to some person or concern other than the depositor thereof. Unless otherwise specifically provided in this chapter or by the Commissioner in any case or class of cases, bonds prepared on forms approved by the Commissioner, all agreements of extension of liability relating thereto, and all powers of attorney for delivery of collateral security deposited in connection therewith shall be retained at the office of the Service where approved. Bonds prepared on any form other than one approved by the Commissioner, or bonds prepared on any such forms in which the conditions have been materially altered, agreements of extension of liability relating thereto, and any powers of attorney to receive back collateral deposited in connection therewith, shall be submitted to the Commissioner for approval. Regardless of the form on which the bond is prepared, any power of attorney not executed on Form I-312 or Form I-313, purporting to authorize the delivery after its release of any deposit of collateral security to some person or concern other than the depositor thereof, shall be forwarded, together with the bond and all appurtenant documents, to the Commissioner for approval. In the same manner, all requests for delivery of collateral security to a person other than the depositor or his approved attorney in fact shall be forwarded to the Commissioner for approval. Instruments and other papers forwarded to the Commissioner under the provisions of this paragraph shall be handled by the General Counsel.

(c) *Violation of conditions; cancellation.* (1) Whenever it shall appear that a condition of a bond executed in connection with the administration of the immigration laws may have been violated, the bond, all appurtenant documents, and a full report of the circumstances, shall be forwarded to the district director having administrative jurisdiction over the office where the bond is retained for decision as to whether the conditions of the bond have been met so that it may be cancelled, or whether any condition of the bond has been violated so that liability thereunder should be enforced, or whether the circumstances are such that the bond should be continued in effect. If the obligors are adversely affected by the decision of the district director, they shall be notified by the district director in writing on Form I-323 of his decision and of their right to appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with Part 7 of this chapter, by filing a Notice of Appeal, Form I-290B, at the office of the district director within 10 days from the receipt of notification of such decision. No appeal shall lie from the decision of the Assistant Commissioner, Inspections and Examinations Division.

(2) If all the conditions of a bond executed in connection with the administration of the immigration laws have been complied with and the obligation has thereby been discharged by its own terms, the district director shall so notify the obligors on Form I-391. Similar notice shall be given if all the conditions of the bond have been complied with and—

(i) The alien has departed from the United States;

(ii) The alien has died;

(iii) The alien has been naturalized as a citizen of the United States;

(iv) A new bond has been furnished to replace the existing bond; or

(v) In the case of a delivery bond, the warrant of arrest or deportation has been cancelled, or the alien's application for suspension of deportation has been approved, or the alien has been imprisoned, or inducted into the armed forces of the United States.

(Sec. 103, 66 Stat. 173)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 4—LAWFUL ADMISSION FOR PERMANENT RESIDENCE: SPECIAL CLASSES: WHEN PRESUMED

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

4.1 Chinese person; definition.
4.2 Presumption of lawful admission.
4.3 Applicability of travel restrictions imposed by section 212 (d) (7) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 4.1 to 4.3 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 212, 66 Stat. 166, 182.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 4.1 *Chinese person; definition.* For the purposes of this part an alien who is of as much as one-half Chinese blood and is not of as much as one-half blood of a race or races which were ineligible for naturalization under section 303 of the Nationality Act of 1940, as amended, shall be regarded as a Chinese person.

§ 4.2 *Presumption of lawful admission.* An alien of any of the following-described classes shall be presumed to have been lawfully admitted for permanent residence within the meaning of the Immigration and Nationality Act (even though no record of his admission can be found, except as otherwise provided in this part) unless the alien abandoned his status as a lawful permanent resident, or lost such status by operation of law, at any time subsequent to such admission:

(a) *Aliens who entered prior to June 30, 1906.* An alien who establishes that he entered the United States prior to June 30, 1906.

(b) *Aliens who entered across land borders of the United States.* An alien who establishes that, while a citizen of Canada or Newfoundland, he entered the United States across the Canadian border prior to October 1, 1906, and an alien who establishes that while a citizen of Mexico he entered the United States across the Mexican border prior to July 1, 1908.

(c) *Aliens preexamined in Canada prior to July 1, 1924.* An alien in whose case no record exists of his actual admission to the United States but who establishes that he gained admission to the United States prior to July 1, 1924 pursuant to preexamination at a United States immigration station in Canada and that a record of such preexamination exists.

(d) *Aliens who entered the Virgin Islands.* An alien who establishes that he entered the Virgin Islands of the United States prior to July 1, 1938, even though a record of his admission as a non-immigrant under the Immigration Act of 1924, prior to July 1, 1938, exists.

(e) *Aliens within the Asiatic barred zone.* An alien who establishes that he is of a race indigenous to, and a native of a country within, the Asiatic zone defined in section 3 of the act of February 5, 1917, as amended, that he was a member of a class of aliens exempted from exclusion by the provisions of the said section, and that he entered the United States prior to July 1, 1924, provided that a record of such entry exists.

(f) *Chinese persons.* (1) A Chinese person in whose case there exists a record of his admission to the United States prior to July 1, 1924, under the provisions of the laws, orders, rules or regulations applicable to Chinese and who establishes that at the time of his admission he was a member of one or more of the following-described classes:

Merchants.
Teachers.
Students.
Sons or daughters under 21 years of age and wives, accompanying or following to join such merchants, teachers, and students.
Travelers for curiosity or pleasure.

Accompanying sons or daughters under 21 years of age and accompanying wives of such travelers.
Wives of United States citizens.
Returning laborers.
Persons admitted as United States citizens under section 1993 of the Revised Statutes of the United States, as amended, but who were admitted in error for the reason that their fathers had not resided in the United States prior to their birth.

(2) A Chinese person in whose case there exists a record of his admission to the United States as a member of one of the following classes, and who establishes that he was, at the time of his admission, a member thereof:

Aliens readmitted between July 1, 1924, and December 16, 1943, inclusive, as returning Chinese laborers who acquired lawful permanent residence prior to July 1, 1924.
Persons admitted between July 1, 1924 and June 6, 1927, inclusive, as United States citizens under section 1993 of the Revised Statutes of the United States, but who were admitted in error for the reason that their fathers had not resided in the United States prior to their birth.
Aliens admitted at any time after June 30, 1924, under subsections (b) or (d) of section 4 of the Immigration Act of 1924.
Alien wives admitted between June 13, 1930, and December 16, 1943, inclusive, and after August 9, 1946, under subsection (a) of section 4 of the Immigration Act of 1924.
Aliens admitted on or after December 17, 1943, under subsection (f) of section 4 of the Immigration Act of 1924.
Aliens admitted on or after December 17, 1943, under section 317 (c) of the Nationality Act of 1940, as amended.
Aliens admitted on or after December 17, 1943, as preference or non-perference quota immigrants pursuant to section 2 of the act of that date.
Aliens admitted between July 1, 1924, and December 23, 1952, both dates inclusive, as the wives or minor sons or daughters of treaty merchants, admitted before July 1, 1924.

(g) *Citizens of the Philippine Islands*—(1) *Who entered United States before May 1, 1934.* An alien who establishes that he entered the United States prior to May 1, 1934, and that he was on the date of such entry a citizen of the Philippine Islands: *Provided*, That, for the purpose of petitioning for naturalization under Title III of the Immigration and Nationality Act, such alien shall not be regarded as having been lawfully admitted to the United States for permanent residence unless he was a citizen of the Commonwealth of the Philippines on July 2, 1946.

(2) *Who entered Hawaii between May 1, 1934 and July 3, 1946.* An alien who establishes that he entered Hawaii between May 1, 1934 and July 3, 1946, inclusive, under the provisions of the last sentence of section 8 (a) (1) of the act of March 24, 1934, as amended, that he was on the date of such entry a citizen of the Philippine Islands, and that a record of such entry exists.

(3) *Travel restrictions.* Notwithstanding the provision of this paragraph, an alien of the class described in subparagraph (2), and an alien of the class described in subparagraph (1) who entered the United States at Hawaii prior to May 1, 1934, shall be subject to the travel restriction imposed by the proviso to section 212 (d) (7) of the Immigration and Nationality Act.

(h) *Aliens temporarily admitted to the United States.* Aliens in any of the following-described classes, who on their admission expressed an intention to remain in the United States temporarily or to pass in transit through the United States, of whose admission a record exists, but who remained in the United States:

(1) Aliens admitted prior to June 3, 1921, except aliens admitted temporarily under the 9th proviso to section 3 of the Immigration Act of 1917, aliens admitted as accredited officials of foreign governments, their suites, families, or guests, and seamen admitted in pursuit of their calling.

(2) Aliens admitted under the act of May 19, 1921, as amended, who were admissible for permanent residence under that act notwithstanding the quota limitations thereof.

(3) An accompanying wife or unmarried son or daughter under 21 years of age of an alien admitted under the act of May 19, 1921, as amended, who was admissible for permanent residence under that act notwithstanding the quota limitations thereof.

(4) Aliens admitted under the act of May 19, 1921, as amended, who were charged under that act to the proper quota at time of their admission or subsequently and who remained so charged.

§ 4.3 *Applicability of travel restrictions imposed by section 212 (d) (7) of the Immigration and Nationality Act.* Nothing in this part shall be construed as exempting any person or class of persons enumerated herein from the application of section 212 (d) (7) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 5—REVOCATION OF CERTIFICATES, DOCUMENTS, OR RECORDS ISSUED OR MADE BY ADMINISTRATIVE OFFICERS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
5.1 Certificates, documents, and records subject to cancellation.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

5.11 Report and notice.
5.12 Failure to answer; admission of allegations.
5.13 Answer filed; personal appearance; notice.
5.14 Action by Assistant Commissioner, Inspections and Examinations Division, and district director.

AUTHORITY: §§ 5.1 to 5.14 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 341, 342, 54 Stat. 1161, 1162, as amended, secs. 332, 342, 343, 344, 66 Stat. 252, 263, 264; 8 U. S. C. 741, 742.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 5.1 *Certificates, documents, and records subject to cancellation.* The cancellation of certificates, documents, or records referred to in section 342 of the Immigration and Nationality Act shall apply to a certificate of naturalization, certificate of repatriation, certificate of citizenship, certificate of derivative citizenship, certificate of lawful entry or certificate of registry issued prior to December 24, 1952, special certificate of naturalization for recognition by a foreign state, copies of such certificates, documents, or records, exception from the classification of alien enemy, and certifications of the records of the Service made or issued under section 341 (e) or 342 (b) (8) of the Nationality Act of 1940, or section 343 (e) or 344 (b) (6) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 5.11 *Report and notice.* Except as otherwise provided in this chapter, whenever it shall appear that any certificate, document, or record referred to in § 5.1 was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, the issuing officer, a complete report shall be submitted to the district director having administrative jurisdiction over the subject's last known place of residence in the United States. If the district director is satisfied that a prima facie showing has been made that such certificate, document, or record was obtained or granted through illegality or fraud, he shall cause to be served a written notice on the person to whom the certificate or document was issued or in whose behalf the record was furnished at such person's last known address. The notice shall inform such person of intention to cancel the certificate, document, or record, and the grounds upon which it is intended to base such cancellation. The notice shall also inform the person to whom it is addressed that he may submit, within 60 days from the date of service of the notice, an answer in writing under oath, setting forth reasons why such certificate, document, or record should not be cancelled. The notice shall also advise the person to whom it is addressed that he may, within such period and upon his request have an opportunity to appear in person, in support or in lieu of his written answer, before such immigration officer as may be designated for that purpose. The person to whom the notice is addressed shall further be advised therein that he may have the assistance of counsel, without expense to the government of the United States, in the preparation of his answer or in connection with such personal appearance, and shall have opportunity to examine, at the appropriate office of the Service, the evidence upon which it is proposed to base such cancellation.

§ 5.12 *Failure to answer; admission of allegations.* If the person served with notice under § 5.11 fails to file a written answer within the time allowed therefor, or if the answer admits the allegations in the notice irrespective of whether a personal appearance is requested, the district director shall cancel the certificate, document, or record. No appeal shall lie from such cancellation.

§ 5.13 *Answer filed; personal appearance; notice.* Upon receipt of an answer asserting a defense to the allegations in a notice served pursuant to § 5.11, the district director shall designate an officer of the Service to consider and, if a request for a personal appearance was made, to interview the party affected. If

a personal appearance was requested, such officer shall notify the subject of the time, date and place, to appear for interview and of the subject's right to be represented by counsel or representative at no expense to the Government. At the conclusion of the interview, the subject or his attorney or representative shall be given a reasonable time not to exceed 10 days for the submission of briefs. The officer shall, after consideration of the case if no personal appearance was requested, or after completion of the interview and the consideration of any brief submitted, prepare a report summarizing the evidence and containing his findings and recommendation. The report shall be forwarded to the district director, with the record in the case. If the district director finds that the certificate, document, or record was not obtained through illegality or fraud, he shall order the matter terminated, and the subject shall be so notified. If the district director finds that the certificate, document, or record was obtained or created through illegality or fraud, he shall order that it be cancelled *ab initio*. Notice of such action and the reasons therefor shall be given to the subject or his attorney or representative, at the last-known address thereof, and the subject shall be informed in such notice that he may within 10 days from the date of receipt of notification appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter.

§ 5.14 *Action by Assistant Commissioner, Inspections and Examinations Division, and by district director.* The decision of the Assistant Commissioner in any case appealed to him under § 5.11 shall be transmitted to the district director, who shall advise the subject of the decision and take such action as is required by the decision. Upon the cancellation of any document under this part, the subject shall be requested by the district director, in writing, to surrender the document to the district director. No appeal shall lie from the decision of the Assistant Commissioner.

PART 6—BOARD OF IMMIGRATION APPEALS: APPEALS; REOPENING AND RECONSIDERATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
6.1 Board of Immigration Appeals.
6.2 Reopening or reconsideration.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

6.11 Notice of appeal.
6.12 Withdrawal of appeal.
6.13 Forwarding of record on appeal.
6.14 Stay of execution of decision.
6.15 Notice of certification.
6.16 Fees.
6.21 Motion to reopen or motion to reconsider.

AUTHORITY: §§ 6.1 to 6.21 issued under sec. 103, 66 Stat. 173.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 6.1 *Board of Immigration Appeals—*(a) *Organization.* There shall be in the office of the Attorney General a Board of Immigration Appeals. It shall be under the supervision and direction of the Attorney General and shall be responsible solely to him. The Board shall consist of a chairman and four other members and shall have attached to it an executive assistant-chief examiner who shall have authority to act as an alternate member. It shall also have attached to it such number of attorneys and other employees as the Attorney General upon recommendation of the Board, shall from time to time direct. In the absence of the chairman, a member designated by him shall act as chairman.

(b) *Appellate jurisdiction.* Appeals shall lie to the Board of Immigration Appeals from the following:

(1) Decisions of special inquiry officers in exclusion cases, as provided in §§ 236.15 and 236.16 of this chapter;

(2) Decisions of special inquiry officers in deportation cases, as provided in § 242.61 of this chapter;

(3) Decisions of district directors on applications for the advance exercise of the discretionary authority contained in section 212 (c) of the Immigration and Nationality Act, as provided in § 212.72 of this chapter;

(4) Decisions of district directors involving administrative fines and penalties, including mitigation thereof, as provided in § 280.13 of this chapter;

(5) Decisions of district directors on petitions filed in accordance with section 205 of the Immigration and Nationality Act or decisions revoking the approval of such petitions in accordance with section 206 of the Immigration and Nationality Act, as provided in §§ 205.12 and 206.21 respectively, of this chapter;

(6) Decisions of the Assistant Commissioner, Inspections and Examinations Division, on applications for the advance exercise of the discretionary authority contained in section 212 (d) (3) of the Immigration and Nationality Act, as provided in § 212.81 of this chapter.

(c) *Jurisdiction by certification.* The Assistant Commissioner, Inspections and Examinations Division, or the Board may in any case arising under subparagraphs (1) through (6) of paragraph (b) of this section require certification of such case to the Board.

(d) *Powers of the Board—*(1) *Generally.* Subject to any specific limitation prescribed by this chapter, in considering and determining cases before it as provided in this part the Board shall exercise such discretion and authority conferred upon the Attorney General bylaw as is appropriate and necessary for the disposition of the case, except that the Board shall have no authority to consider or determine the manner, at whose expense, or to which country an alien shall be deported.

(2) *Finality of decision.* The decision of the Board shall be final except in those cases reviewed by the Attorney General in accordance with paragraph (h) of this section. The Board may return a case to the Service for such further action as may be appropriate to the case, without entering a final decision on its merits.

(3) *Admission to practice.* The Board shall have authority, with the approval of the Attorney General, to promulgate rules of practice governing the proceedings before it, and to determine the admission, conduct, and disbarment, of attorneys, representatives, and other persons authorized to practice before the Board or the Service.

(e) *Oral argument.* Oral argument shall be heard by the Board upon request, in any case over which the Board acquires jurisdiction by appeal or certification as provided in this part. If an appeal has been taken, request for oral argument if desired shall be included in the Notice of Appeal. The Board shall have authority to fix any date or change any date upon which oral argument is to be heard. The Service may be represented in argument before the Board by any officer designated by the Assistant Commissioner, Inspections and Examinations Division. The Board shall convene for the purpose of hearing oral argument at its offices in Washington, D. C., at 2:00 p. m. or such other time as it may designate on every day except Saturdays, Sundays, and legal holidays.

(f) *Service of Board decisions.* The decision of the Board shall be in writing and copies shall be transmitted by the Board to the Service and a copy served upon the alien or party affected as provided in §§ 292.11 and 292.12 of this chapter.

(g) *Board's decisions as precedents.* Except as they may be modified or overruled by the Board or the Attorney General, decisions of the Board shall be binding on all officers and employees of the Service in the administration of the Immigration and Nationality Act, and selected decisions designated by the Board shall serve as precedents in all proceedings involving the same issue or issues.

(h) *Referral of cases to the Attorney General.* (1) The Board shall refer to the Attorney General for review of its decision all cases which:

(i) The Attorney General directs the Board to refer to him.

(ii) The chairman or a majority of the Board believes should be referred to the Attorney General for review.

(iii) The Assistant Commisioner, Inspections and Examinations Division requests be referred to the Attorney General for review.

(2) In any case in which the Attorney General shall review the decision of the Board, his decision shall be stated in writing and shall be transmitted to the Board for transmittal and service as provided in paragraph (f) of this section.

§ 6.2 *Reopening or reconsideration.* Reconsideration or reopening of any case in which a decision has been made by the Board, whether requested by the Assistant Commissioner, Inspections and Examinations Division, or by the party affected by the decision, shall be only upon written motion to the Board. A motion to reopen or a motion to reconsider shall not be made by or in behalf of a person who is the subject of deportation proceedings subsequent to his departure from the United States. Any departure of such person from the United States occurring after the making of a motion to reopen or a motion to reconsider shall constitute a withdrawal of such motion. For the purpose of this

section, any final decision made by the Commissioner prior to the effective date of the Immigration and Nationality Act and of this chapter with respect to any case within the classes of cases enumerated in paragraphs (1), (2), (3), (4), and (5) of § 6.1 (b) shall be regarded as a decision by the Board.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 6.11 *Notice of appeal*—(a) *Written decision.* Whenever an alien or other party affected by a written decision is entitled under this chapter to appeal to the Board, he shall be given written notice that he may appeal from such decision; that such appeal may be taken by filing with the district director or officer in charge having administrative jurisdiction over the case two copies of Notice of Appeal, Form I–290A; and that such appeal must be taken within the number of days provided for in the particular section of this chapter relating to such appeal. The Forms I–290A shall be enclosed with the notice. The party taking the appeal may file with the Notice of Appeal a brief in support of his appeal. The party affected may waive the submission of such brief. The district director, the officer in charge, or the Board, in their discretion, for good cause shown, may extend the time within which the brief may be submitted. One copy of the Notice of Appeal shall be retained in the office where the proceedings are pending and one copy placed in the file relating to the case. The certification of a case as provided in this part shall not relieve the party affected from compliance with the provisions of this section in the event such party is entitled, and desires, to appeal from an initial decision, nor shall it serve to extend the time specified in the applicable parts of this chapter for the taking of an appeal. The departure from the United States of a person who is the subject of deportation proceedings, prior to the taking of an appeal from a decision in his case, shall constitute a waiver by such person of the right to appeal.

(b) *Oral decision.* Whenever an alien or other party affected by an oral decision is entitled under this chapter to appeal to the Board, such appeal shall be taken as provided in the particular section of this chapter relating to such appeal.

§ 6.12 *Withdrawal of appeal.* In any case in which an appeal has been taken, the party taking the appeal may file a written withdrawal of such appeal with the officer with whom the notice of appeal was filed. If the record in the case has not been forwarded to the Board on appeal in accordance with § 6.13 the decision made in the case shall be final to the same extent as though no appeal had been taken. If the record has been forwarded on appeal, the withdrawal of the appeal shall be forwarded to the Board and, if no decision in the case has been made on the appeal, the record shall be returned to the officer in charge and the initial decision shall be final to the same extent as though no appeal had been taken. If a decision on the appeal was made by the Board in the case, further action shall be taken in accordance therewith. Departure from the United States of a person who is the subject of deportation proceedings subsequent to the taking of an appeal but prior to a decision thereon shall constitute a withdrawal of the appeal and the initial decision in the case shall be final to the same extent as though no appeal had been taken.

§ 6.13 *Forwarding of record on appeal.* If an appeal is taken from a decision, either written or oral, as provided in this chapter, the entire record of the proceeding shall be forwarded to the Board by the district director or the officer in charge having administrative jurisdiction over the case:

(a) Upon receipt of the Notice of Appeal and brief in support thereof if the decision appealed from was in writing; or

(b) Upon receipt of the brief in support of an appeal taken orally if the decision appealed from was oral; or

(c) Upon expiration of the time allowed for the submission of the brief; or

(d) Upon receipt of a written waiver of the right to submit a brief.

§ 6.14 *Stay of execution of decision.* The decision in any proceeding under this chapter from which an appeal to the Board may be taken shall not be executed during the time allowed for the filing of an appeal unless a waiver of the right to appeal is filed, nor shall such decision be executed while an appeal is pending or while a case is before the Board by way of certification.

§ 6.15 *Notice of certification.* Whenever in accordance with the provisions of § 6.1 (c) a case is required to be certified to the Board, the alien or other party affected shall be given notice of certification. A case shall not be certified until an initial decision has been made and no appeal has been taken. If it is known at the time of making the initial decision that the case will be certified, the notice of certification shall be included in such decision and no further notice of certification shall be required. If it is not known until after the initial decision was made that the case will be certified, the district director or the officer in charge having administrative jurisdiction over the case shall cause a Notice of Certification (Form I–290C) to be served upon the party affected. In either case the notice shall inform the party affected that the case is required to be certified to the Board and of the right to make representation before the Board, including oral argument and submission of brief, if desired. The brief shall be submitted to such district director or officer in charge for transmittal to the Board within 10 days from receipt of the notice of certification, unless for good cause shown the district director, officer in charge or the Board extends the time within which the brief may be submitted. The party affected may waive the submission of such brief. The case shall be certified and forwarded to the Board by the district director or officer in charge upon receipt of the brief, or the expiration of the time within which the brief may be submitted, or upon receipt of a written waiver of the right to submit a brief.

§ 6.16 *Fees.* A notice of appeal or a motion filed under this part by any person other than an officer of the Service shall be accompanied by the fee specified in Part 2 of this chapter which fee shall be remitted in accordance with the provisions of Part 2. The Board may, in its discretion, authorize the prosecution of any such appeal or motion, without prepayment of fees by an alien or other party affected who makes affidavit that he is unable to pay such fees. Such affidavit shall state the nature of the motion or appeal, and the affiant's belief that he is entitled to redress. An appeal may not be taken in forma pauperis, nor may a motion be filed in forma pauperis if the officer of the Service from whose decision the appeal is taken or with respect to whose decision the motion is addressed certifies in writing that the appeal or motion is not taken or made in good faith.

§ 6.21 *Motion to reopen or motion to reconsider*—(a) *Form.* Motions to reopen and motions to reconsider shall be submitted in triplicate. A request for oral argument if desired shall be incorporated in the motion. The Board in its discretion may grant or deny oral argument. Motions to reopen shall state the new facts to be proved at the reopened hearing and shall be supported by affidavits or other evidentiary material. Motions to reconsider shall state the reasons for reconsideration and shall be supported by such precedent decisions as are pertinent. The filing of a motion to reopen or a motion to reconsider shall not serve to stay the execution of any decision made in the case. Execution of such decision shall proceed unless a stay of execution is specifically granted by the Board, the district director or the officer in charge having administrative jurisdiction over the case.

(b) *Distribution of motion papers when alien is moving party.* In any case in which a motion to reopen or a motion to reconsider is made by the alien or other party affected, the three copies of the motion papers shall be submitted to the district director or the officer in charge having administrative jurisdiction over the place where the proceedings were conducted, who shall retain one copy, forward one copy to the officer of the Service who made the initial decision in the case, and submit the third copy with the case to the Board.

(c) *Distribution of motion papers when Assistant Commissioner, Inspections and Examinations Division, is the moving party.* (1) Whenever a motion to reopen or a motion to reconsider is made by the Assistant Commissioner, Inspections and Examinations Division, two copies of the motion shall be forwarded to the district director or officer in charge having administrative jurisdiction over the place where the proceedings were conducted. The district director shall cause one copy to be served on the alien or other party affected. Such alien or party shall have a period of 10 days from the date of the service upon him of the motion within which to submit in triplicate to the district director or officer in charge a brief in opposition to the motion. The sub-

mission of such brief may be waived. The district director, officer in charge, or the Board, in their discretion, for good cause shown may extend the time within which such brief may be submitted. Such district director or officer in charge shall transmit to the Assistant Commissioner, Inspections and Examinations Division, proof of service of the motion and two copies of any brief submitted in opposition to such motion and the record of the proceeding:

(i) Upon receipt of the brief in opposition to the motion; or

(ii) Upon expiration of the time allowed for the submission of such brief; or

(iii) Upon receipt of a written waiver of the right to submit such brief.

(2) Upon receipt of the foregoing, the Assistant Commissioner, Inspections and Examinations Division, shall transmit to, and file with, the Board the motion, proof of service of the motion, brief, and the record in the case.

(d) *Ruling on motion.* Rulings upon motions to reopen or motions to reconsider shall be by written order. If the order directs a reopening, the record shall be returned to the district director having administrative jurisdiction over the place where the reopened proceedings are to be conducted. If the motion to reconsider is granted, the decision upon such reconsideration shall affirm, modify, or reverse the original decision made in the case.

PART 7—ASSISTANT COMMISSIONER, INSPECTIONS AND EXAMINATIONS DIVISION: APPEALS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

7.1 Assistant Commissioner, Inspections and Examinations Division.
7.2 Reopening or reconsideration.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

7.11 Notice of appeal.
7.12 Withdrawal of appeal.
7.13 Forwarding of record on appeal.
7.14 Stay of execution of decision.
7.15 Notice of certification.
7.16 Fees.

AUTHORITY: §§ 7.1 to 7.16 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 332, 66 Stat. 252.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 7.1 *Assistant Commissioner, Inspections and Examinations Division—(a) Appellate jurisdiction.* Appeal shall lie to the Assistant Commissioner, Inspections and Examinations Division, from the following:

(1) Decisions of district directors determining that a condition of a bond has been violated, as provided in § 3.1 (c) of this chapter;

(2) Decisions of district directors on petitions filed in accordance with section 204 or 214 (c) of the Immigration and Nationality Act or from decisions revoking the approval of such petitions in accordance with section 206 of that Act, as provided in §§ 204.11, 214h.41 and 206.21 of this chapter;

(3) Decisions of district directors on applications for consent to reapply for admission to the United States under section 212 (a) of the Immigration and Nationality Act, as provided in § 212.61 of this chapter;

(4) Decisions of district directors on applications for permission for aliens to enter the United States notwithstanding section 212 (a) (14) of the Immigration and Nationality Act, as provided in § 212a.12 of this chapter;

(5) Decisions of district directors on applications for the approval of schools or from decisions of district directors revoking the approval of schools, in accordance with section 101 (a) (15) (F) of the Immigration and Nationality Act, as provided in §§ 214f.51 and 214f.71 of this chapter;

(6) Decisions of district directors on applications for reentry permits under section 223 of the Immigration and Nationality Act, as provided in § 223.11 of this chapter;

(7) Decisions of district directors on applications for adjustment of status under section 245 of the Immigration and Nationality Act, as provided in § 245.17 of this chapter;

(8) Decisions of district directors rescinding adjustment of status under section 246 of the Immigration and Nationality Act, as provided in § 246.13 of this chapter;

(9) Decisions of district directors adjusting status under section 247 of the Immigration and Nationality Act, as provided in § 247.13 of this chapter;

(10) Decisions of district directors on applications to change status under section 248 of the Immigration and Nationality Act, as provided in § 248.16 of this chapter;

(11) Decisions of district directors on applications for the creation of a record of admission under section 249 of the Immigration and Nationality Act, as provided in § 249.16 of this chapter;

(12) Decisions of district directors on applications filed under §§ 316a.21 and 317.21 of this chapter for residence or physical presence benefits for naturalization purposes;

(13) Decisions of district directors on applications for exception from the classification of alien enemy as provided in § 331.13 of this chapter;

(14) Decisions of district directors on applications for certificates of citizenship under section 341 of the Immigration and Nationality Act, as provided in § 341.16 of this chapter;

(15) Decisions of district directors revoking certificates, documents or records under section 342 of the Immigration and Nationality Act, as provided in § 5.13 of this chapter;

(16) Decisions of district directors on applications for certificates of naturalization or repatriation under § 343.13 of this chapter;

(17) Decisions of district directors on applications for replacement of certificates of naturalization or citizenship under § 343a.14 of this chapter;

(18) Decisions of district directors on applications for special certificates of naturalization under section 343 of the Immigration and Nationality Act, as provided in § 343b.13 of this chapter;

(19) Decisions of the district director, Honolulu, on applications for Certificate of Citizenship, Hawaiian Islands, under § 341a.14 of this chapter.

(b) *Jurisdiction by certification.* The Assistant Commissioner, Inspections and Examinations Division, may direct that any case or class of cases be certified to him. If the case is one of a class enumerated in § 6.1 (b) of this chapter, the Assistant Commissioner, Inspections and Examinations Division may certify the case to the Board in accordance with § 6.1 (c) of this chapter. In any other case, he may enter such decision as he deems appropriate, and further action shall be taken in accordance with such decision.

(c) *Powers of the Assistant Commissioner, Inspections and Examinations Division.* In considering and determining cases appealed or certified to him and in which he has jurisdiction to enter a decision, the Assistant Commissioner, Inspections and Examinations Division, shall exercise such discretion and authority conferred upon the Attorney General by the Immigration and Nationality Act as is appropriate and necessary for the disposition of the case.

(d) *Decision of Assistant Commissioner, Inspections and Examinations Division.* The decision of the Assistant Commissioner, Inspections and Examinations Division, shall be in writing. The alien or other party affected by the decision shall be informed of the decision made in the case.

§ 7.2 *Reopening or reconsideration.* Motions to reopen and motions to reconsider made in any proceeding over which the Assistant Commissioner, Inspections and Examinations Division, obtains jurisdiction shall be governed by the provisions of Part 8 of this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 7.11 *Notice of appeal.* Whenever an alien or other party affected by a written decision is entitled under this chapter to appeal to the Assistant Commissioner, Inspections and Examinations Division, he shall be given written notice that he may appeal from such decision; that such appeal may be taken by filing with the district director or with the officer in charge having administrative jurisdiction over the case, three copies of Notice of Appeal, Form I–290B; and that such appeal must be taken within the number of days provided for in the particular section of this chapter relating to such appeal. The forms I–290B shall be enclosed with the written notice to the alien. The party taking the appeal may file with the Notice of Appeal a brief in support of his appeal. The party affected may waive the submission of such brief. The district director, officer in charge or the Assistant Commissioner, Inspections and Examinations Division, in his discretion, if good cause shown, may extend the time within which the brief may be submitted. One copy of the Notice of Appeal shall be retained in the office where the proceedings are pending and two copies shall be placed in the file relating to the case. The certification of a case as provided in this part shall not relieve the party affected from

compliance with the provisions of this section in the event such party is entitled, and desires, to appeal from an initial decision, nor shall it serve to extend the time specified in the applicable parts of this chapter for the taking of an appeal.

§ 7.12 *Withdrawal of appeal.* In any case in which an appeal has been taken, the party taking the appeal may file a written withdrawal of such appeal with the officer with whom the Notice of Appeal was filed. If the record in the case has not been forwarded to the Assistant Commissioner, Inspections and Examinations Division, on appeal in accordance with § 7.13, the decision made in the case shall be final to the same extent as though no appeal had been taken. If the record in the case has been forwarded on appeal, the withdrawal of the appeal shall be forwarded to the Assistant Commissioner, Inspections and Examinations Division, and if no decision in the case has been made on the appeal, the record shall be returned to the office in which the proceedings are pending and the decision in the case shall be final to the same extent as though no appeal had been taken. If a decision on the appeal was made in the case, further action shall be taken in accordance therewith.

§ 7.13 *Forwarding of record on appeal.* If an appeal is taken from a decision, either written or oral, as provided in this chapter, the entire record of the proceedings shall be forwarded by the district director or the officer in charge having administrative jurisdiction over the case to the Assistant Commissioner, Inspections and Examinations Division:

(a) Upon receipt of the Notice of Appeal and brief in support thereof if the decision appealed from was in writing; or

(b) Upon receipt of the brief in support of an appeal taken orally if the decision appealed from was oral; or

(c) Upon expiration of the time allowed for the submission of the brief; or

(d) Upon receipt of a written waiver of the right to submit a brief.

§ 7.14 *Stay of execution of decision.* The decision of any proceeding under this chapter from which an appeal to the Assistant Commissioner, Inspections and Examinations Division, may be taken shall not be executed during the time allowed for the filing of an appeal unless a waiver of the right to appeal is filed, nor shall such decision be executed while an appeal is pending or while a case is before the Assistant Commissioner, Inspections and Examinations Division, by way of certification.

§ 7.15 *Notice of certification.* When the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of § 7.1 (b) directs that a case (other than one falling within the classes enumerated in § 6.1 (b) of this chapter) be certified to him for review, the alien or other party affected shall be given notice of such certification. Except as otherwise provided in this chapter, a case shall not be certified until an initial decision has been made and no appeal has been taken. If it is known at the time of making the initial decision that the case will be certified, the notice of certification shall be included in such decision and no further notice of certification shall be required. If it is not known until after the initial decision was made that the case will be certified, the district director or the officer in charge having administrative jurisdiction over the case shall cause a notice of certification (Form I–290D) to be served upon the party affected. In either case the notice shall inform the party affected that the case is required to be certified to the Assistant Commissioner, Inspections and Examinations Division, and of the right to submit a brief, if desired, for consideration by the Assistant Commissioner. The brief shall be submitted to such district director or officer in charge for transmittal to the Assistant Commissioner, Inspections and Examinations Division, within ten days from receipt of the notice of certification, unless, for good cause shown, the district director, officer in charge, or the Assistant Commissioner, Inspections and Examinations Division, extends the time within which the brief may be submitted. The party affected may waive the submission of such brief. The record of the case shall be certified and forwarded to the Assistant Commisisoner, Inspections and Examinations Division, by the district director or the officer in charge upon receipt of the brief, or the expiration of the time within which the brief may be submitted, or upon receipt of a written waiver of the right to submit a brief.

§ 7.16 *Fees.* A notice of appeal filed under this part shall be accompanied by a fee of $10 as prescribed by, and remitted in accordance with, the provisions of Part 2 of this chapter. The Assistant Commissioner, Inspections and Examinations Division, in his discretion, may authorize the prosecution of any such appeal without prepayment of fees by an alien or other party affected who makes affidavit that he is unable to pay such fees. Such affidavit shall state the nature of the appeal and the affiant's belief that he is entitled to redress. An appeal may not be taken in forma pauperis if the officer from whose decision the appeal is taken certifies in writing that the appeal is not taken in good faith.

PART 8—REOPENING AND RECONSIDERATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

8.1 Reopening and reconsideration.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

8.11 Motion to reopen or reconsider.

AUTHORITY: §§ 8.1 and 8.11 issued under sec. 103, 66 Stat. 173.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 8.1 *Reopening and reconsideration.* Except as provided in § 6.2 of this chapter, a hearing or examination in any proceeding provided for in this chapter may be reopened or the decision made therein reconsidered for proper cause at the instance of, or upon motion made by the party affected and granted by:

(a) The Assistant Commissioner, Inspections and Examinations Division, if the decision in the case was made by him, or if the case is before him for review; or

(b) The district director, if the decision in the case was made by such officer, unless the record in the case previously was forwarded to the Board or to the Assistant Commissioner, Inspections and Examinations Division; or

(c) The special inquiry officer, if the decision in the case was made by him, unless the record in the case previously was forwarded to the Board or to the Assistant Commissioner, Inspections and Examinations Division.

A motion to reopen or a motion to reconsider shall not be made by or in behalf of a person who is the subject of deportation proceedings subsequent to his departure from the United States. Any departure of such person from the United States occurring after the making by him of a motion to reopen or a motion to reconsider shall constitute a withdrawal of such motion.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 8.11 *Motion to reopen or reconsider*—(a) *Filing.* A motion to reopen or a motion to reconsider shall be filed in triplicate with the district director or officer in charge having administrative jurisdiction over the place where the proceedings were conducted, for transmittal to the officer having jurisdiction to act on the motion as provided in § 8.1. Motions to reopen shall state the new facts to be proved at the reopened hearing and shall be supported by affidavits or other evidentiary material. Motions to reconsider shall state the reasons for reconsideration and shall be supported by such precedent decisions as are pertinent. Motions not complying fully with this section shall not be accepted and shall be returned to the moving party with a brief statement of the reason for its return. The filing of a motion to reopen or a motion to reconsider under this part shall not serve to stay the execution of any decision made in the case. Execution of such decision shall proceed unless a stay is specifically granted by the district director or the officer in charge having administrative jurisdiction over the case.

(b) *Ruling on motion.* Rulings upon motions to reopen or motions to reconsider shall be by written decision. If the decision directs a reopening, the record shall be returned to the district director having administrative jurisdiction over the place where the reopened proceedings are to be conducted. If the motion to reconsider is granted, the original decision shall be reconsidered at the time of, and by the officer, granting such motion. The decision upon such reconsideration shall affirm, modify, or reverse the original decision made in the case.

(c) *Notice of reopened hearing or examination.* In any case in which a hearing or examination is reopened as provided in Part 6 or this part, a notice of hearing or examination shall be served on the party affected in the same

manner and form as the notice required for the original hearing or examination.

(d) *Reopened hearing or examination.* The reopened hearing or examination shall be conducted and further action taken in the proceedings as provided in this chapter for the conduct of the original hearing or examination.

(e) *Appeal.* The decision upon a motion to reopen or a motion to reconsider shall be final subject to the limitations imposed by paragraph (c) of § 242.61 of this chapter.

(f) *Fees.* A motion filed under this part shall be accompanied by a fee of $5 as prescribed by, and remitted in accordance with, the provisions of Part 2 of this chapter. The district director having administrative jurisdiction over the office in which the motion is filed may, in his discretion, authorize the prosecution of any such motion, without prepayment of fees by an alien or other party affected who makes affidavit that he is unable to pay such fees. Such affidavit shall state the nature of the motion and the affiant's belief that he is entitled to redress. A motion may not be filed in forma pauperis if the officer of the Service with respect to whose decision the motion is addressed certifies that the motion is not made in good faith.

PART 9—AUTHORITY OF COMMISSIONER AND ASSISTANT COMMISSIONERS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

9.1 Authority of Commissioner.
9.2 Authority of Assistant Commissioner, Inspections and Examinations Division.
9.3 Authority of Assistant Commissioner, Investigations Division.
9.4 Authority of Assistant Commissioner, Border Patrol, Detention and Deportation Division.
9.5 Reservation of authority.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 9.1 to 9.5 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 103, 332, 66 Stat. 173, 252.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 9.1 *Authority of Commissioner—*(a) *General.* Under the general direction of the Attorney General, the Commissioner shall supervise and direct the administration of the Service, and, subject to the limitations contained in section 103 of the Immigration and Nationality Act and Part 6 of this chapter, the Commissioner shall be charged with the administration and enforcement of the Immigration and Nationality Act and all other laws relating to immigration and naturalization, and shall have the authority to exercise and perform concurrently with the Attorney General any of the powers, privileges, or duties conferred upon the Attorney General. The powers, privileges, and duties conferred upon the Commissioner by this section shall be in addition to and not in substitution for any of the powers, privileges, and duties conferred upon any other officer or employee of the Service by any other provision of this chapter.

(b) *Designation and appointment of special inquiry officer.* The Commissioner may designate, select, and appoint as a special inquiry officer any immigration officer whom he deems specially qualified to exercise the powers and perform the duties of a special inquiry officer as set forth in the Immigration and Nationality Act and this chapter. The Commissioner shall issue to each officer so appointed a certificate under his signature bearing the seal of the Service. Such certificate shall state, and shall be accepted in any proceeding as evidence, that the officer to whom the certificate is issued has the authority to exercise the powers and perform the duties of a special inquiry officer as provided in the Immigration and Nationality Act and in this chapter.

§ 9.2 *Authority of Assistant Commissioner, Inspections and Examinations Division.* The powers, privileges, and duties conferred or imposed upon officers or employees of the Service under this chapter with respect to the following-described matters are hereby conferred or imposed upon the Assistant Commissioner, Inspections and Examinations Division:

(a) Petitions for immigrant status pursuant to the provisions of sections 204 and 205 of the Immigration and Nationality Act and Parts 204, 205, and 206 of this chapter.

(b) Applications to import nonimmigrants pursuant to the provisions of section 214 of the Immigration and Nationality Act and Parts 214h and 206 of this chapter.

(c) Nonresident aliens' border crossing identification cards as defined or provided by section 101 (a) (6) of the Immigration and Nationality Act and Part 212 of this chapter.

(d) Applications for permission to reapply for admission after arrest and deportation, exclusion and deportation, removal of aliens who have fallen into distress, removal of alien enemies or removal of aliens at government expense in lieu of deportation, as provided by section 212 (a) (16) and (17) of the Immigration and Nationality Act and Part 212 of this chapter.

(e) Applications for waiver of ground of inadmissibility of certain resident or nonresident aliens as provided in section 212 (c) or (d) (3) of the Immigration and Nationality Act and Part 212 of this chapter.

(f) Parole of aliens into the United States, and the conditions thereof as provided in section 212 (d) (5) of the Immigration and Nationality Act and Part 212 of this chapter.

(g) Admission on bond of aliens excludable because they are likely to become public charges or because of certain physical defects, diseases, or disabilities as provided in section 213 of the Immigration and Nationality Act and Part 213 of this chapter.

(h) Determinations as to the time for, and conditions under, which nonimmigrants may be admitted to the United States, and as to applications for extension of their temporary stay, as provided in section 214 (a) of the Immigration and Nationality Act, Title V of the Agricultural Act of 1949, as amended, and section 201 of the United States Information and Educational Exchange Act of 1948, as amended, and Parts 214 to 214j, inclusive, and 475 of this chapter.

(i) Petitions for approval of schools and the withdrawal of such approval as provided in section 101 (a) (15) (F) of the Immigration and Nationality Act and Part 214f of this chapter.

(k) Applications for waiver of ground of inadmissibility for certain immigrant laborers as provided in section 212 (a) (14) of the Immigration and Nationality Act and Part 212a of this chapter.

(l) Applications for reentry permits, and the extension of such permits, as provided in section 223 of the Immigration and Nationality Act and Part 223 of this chapter.

(m) Exclusion of aliens on grounds relating to the safety and security of the United States and determinations in connection with such cases, as provided in section 235 (c) of the Immigration and Nationality Act and Part 235 of this chapter.

(n) Adjustment of status from nonimmigrant to immigrant, as provided in section 245 of the Immigration and Nationality Act and Part 245 of this chapter.

(o) Rescission of adjustment of status as provided in section 246 of the Immigration and Nationality Act and Part 246 of this chapter.

(p) Adjustment of the status of aliens lawfully admitted for permanent residence to that of certain nonimmigrant classes as provided in section 247 of the Immigration and Nationality Act and Part 247 of this chapter.

(q) Change of status of aliens from one nonimmigrant class to another nonimmigrant class as provided by section 248 of the Immigration and Nationality Act and Part 248 of this chapter.

(r) Creation of record of lawful admission for permanent residence, as provided by section 249 of the Immigration and Nationality Act and Part 249 of this chapter.

(s) Determinations of applications for removal of aliens who have fallen into distress, as provided in section 250 of the Immigration and Nationality Act and Part 250 of this chapter.

(t) Designation of certain Great Lakes vessels as international ferries, as provided in section 251 (a) of the Immigration and Nationality Act and Part 251 of this chapter.

(u) Consent to discharge of, or paying off, alien crewmen in the United States, as provided in section 256 of the Immigration and Nationality Act and Part 256 of this chapter.

(v) Applications for residence and physical presence benefits for naturalization under section 316 of the Immigration and Nationality Act and Parts 316a and 317 of this chapter.

(w) Applications for exception from the classification of alien enemy under section 331 of the Immigration and Nationality Act and Part 331 of this chapter.

(x) Applications for waiver of the 90 days' notice in alien enemy cases under Part 331 of this chapter.

(y) Applications for transfer of petitions for naturalization under section

335 (i) of the Immigration and Nationality Act and Part 334 of this chapter.

(z) Consent to the withdrawal of petitions for naturalization or dismissal for want of prosecution under section 335 (e) of the Immigration and Nationality Act and Part 334 of this chapter.

(aa) Designation of employees of the Service to conduct preliminary examinations upon petitions for naturalization under section 335 (b) of the Immigration and Nationality Act and Part 335 of this chapter.

(bb) Assignment of examining officers at preliminary examinations upon petitions for naturalization under Part 335 of this chapter.

(cc) Waivers of personal investigation of petitioners for naturalization under section 335 (a) of the Immigration and Nationality Act and Part 335c of this chapter.

(dd) Applications for corrections of certificates of naturalization under Part 338 of this chapter.

(ee) Applications for certificates of citizenship under section 341 of the Immigration and Nationality Act and Parts 341 and 341a of this chapter.

(ff) Applications for certificates of naturalization and repatriation under section 343 (a) of the Immigration and Nationality Act and Part 343 of this chapter.

(gg) Applications for naturalization and citizenship papers replaced under section 343 (b) of the Immigration and Nationality Act and Part 343a of this chapter.

(hh) Applications for special certificates of naturalization under section 343 (c) of the Immigration and Nationality Act and Part 343b of this chapter.

(ii) Admission of immigrants pursuant to the provisions of sections 211 (c) and (d) of the Immigration and Nationality Act.

§ 9.3 *Authority of Assistant Commissioner, Investigations Division.* The powers, privileges, and duties conferred or imposed upon officers or employees of the Service under this chapter with respect to the following-described matters are hereby conferred upon the Assistant Commissioner, Investigations Division:

(a) Issuance of warrants of arrest, and cancellation of warrants of arrest prior to commencement of hearings thereunder as provided in section 242 of the Immigration and Nationality Act and Part 242 of this chapter.

(b) Voluntary departure of aliens prior to issuance of warrant of arrest, or after issuance of warrant of arrest and prior to hearing, as provided in sections 242 (b) and 244 (e) of the Immigration and Nationality Act and Parts 242 and 244 of this chapter.

§ 9.4 *Authority of Assistant Commissioner, Border Patrol, Detention and Deportation Division.* The powers, privileges, and duties conferred or imposed upon officers or employees of the Service under this chapter with respect to the following-described matters are hereby conferred or imposed upon the Assistant Commissioner, Border Patrol, Detention and Deportation Division:

(a) Detention and designation of the place of detention of aliens as provided by sections 232 and 233 of the Immigration and Nationality Act and Parts 232 and 233 of this chapter.

(b) Determinations as to whether an attendant is required for the care and attention of aliens as provided in section 235 of the Immigration and Nationality Act and Part 235 of this chapter.

(c) Determinations as to whether an admitted alien may remain at an immigration station as provided in section 235 of the Immigration and Nationality Act and Part 235 of this chapter.

(d) Stay of deportation of excluded aliens as provided in section 237 of the Immigration and Nationality Act and Part 237 of this chapter.

(e) Continuation of detention of aliens or release of aliens from custody as provided in section 242 of the Immigration and Nationality Act and Part 242 of this chapter.

(f) Detention, conditions of release, and revocation of bond or parole, of aliens as provided in section 242 of the Immigration and Nationality Act and Part 242 of this chapter.

(g) Voluntary departure of aliens prior to issuance of warrant of arrest, or after issuance of warrant of arrest and prior to hearing, as provided in sections 242 (b) and 244 (e) of the Immigration and Nationality Act and Parts 242 and 244 of this chapter.

(h) Designation of the countries to which and at whose expense aliens shall be deported and determination as to whether an attendant is required as provided in section 243 of the Immigration and Nationality Act and Part 243 of this chapter.

(i) Stay of execution of warrants and orders of deportation as provided in section 243 of the Immigration and Nationality Act and Part 243 of this chapter.

(j) Removal from the United States of aliens who have fallen into distress as provided in section 250 of the Immigration and Nationality Act and Part 250 of this chapter.

(k) The fixing of boundary distances as provided in section 287 of the Immigration and Nationality Act and Part 287 of this chapter.

(l) Determinations as to whether escorts shall accompany aliens in transit through the United States as provided in section 214 of the Immigration and Nationality Act and Part 214c of this chapter.

§ 9.5 *Reservation of authority.* The powers, privileges, and duties conferred upon the Assistant Commissioner, Border Patrol, Detention and Deportation Division, the Assistant Commissioner, Inspections and Examinations Division, and the Assistant Commissioner, Investigations Division, by this part shall be in addition to, and not in substitution for, the powers, privileges, and duties conferred or imposed upon any other officer or employee by any other provision of this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 10—APPLICATIONS AND PETITIONS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

10.1 Applications and petitions under Subchapter B of this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 10.1 *Applications and petitions under Subchapter B of this chapter*—(a) *General requirements.* An application or petition provided for in Subchapter B shall be completed, and submitted to the Service with any required fee, photographs, and supporting evidence, in accordance with the instructions contained in the form prescribed for such application or petition.

(b) *Improper or incomplete execution.* Applications or petitions provided for by any section of Subchapter B shall not be accepted and shall be returned to the applicant together with any attached documents if improperly or incompletely executed or if required documents are not attached.

(c) *Separate application or petition.* Except as otherwise provided in this chapter, a separate application or petition shall be filed for each applicant or beneficiary, and shall be accompanied by a separate fee.

(d) *Applicant under 14 years of age.* A person or guardian may file an application or a petition on behalf of a son, daughter, or ward under 14 years of age.

(e) *Oaths.* Any oath required in the execution of an application or a petition may be administered in the United States by an immigration officer or by any other person authorized generally to administer oaths.

(f) *Modification of application or petition.* Any allegations made in addition to, or in substitution for, any of those contained in the original application or petition shall be made under oath and filed in the same manner as the original application or petition or noted on the original application or petition and acknowledged under oath thereon.

(g) *Photographs.* Every person required to furnish photographs of himself shall submit two identical photographs which shall be 2 x 2 inches in size, unmounted, printed on a thin paper, have a light background, clearly show a full front view of the features (with head bare, unless the person is wearing a headdress as required by a religious order of which he is a member), with the distance from the top of the head to point of chin approximately 1¼ inches, and which shall have been taken within 30 days of the date they are furnished. Except in the case of a person incapable of signing his name, the person shall sign each copy of the photograph with his full true name in such manner as not to obscure the features. The photographs shall be signed when submitted with an application or petition if the instructions accompanying the application or petition so require. If the instructions do not so require, the photographs shall be submitted without being signed and shall be signed during the consideration of the application or petition.

Snapshot, group or full-length portraits shall not be accepted.

(h) *Date of receipt.* Applications or petitions which are delivered in person or by mail to offices of the Service authorized to receive them, shall be stamped to show the time and date of their actual receipt. Unless returned as provided in paragraph (b) of this section, they shall be regarded as accepted as of the date of receipt.

(i) *Translations of supporting documentary evidence.* All documents in a foreign language which are submitted as supporting evidence shall be accompanied by certified English translations thereof.

(Sec. 103, 66 Stat. 173)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

Subchapter B—Immigration Regulations

NOTE: *Explanation of numbering system utilized in this subchapter.* Each part of this subchapter has been given the same number as the section of the Immigration and Nationality Act to which it relates. For example, Part 242 concerns only section 242 of the Immigration and Nationality Act. Each part of this subchapter is divided into two subparts: Subpart A—Substantive Provisions and Subpart B—Procedural and Other Nonsubstantive Provisions. Each section of Subpart A bears a number consisting of the part number followed by a decimal point and by a single digit beginning with "1" and continuing to "9", using as many as required. For example, § 242.1 is the first substantive section of Part 242 and § 242.9 is the ninth substantive section of Part 242, assuming there existed nine substantive sections in Part 242. When a substantive section is required to be implemented by one or more procedural sections, the relating procedural section or sections bear the same number as the substantive section to which it relates plus one additional digit to the right of the decimal point beginning with "1" for the first procedural section and continuing to "9", if that many are required. For example, § 242.11 is the first procedural section implementing the first substantive section of Part 242 and § 242.87 is the seventh procedural section implementing the eighth substantive section of Part 242. If a substantive section does not require procedural sections, no procedural section numbers will appear for that particular substantive section.

PART 204—PETITION FOR IMMIGRANT STATUS AS A MINISTER OR AS A PERSON WHOSE SERVICES ARE NEEDED URGENTLY

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
204.1 Definition.
204.2 Petition.
204.3 Petitions; date of filing.
204.4 Petitions; additional requirements.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

204.11 Disposition of petition.
204.12 Period of validity of approval of petitions for visas under section 203 (a) (1) (A) of the Immigration and Nationality Act; extension.

AUTHORITY: §§ 204.1 to 204.12 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 203, 204, 66 Stat. 166, 178, 179.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 204.1 *Definition.* As used in section 101 (a) (27) (F) of the Immigration and Nationality Act and this part, the term "minister of a religious denomination" means a person duly authorized by a recognized religious sect or denomination to conduct religious worship, and to perform other duties usually performed by a regularly ordained pastor or clergymen. Lay preachers not authorized to perform the duties usually performed by a regularly ordained pastor or clergymen, and cantors, or nuns, do not come within this definition.

§ 204.2 *Petition.* The petition required by section 204 (b) of the Immigration and Nationality Act shall be filed in duplicate by the person, institution, firm, organization, or governmental agency for whom the work, labor or services are to be performed (a) on Form I–129A for nonquota classification under section 101 (a) (27) (F) (i) of the Immigration and Nationality Act as a minister of a religious denomination and (b) on Form I–129 for quota classification under section 203 (a) (1) (A) of the Immigration and Nationality Act as an alien whose services are needed urgently in the United States.

§ 204.3 *Petitions; date of filing.* A petition which has been accepted as provided in § 10.1 (h) of this chapter shall be deemed to have been filed within the meaning of sections 203 and 204 of the Immigration and Nationality Act on the date and time of its receipt as shown thereon in accordance with § 10.1 (h) of this chapter.

§ 204.4 *Petitions; additional requirements*—(a) *For petitioners filing Form I–129.* A petitioner filing a petition on Form I–129 shall comply with the following additional requirements:

(1) The petitioner shall attach to the petition a clearance order bearing a statement from the United States Employment Service that qualified persons are not available within the United States to perform the work, labor, or services which are to be performed by the beneficiary. In connection with a petition for a beneficiary who is to perform work, labor, or services in Guam, a clearance order issued by the Employment Service of the Territory of Guam shall be accepted in lieu of that issued by the United States Employment Service.

(2) The petitioner shall attach to the petition, as a part thereof, a statement setting forth a full, complete, and detailed analysis establishing in what manner the services of the beneficiary will be substantially beneficial prospectively to the national economy, cultural interests or welfare of the United States.

(3) The petitioner shall attach to the petition, as a part thereof, a full, complete, and detailed description of the high education, technical training, specialized experience, or exceptional ability of the beneficiary on the basis of which the beneficiary's services are alleged to be urgently required in the United States. Allegations of high education or technical training shall be supported by original, certified, or photographic copies of diplomas, school certificates, or equivalent documents or affidavits attesting to such education or technical training executed by the person in charge of the records of the educational or other institution, firm, or establishment wherein such education or training was acquired, improved, or perfected. Allegations of specialized experience or exceptional ability shall be supported by affidavits attesting to and describing the degree and extent of special experience or ability, executed by the appropriate officer of the firms, organizations, establishments, or other institutions wherein the beneficiary acquired, improved, or perfected such experience or ability.

(b) *Additional statements in support of petitions filed on Form I–129.* A petitioner filing a petition on Form I–129 may submit in support thereof a written statement or statements from an organization, society, or institution active in the field of the work, labor, or services in which the beneficiary is to be employed or engaged, showing the need for the work, labor, or services, and the qualifications of the beneficiary. The petitioner also may submit a statement of the efforts made by him or on his behalf to secure persons in the United States to perform the work, labor, or services to be performed by the beneficiary.

(c) *For petitioners filing Form I–129A.* A petitioner filing a petition on Form I–129A shall attach to the petition, as a part thereof, a statement, preferably on official stationery, regarding ordination of the beneficiary or other authorization to act as minister, showing the name of each religious denomination or sect with which the beneficiary has been affiliated, the periods of service, and the addresses, for whom, when and where the service as a minister was performed by the beneficiary during the two years immediately preceding the date of the petition. The statement shall be signed by the appropriate official having knowledge of the prospective immigrant's religious service during such two year period, and shall state the source of the official's knowledge of such service.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 204.11 *Disposition of petition*—(a) *Action by district director or officer in charge.* The district director or the officer in charge having administrative jurisdiction over the office receiving a petition properly executed and adequately supported by documentary evidence shall cause such investigation to be conducted as he deems necessary to the proper disposition of the petition. If it appears to the district director or the officer in charge receiving the petition that the beneficiary would be inadmissible to the United States even if the petition were approved, the petitioner shall be advised of this possibility and given an opportunity to withdraw his petition should he so desire. If the petition is withdrawn, no further action thereon shall be taken and the fee shall be retained as though final action had been taken on the petition. If the petitioner does not withdraw the petition, further action thereon shall be taken in accordance with the provisions of this part. If the investigation is made by an office of the Service other than a district office, the petition and all accompanying papers shall, upon completion of such

investigation, be forwarded to the district director having administrative jurisdiction over the office that made the investigation with a report and transcript of the investigation and the recommendation of the officer in charge.

(b) *Action by district director.* The determination as to whether a petition filed under this part shall be approved shall be limited to a consideration as to whether the eligibility of the beneficiary to the classification requested has been established. If the district director, receiving a petition either directly from the petitioner or from the officer in charge, is satisfied after consultation with appropriate agencies of the government, if any, that the beneficiary is eligible for the classification requested, he shall approve the petition and note his decision thereon accordingly. If the district director is not satisfied that the petition should be approved, he shall disapprove the petition and note his decision thereon accordingly. The petitioner shall be notified of the decision and, if the petition is disapproved, of the reasons therefor, and of his right to appeal to the Assistant Commissioner, Inspections and Examinations Division, within ten days from the receipt of such notification.

§ 204.12 *Period of validity of approval of petitions for visas under section 203 (a) (1) (A) of the Immigration and Nationality Act; extension.* The approval of a petition for the issuance of a visa to an alien under section 203 (a) (1) (A) of the Immigration and Nationality Act shall be valid for the period designated in such approval, not to exceed one year from the date on which the petition was approved, and for such additional period for which it may be extended by a district director.

PART 205—PETITION FOR IMMIGRANT STATUS AS RELATIVE OF UNITED STATES CITIZEN OR LAWFUL RESIDENT ALIEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
205.1 Petition; form.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

205.11 Petition.
205.12 Disposition of petition.

AUTHORITY: §§ 205.1 to 205.12 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 205, 66 Stat. 180.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 205.1 *Petition; form.* A petition by a United States citizen under section 205 (b) of the Immigration and Nationality Act shall be filed on Form I–133. A petition by an alien under section 205 (b) of the Immigration and Nationality Act shall be filed on Form I–133A.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 205.11 *Petition*—(a) *Where filed.* If the petitioner is in the United States at the time of the filing of a petition under this part, the petition shall be filed with the district director or the officer in charge having administrative jurisdiction over the petitioner's place of residence in the United States. If the petitioner is not in the United States, the petition shall be executed before a consular officer in accordance with the provisions of this part and the applicable consular regulations, and the petitioner shall transmit the completed petition directly to the Commissioner. If such petitioner has a place of residence in the United States, the Commissioner shall transmit the completed petition and all accompanying documents to the district director having administrative jurisdiction over such place of residence. If such petitioner does not have a place of residence in the United States, the Commissioner shall transmit the completed petition with all accompanying documents to the district director having administrative jurisdiction over the place in the United States wherein the beneficiary intends to reside, as shown in the petition.

(b) *Documents in support of petition.* The petition shall be supported by documentary evidence establishing the qualifications and eligibility of the beneficiary for the classification requested and shall include the information required by the Form I–133, if the petitioner is a citizen of the United States, or the information required by the Form I–133A, if the petitioner is a lawful resident alien.

§ 205.12 *Disposition of petition*—(a) *Action by district director or officer in charge.* The district director or the officer in charge having administrative jurisdiction over the office receiving a petition properly executed and adequately supported by documentary evidence shall cause such investigation to be conducted as he deems necessary to the proper disposition of the petition. If it appears to the district director or the officer in charge receiving the petition that the beneficiary would be inadmissible to the United States even if the petition were approved, the petitioner shall be advised of this possibility and given an opportunity to withdraw his petition should he so desire. If the petition is withdrawn, no further action thereon shall be taken and the fee shall be retained and processed as though final action had been taken on the petition. If the petitioner does not withdraw the petition, further action thereon shall be taken in accordance with the provisions of this part. If the investigation is made by an office of the Service other than a district office, the petition and all accompanying papers shall upon completion of such investigation be forwarded to the district director having administrative jurisdiction over the office that made the investigation with a report and transcript of the investigation and the recommendation of the officer in charge.

(b) *Action by district director.* The determination as to whether a petition filed under this part shall be approved shall be limited to a consideration as to whether the eligiblity of the beneficiary to the classification requested has been established. If the district director receiving a petition either directly from the petitioner or from the Commissioner or an officer in charge, is satisfied that the beneficiary is eligible for the classification requested, he shall approve the petition and note his decision thereon accordingly. If the district director is not satisfied that the petition should be approved, he shall disapprove the petition and note his decision thereon accordingly. The petitioner shall be notified of the decision and if the petition is disapproved, of the reasons therefor, and of his right to appeal to the Board of Immigration Appeals, within 10 days from the receipt of notification.

PART 206—REVOCATION OF APPROVAL OF PETITIONS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
206.1 Automatic revocation.
206.2 Revocation on notice.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

206.11 Notice of revocation.
206.21 Revocation on notice; procedure.
206.22 Notice of revocation.

AUTHORITY: §§ 206.1 to 206.22 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 204, 205, 214, 66 Stat. 179, 180, 189.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 206.1 *Automatic revocation.* The approval of a petition made under section 204, 205 or 214 (c) of the Immigration and Nationality Act and in accordance with Part 204, 205, or 214h of this chapter is revoked as of the date of approval in any of the following circumstances:

(a) As to a petition approved under section 204 or 214 (c) of the Immigration and Nationality Act:

(1) The beneficiary is an alien seeking classification as a nonquota immigrant under section 101 (a) (27) (F) (i) of the Immigration and Nationality Act or as a nonimmigrant under section 101 (a) (15) (H) of that act and is not issued a visa under the classification approved within one year of the date on which the petition was approved.

(2) The petitioner dies, goes out of business, or files a written withdrawal of the petition before the beneficiary arrives in the United States to apply for admission under the classification approved.

(b) As to a petition approved under section 205 of the Immigration and Nationality Act:

(1) The beneficiary does not within one year after the date of the approval of the petition file a formal application for an immigrant visa or arrange with the consular officer to have his name placed on a registration or waiting list for such visa.

(2) The petitioner loses his United States citizenship or his status as an alien lawfully admitted for permanent residence, whichever was applicable to the approval of the petition, or dies, before the beneficiary arrives in the United States to apply for admission under the classification aproved.

(3) As to a spouse beneficiary, the marriage of the petitioner to the beneficiary terminates by death, divorce or annulment before the beneficiary arrives in the United States to apply for admission under the classification approved.

(4) As to a child beneficiary:

(i) The beneficiary is married before he arrives in the United States to apply for admission under the classification approved.

(ii) The beneficiary reaches the 21st anniversary of his birth before he arrives in the United States to apply for admission under the classification approved.

§ 206.2 *Revocation on notice.* The approval of a petition made under section 204, 205, or 214 (c) of the Immigration and Nationality Act and in accordance with Part 204, 205, or 214h of this chapter may be revoked on any ground other than those specified in § 206.1 by any officer authorized to approve such petition when the propriety of such revocation is brought to the attention of the Service, including request for revocation or reconsideration made by consular officers.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 206.11 *Notice of revocation.* In any case in which it shall appear to a district director that the approval of a petition has been automatically revoked under and by virtue of § 206.1, such district director shall cause a notice of such revocation to be sent promptly to the Visa Office of the Bureau of Security and Consular Affairs, Department of State, and a copy of such notice to be mailed to the petitioner's last known address.

§ 206.21 *Revocation on notice; procedure.* Revocation of approval of a petition under § 206.2 shall be made only upon notice to the petitioner who shall be given an opportunity to offer evidence in support of the petition and in opposition to the grounds alleged for revocation of the approval. If upon reconsideration, the approval previously granted is revoked, the petitioner shall be informed of the decision with the reasons therefor and shall have ten days from the receipt of notification of the decision within which to appeal to the Board as provided in Part 6 of this chapter if the petition initially was approved for classification under section 205 of the Immigration and Nationality Act, or to the Assistant Commissioner, Inspections and Examinations Division, as provided in Part 7 of this chapter if the petition initially was approved for classification under section 204 or 214 (c) of the Immigration and Nationality Act.

§ 206.22 *Notice of revocation.* In any case in which approval of a petition is revoked under §§ 206.2 and 206.21, the district director having administrative jurisdiction over the office in which the proceeding is pending shall cause notice of such revocation to be sent promptly to the Visa Office of the Bureau of Security and Consular Affairs, Department of State.

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
211.1 Documentary requirements for immigrants.
211.2 Immigrants not required to present visas or passports.
211.3 Immigrants not required to present visas.
211.4 Immigrants not required to present passports.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

211.11 Resident Alien's Border Crossing Identification Card.

AUTHORITY: §§ 211.1 to 211.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 211, 212, 222, 235, 66 Stat. 181, 183, 193, 198.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 211.1 *Documentary requirements for immigrants.* Except as otherwise provided in the Immigration and Nationality Act and this chapter, an immigrant (including an alien crewman) applying for admission to the United States must present a valid unexpired immigrant visa and a valid unexpired passport.

§ 211.2 *Immigrants not required to present visas or passports.* Immigrants of the following-described classes applying for admission to the United States need not present visas or passports:

(a) An alien immigrant child who is born subsequent to the issuance of an immigrant visa to an accompanying parent and who arrives in the United States to apply for admission during the period of validity of such visa.

(b) An alien immigrant child born during the temporary visit abroad of a mother who is a lawful permanent resident alien, or a national, of the United States: *Provided,* (1) That the child is accompanying a parent who is admissible into the United States and who is entering the United States for permanent residence upon the first return of the parent to the United States after the child's birth, and (2) that application for admission to the United States is made within a period of two years from the child's birth.

(c) Aliens (including alien crewmen) of the following-described classes who have been lawfully admitted for permanent residence, who are otherwise admissible, and who are returning after a temporary absence:

(1) An alien who is returning to the United States after a temporary absence of not more than six months in Canada or Mexico only, and who presents a valid unexpired resident alien's border crossing identification card.

(2) An alien who is returning from a temporary visit abroad and who presents a valid unexpired reentry permit.

(3) An alien who goes in transit through foreign contiguous territory from one part of the continental United States or Alaska to another part of the continental United States or Alaska by means of a transportation line which runs through the territory or waters of both the United States and Canada or Mexico.

(4) An alien who is proceeding from one port of the United States to another, without stopover, although touching a foreign port.

(5) An alien who reenters from a journey beginning in a port of the United States in the Western Hemisphere without transshipment from the original vessel or aircraft, provided that such vessel or aircraft has not proceeded outside of the Western Hemisphere.

(6) An alien who is returning to the United States from a visit not exceeding 30 days to Canada, Mexico, Cuba, Haiti, or the Dominican Republic, made under actual emergency conditions which prevented him from obtaining a reentry permit, or, with respect to such visit to Canada or Mexico only, a resident alien's border crossing identification card, prior to his departure from the United States.

(7) An alien resident of the Virgin Islands returning after a temporary visit to the British Virgin Islands or the French island of St. Bartholomew.

(8) An alien who resides in a remote section of Alaska returning after a temporary visit to Canada.

(9) An alien who has been shipwrecked or castaway and who has been rescued by, or transferred at sea to, a vessel or aircraft bound to a port in the United States.

(10) An alien who is returning within 48 hours from a visit to Mexico and who presents satisfactory evidence showing his previous lawful entry into the United States for permanent residence.

(11) Any alien in whose particular case a waiver of the passport and visa requirements is granted by (i) the Assistant Commissioner, Inspections and Examinations Division, either during or after the alien's application for admission to the United States, or (ii) the district director or officer in charge having administrative jurisdiction over the port at which the alien applied for admission at the time of the alien's application for admission and prior to the submission of the case to a special inquiry officer, or (iii) the special inquiry officer in determining a case referred to him for further inquiry as provided in section 235 of the Immigration and Nationality Act, upon a determination by the respective officers enumerated above that presentation of a passport and visa is impracticable because of emergent circumstances over which the alien has no control, and that undue hardship will result to the alien if such presentation is required: *Provided,* That during the time any case is pending before the Board a waiver under this subparagraph may be granted only by the Board.

§ 211.3 *Immigrants not required to present visas.* Aliens of the following-described classes (including alien crewmen) who are otherwise admissible, who have been lawfully admitted to the United States for permanent residence, and who are applying for admission to the United States after a temporary absence, are not required to present visas:

(a) An alien crewman whose name appears on the visaed crew list of the vessel or aircraft on which he arrived in the United States or who presents an Alien Registration Receipt and Border Crossing Card (Form I–151) duly issued to him, if the alien is returning on the same vessel or aircraft on which he departed and without transshipment, or, if the alien is returning on an aircraft of

the same transportation line within 30 days of his discharge in a foreign port.

(b) An alien who departed from the United States as a member of the crew of a vessel or aircraft which has been sold and delivered abroad, if the laws of the United States or the contract of employment provide for the return of the crew to the United States, whether returning as a passenger or as a crewman.

(c) An alien who departed from the United States as a member of the crew of a vessel or aircraft and who is returning to the United States as a passenger in accordance with the terms of the articles of the vessel or the aircraft on which he formerly served and who presents a Form I–151 duly issued to him.

(d) An alien crewman who departed from the United States as a member of the crew of a vessel or aircraft and who is a consular passenger, or is repatriated after, and in accordance with the terms of, his discharge in a foreign port before a consular officer, but who, for any reason, cannot be considered as serving as a crewman on the vessel or aircraft on which he arrives at a port in the United States.

(e) Any alien in whose particular case a waiver of the visa requirement is granted by (1) the Assistant Commissioner, Inspections and Examinations Division, either during or after the alien's application for admission to the United States, or (2) the district director or the officer in charge having administrative jurisdiction over the port at which the alien applied for admission, at the time of the alien's application for admission and prior to the submission of the case to a special inquiry officer, or (3) the special inquiry officer in determining the case referred to him for further inquiry as provided in section 235 of the Immigration and Nationality Act, upon a determination by the respective officers enumerated above that presentation of a visa is impracticable because of emergent circumstances over which the alien has no control and that undue hardship would result to such alien if such presentation is required: *Provided*, That during the time any case is pending before the Board a waiver under this subparagraph may be granted only by the Board.

§ 211.4 *Immigrants not required to present passports.* Aliens of the following-described classes (including alien crewmen) who apply for admission to the United States as immigrants, and who are otherwise admissible, are not required to present passports:

(a) An alien who has been lawfully admitted for permanent residence and who is returning after a temporary absence and who presents a valid unexpired nonquota immigrant visa issued pursuant to the provisions of section 101 (a) (27) (B) of the Immigration and Nationality Act.

(b) Any alien in whose particular case a waiver of the passport requirement is granted by (1) the Assistant Commissioner, Inspections and Examinations Division, either during or after the alien's application for admission to the United States, or (2) the district director or the officer in charge having administrative jurisdiction over the port at which the alien applied for admission, at the time of the alien's application for admission and prior to the submission of the case to a special inquiry officer, or (3) the special inquiry officer in determining the case referred to him for further inquiry as provided in section 235 of the Immigration and Nationality Act, upon a determination by the respective officers enumerated above that presentation of a passport is impracticable because of emergent circumstances over which the alien has no control and that undue hardship would result to such alien if such presentation is required; *Provided*, That during the time any case is pending before the Board a waiver under this subparagraph may be granted only by the Board.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 211.11 *Resident Alien's Border Crossing Identification Card*—(a) *Form.* For the purposes of sections 211 (b) and 212 (a) (20) of the Immigration and Nationality Act and this part, Form I–151 (Alien Registration Receipt Card) or any outstanding valid Form I–187 (Resident Alien's Border Crossing Identification Card) shall be accepted as a Resident Alien Border Crossing Identification Card when in possession of and presented by the rightful holder thereof during the period of its validity.

(b) *Use.* The presentation of such card shall not relieve the holder from establishing his admissibility to the United States under the applicable provisions of the immigration laws and regulations. A Resident Alien's Border Crossing Identification Card may be used by an alien who has been lawfully admitted to the United States for permanent residence for the purpose of (1) facilitating determination of his status as a returning legal resident when applying for admission at any land or water port of entry or international airport in the continental United States or Alaska after an absence from the United States of not more than 6 months, during which absence he visited no foreign country other than Canada, Mexico or both, and (2) satisfying the documentary requirements of sections 211 (b) and 212 (a) (20) of the Immigration and Nationality Act and this part.

(c) *Form I–151; who may apply.* Any alien lawfully admitted to the United States for permanent residence who is not in possession of a Form I–151 may apply for such form in accordance with the provisions of § 264.5 of this chapter.

(d) *Form I–187.* Outstanding Forms I–187 in the possession of aliens who do not have a Form I–151 may upon application in person by the proper holder be revalidated at any Service office in the continental United States or Alaska, either before or after their expiration for an additional period or periods not exceeding 6 months each. No such revalidation shall extend beyond June 30, 1954, at which date all outstanding Forms I–187 shall be retired. An expired or unexpired Form I–187 may also be revalidated if the rightful holder applies for admission to the United States at a port of entry or for preexamination at a United States immigration station in Canada, is found admissible, and satisfactorily establishes that he has not abandoned his residence in the United States and that he has not been absent from the United States for more than 60 days. Each additional period of validity shall commence on the date of revalidation. No Form I–187 issued before November 14, 1941, shall be revalidated notwithstanding any revalidation thereof which may have been granted previously, and any such form which comes to the attention of an officer of the Service shall be obtained from the holder and returned to the original issuing office for destruction. Any Form I–187, whether valid or expired, which was issued on or after November 14, 1941, and which is found in the possession of an alien who is making improper use thereof shall be obtained from the holder and returned to the original issuing office for destruction. Every alien having both a Form I–187 and a Form I–151 shall surrender the Form I–187 to an immigration officer, who shall forward it to the office of issuance for destruction.

PART 212—DOCUMENTARY REQUIREMENTS FOR NONIMMIGRANT: ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
212.1 Documentary requirements for nonimmigrants.
212.2 Period of validity of passports for certain nonimmigrants.
212.3 Nonimmigrants not required to present passports, visas, or border crossing identification cards.
212.4 Additional classes of nonimmigrants not required to present passports, visas or border crossing identification cards.
212.5 Nonimmigrants required to present passports but not visas or border crossing identification cards.
212.6 Aliens previously deported or removed, or who departed at Government expense; consent to reapply for admission.
212.7 Advance request by certain resident aliens for permission to reenter the United States.
212.8 Advance request by certain nonimmigrant aliens for permission to enter the United States temporarily.
212.9 Parole of aliens into the United States.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

212.11 Nonresident alien's border crossing identification card.
212.61 Application for consent to reapply.
212.71 Application for permission to reenter the United States.
212.72 Disposition of application.
212.81 Application for temporary admission of nonimmigrants.
212.91 Return of paroled alien.

AUTHORITY: §§ 212.1 to 212.91 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 212, 214, 236, 238, 66 Stat. 167, 182, 189, 200, 203.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 212.1 *Documentary requirements for nonimmigrants.* Except as other-

wise provided in the Immigration and Nationality Act and this chapter, an alien (including an alien crewman) who applies for admission to the United States as a nonimmigrant shall present a valid unexpired nonimmigrant visa issued to him under the nonimmigrant classification in which he seeks admission, and an unexpired passport valid for at least the period set forth in section 212 (a) (26) of the Immigration and Nationality Act: *Provided*, That a valid nonresident alien's border crossing identification card shall be acceptable in lieu of a nonimmigrant visa when presented in accordance with provisions of § 212.11.

§ 212.2 *Period of validity of passports for certain nonimmigrants.* An alien not within the purview of § 212.3 who applies for admission to the United States as a nonimmigrant under clause (i) or (ii) of section 101 (a) (15) (A) of the Immigration and Nationality Act or under clause (i), (ii), (iii), or (iv) of section 101 (a) (15) (G) of that act and who presents a valid unexpired nonimmigrant visa issued to him under the nonimmigrant classification in which he seeks admission shall present a passport which is valid and unexpired on the date of the bearer's application for admission to the United States.

§ 212.3 *Nonimmigrants not required to present passports, visas, or border crossing identification cards.* The provisions of section 212 (a) (26) of the Immigration and Nationality Act and of this chapter relating to the requirement of passports, visas, and border crossing identification cards for nonimmigrants, have been waived by the Secretary of State and the Attorney General acting jointly in pursuance of the authority contained in section 212 (d) (4) of the Immigration and Nationality Act, in the cases of aliens (including alien crewmen) who are otherwise qualified for admission as nonimmigrants under the applicable provisions of the immigration laws and who fall within any of the following categories:

(a) A Canadian citizen who has his residence in Canada and is making application for admission to the United States from Canada, or from, and after a visit solely to, some place in foreign contiguous territory or adjacent islands.

(b) A British subject who has his residence in Canada and is making application for admission to the United States from Canada, or from, and after a visit solely to, some place in foreign contiguous territory or adjacent islands.

(c) A Mexican national who:

(1) Is a military or civilian official or employee of the Mexican national government, or of a Mexican state or municipal government, and the members of his family, making an application for admission to the continental United States from Mexico on personal or official business or for pleasure;

(2) Is passing in immediate and continuous transit through the continental United States from one place in Mexico to another by means of a transportation line which crosses the border between the United States and Mexico; or

(3) Is a member of a fire-fighting group entering the United States in connection with fire-fighting activities.

(d) International Boundary and Water Commission officers, employees, and other personnel, entering the United States in the performance of their official duties, and Mexican nationals employed directly or indirectly on the construction, operation, or maintenance of works in the United States undertaken in accordance with the treaty concluded on February 3, 1944, between the United States and Mexico, and entering the United States temporarily in connection with such employment.

(e) A French national who has his residence in French territory in the West Indies, who is in possession of a roundtrip transportation ticket, and who is making application for admission into Puerto Rico or the Virgin Islands of the United States for business or pleasure.

(f) A Netherlands subject who has his residence in Netherlands territory in the West Indies and who is making an application for admission to Puerto Rico or the Virgin Islands of the United States for not more than twenty-four (24) hours.

(g) An alien who is being transported by railroad in immediate and continuous transit through the United States directly from one part of Canada to another, or directly from one part of Mexico to another, without stopover, in accordance with the terms of a contract, including a bonding agreement, entered into by the transportation line and the Attorney General under the provisions of section 238 (d) of the Immigration and Nationality Act: *Provided*, That, at all times such alien is in transit through the United States he shall be in the custody of an officer of the United States or such other custody as may be approved by the Attorney General.

(h) An alien whose case is not within the provisions of paragraph (g) of this section, who is being transported in immediate and continuous transit through the United States without stopover from one foreign place to another in accordance with the terms of a contract including a bonding agreement entered into by a transportation line and the Attorney General under the provisions of section 238 (d) of the Immigration and Nationality Act, to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided*, That such alien is in possession of a travel document which is valid for his entry into a foreign country for a period of not less than 60 days after the date of immediate and continuous transit through the United States, and *Provided further*, That at all times such alien is not aboard an aircraft which is in flight through the United States he shall be in the custody of an officer of the United States.

§ 212.4 *Additional classes of nonimmigrants not required to present passports, visas or border crossing identification cards.* As provided in the Immigration and Nationality Act, the provisions of section 212 (a) (26) of the Immigration and Nationality Act and of this chapter relating to the requirement of passports, visas and border crossing identification cards for nonimmigrants do not apply in the cases of aliens who fall within any of the following categories:

(a) An alien member of the armed forces of the United States who:

(1) Is in the uniform of, or who bears documents identifying him as a member of, such armed forces;

(2) Has not been lawfully admitted for permanent residence; and

(3) Is making application for admission to the United States under official orders or permit of such armed forces.

(b) An American Indian born in Canada, having at least fifty percentum of blood of the American Indian race, and passing the border of the United States.

§ 212.5 *Nonimmigrants required to present passports but not visas or border crossing identification cards.* The provisions of section 212 (a) (26) of the Immigration and Nationality Act and of this chapter relating to the requirement of visas and border crossing identification cards for nonimmigrants have been waived by the Secretary of State and the Attorney General, acting jointly, for aliens who are otherwise qualified for admission as nonimmigrants under the applicable immigration laws and who fall within any of the following categories:

(a) A Canadian citizen having his residence in Canada who is returning thereto from any country or place, other than foreign contiguous territory or adjacent islands, and is making an application for admission to the United States.

(b) A British subject having his residence in British Territory in the West Indies, who is making an application for admission to Puerto Rico, or the Virgin Islands of the United States.

(c) A Netherlands subject who has his residence in Netherlands territory in the West Indies and who is making an application for admission to Puerto Rico or the Virgin Islands of the United States for more than twenty-four (24) hours.

(d) Nationals of foreign contiguous territory or adjacent islands who are entering the United States as seasonal or temporary workers under specific legislation enacted by Congress and in accordance with international arrangements concluded upon the basis of such legislation.

§ 212.6 *Aliens previously deported or removed, or who departed at Government expense; consent to reapply for admission.* Except as provided in § 236.13 (b) of this chapter, an alien who is inadmissible to the United States under paragraph (16) or (17) of section 212 (a) of the Immigration and Nationality Act and who desires to apply for admission to the United States shall file an application for consent to reapply for admission to the United States with the district director having administrative jurisdiction over the office in which were held the proceedings which resulted in the alien's deportation, removal, or departure at Government expense.

§ 212.7 *Advance request by certain resident aliens for permission to reenter the United States.* An alien who has been lawfully admitted for permanent residence and who is or believes himself to be inadmissible to the United States under any paragraph of section 212 (a) of the Immigration and Nationality Act other than paragraph (27), (28) or (29), may, prior to or after his temporary departure from the United States and prior to his application for readmission to the United States, apply for permission to reenter under the authority contained in section 212 (c of the Immigration and Nationality Act notwithstanding any such ground of inadmissibility.

§ 212.8 *Advance request by certain nonimmigrant aliens for permission to enter the United States temporarily.* An alien who desires to enter the United States temporarily as a nonimmigrant and who is or believes himself to be inadmissible under any paragraph of section 212 (a) of the Immigration and Nationality Act other than paragraph (27) and (29), may, prior to his application for admission at a port of the United States, apply for permission to enter the United States temporarily under the authority contained in section 212 (d) (3) of the Immigration and Nationality Act notwithstanding any such ground of inadmissibility.

§ 212.9 *Parole of aliens into the United States.* Subject to the provisions of section 212 (d) (5) of the Immigration and Nationality Act, the district director or the officer in charge having administrative jurisdiction over the port of entry may, in his discretion, parole into the United States temporarily any alien who applies for admission to the United States at such port, under such terms and conditions, including the exaction of a bond on Form I–324, as such officer shall deem appropriate. The district director or officer in charge shall determine when, in his opinion, the purpose of the parole shall have been served so that such paroled alien shall return or be returned to the custody from which he was paroled in accordance with section 212 (d) (5) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 212.11 *Nonresident alien's border crossing identification card*—(a) *Form.* For the purposes of section 212 (a) (26) of the Immigration and Nationality Act and this part, Form I–186 (Nonresident Alien's Border Crossing Identification Card) shall be accepted as a nonresident alien's border crossing card when it is in the possession of and presented by the rightful holder thereof during the period of its validity.

(b) *Use.* The rightful holder of a valid nonresident alien's border crossing identification card may present such card in lieu of a nonimmigrant visa, if such visa is required, when arriving direct from Canada or Mexico and applying for admission to the United States at any land or water port of entry or an international airport in the continental United States or Alaska. The presentation of such card shall not otherwise relieve the holder from establishing his admissibility to the United States under the applicable provisions of the Immigration and Nationality Act.

(c) *Form I–186; who may apply.* A nonresident alien's border crossing identification card may be issued to any alien who, upon application therefor, (1) submits satisfactory evidence that he is a Canadian citizen or a British subject residing in Canada, or a native-born citizen of Mexico residing therein, (2) presents a valid unexpired passport required of nonimmigrants, unless a passport is not required to be presented under the provisions of this part, (3) desires temporary admission into the continental United States for a period or periods of not more than 72 hours each, and (4) is admissible to the United States: *Provided, however,* That no such card shall be issued unless the applicant is known or shown to be a person who has complied fully with all provisions applicable to him of laws, regulations, Executive orders, or other governmental requirements regulating the entry of aliens to the United States: *And provided further,* That such card may be issued to an applicant who desires temporary admission into the United States for more than 72 hours if such applicant desires such card to facilitate admission and is (1) a citizen of and has his residence in, Canada, and is entitled under § 212.3 (a) to enter the United States for less than six months without presenting a visa, border crossing identification card, or passport, or (2) a British subject having his residence in Canada, and entitled under § 212.3 (b) to enter the United States for less than 30 days without presenting a visa, border crossing identification card, or passport.

(d) *Application.* Application for a nonresident alien's border crossing identification card shall be made on Form I–190 at any office of the Service located at any land or water port of entry or international airport in the continental United States or Alaska or at any office of the Service located in Canada. The applicant shall appear in person, shall execute his application under oath before an immigration officer, and shall be fingerprinted. The applicant shall furnish a photograph prepared in accordance with the provisions of Part 10 of this chapter. If, because of unusual circumstances, it would be a hardship for the applicant to obtain a photograph, the officer considering the application may, in his discretion, waive the furnishing of such photograph.

(e) *Disposition of application.* If the applicant is found to have the qualifications specified in paragraph (c) of this section, the identification card shall be issued to him by the examining immigration officer. Entries on the card shall be made by typewriter, if practicable, or in ink. The applicant shall sign his full name on the card in ink, unless unable to sign his name. The applicant's photograph shall be fastened on the card unless the furnishing of the photograph is waived, in which case the print of his right index finger shall be placed on the card in lieu of his photograph. The card shall be valid for an initial period of two years, unless in the discretion of the issuing officer a shorter period of validity is desired because of special circumstances. The period of validity shall be noted on the card and on the application. The issuing officer may, in his discretion or upon direction of his superior officer, issue the card subject to such conditions as appear to be proper under the circumstances and such conditions shall be noted on the card and on the application. The identification card shall be delivered to the applicant on his personal appearance at the office where the application is filed, except that when justified by unusual circumstances, the card may be delivered to him by mail prior to his application for admission to the United States. If the examining immigration officer, in his discretion, determines that a nonresident alien border crossing card should not be issued, he shall deny the application. No appeal shall lie from a denial of the application but such denial shall be without prejudice to the alien's applying for admission to the United States under applicable provisions of the Immigration and Nationality Act.

(f) *Extension.* The rightful holder of a nonresident alien's border crossing identification card issued for a fixed period who meets the eligibility requirements of paragraph (c) of this section may, during the period of the validity of such card, apply for an extension of such period, or, if the period of validity has expired, may apply for a revalidation of such card. In no event shall such card be extended or revalidated beyond a date six years from the date of its original issuance.

(g) *Surrender.* Any nonresident alien's border crossing identification card issued prior to November 14, 1941, which comes to the attention of an officer of the Service shall be surrendered by the holder and returned to the original issuing office. Any nonresident alien's border crossing identification card issued by the Service which is presented by a person who does not have the qualifications set forth in paragraph (c) of this section, or any nonresident alien's border crossing identification card which is presented by a person who is making improper use of the card, or who is not the rightful holder thereof, shall be surrendered by the holder and returned to the original issuing office, with a report of the reasons therefor: *Provided, however,* That no card shall be required to be surrendered if found in the possession of an alien applying for admission to the United States unless and until the holder has been excluded by a special inquiry officer. If a nonresident's border crossing identification card issued by the Service has been lost, mutilated, or destroyed, the person to whom such card was issued may make an application for a new card in accordance with the provisions of this section, and in such case shall attach the mutilated card to his application for return to the office of issuance.

§ 212.61 *Application for consent to reapply*—(a) *Form.* An application for consent to reapply for admission to the United States shall be submitted on

Form I–212. In stating the reasons for his desire to enter the United States, the applicant shall include a statement of facts establishing whether:

(1) Unusual hardship would result to persons lawfully in the United States if the application should be denied.

(2) There is need for the services of the applicant in the United States.

(3) The applicant is a bona fide crewman who has no means of earning his livelihood other than by pursuing such calling which necessitates his coming to the United States.

(4) It is necessary for the applicant to enter the United States frequently across the international land border to purchase the necessities of life, or in connection with the business in which he is engaged, or for some other urgent reason.

(b) *Disposition.* The district director receiving an application for consent to reapply for admission may, in his discretion, grant or deny such application. He shall note his decision on the application and, if the application is denied, the reason for its denial. The applicant shall be given written notice of the decision. The decision shall be final except that an appeal therefrom may be taken by the applicant to the Assistant Commissioner, Inspections and Examinations Division, within 10 days from receipt of notification of decision, in accordance with the provisions of Part 7 of this chapter.

§ 212.71 *Application for permission to reenter the United States*—(a) *Form and execution.* An application for the advance exercise of discretion under the provisions of section 212 (c) of the Immigration and Nationality Act shall be submitted on Form I–191, and shall be executed under oath by the applicant. If the applicant is mentally incompetent, the application shall be executed by his parent or guardian. If the applicant is not in the United States, the application shall be executed before a consular officer in accordance with applicable consular regulations.

(b) *Where filed.* The application shall be filed with the district director or the officer in charge having administrative jurisdiction over the applicant's place of residence in the United States.

§ 212.72 *Disposition of application*—(a) *Action by officer with whom application is filed.* The officer with whom the application referred to in § 212.17 is filed shall cause such investigation to be conducted as he deems necessary for the proper disposition of the application. If such investigation is made by an office of the Service other than a district office, the application and all pertinent papers shall upon completion of the investigation be forwarded to the district director having administrative jurisdiction over the office in which the application was filed, with the recommendation of the officer in charge.

(b) *Action by the district director.* The district director may, in his discretion, grant or deny the application. The applicant shall be given written notice of the decision, and if the application is denied of the reasons therefor and of his right to appeal to the Board in accordance with the provisions of Part 6 of this chapter within 10 days from the receipt of notification of such decision.

(c) *Conditions on which application is granted.* If the application is granted, it shall be under such terms and conditions, including exaction of bond, as may be deemed appropriate by the district director or the Board, whichever grants the application.

§ 212.81 *Application for temporary admission of nonimmigrants*—(a) *Form and execution.* An application for the advance exercise of discretion under the provisions of section 212 (d) (3) shall, except as hereinafter provided, be submitted on Form I–192, and shall be executed under oath before a consular officer in accordance with applicable consular regulations. When Form I–192 is not readily available and the case is one of unforseen emergency, the application shall be in writing and shall contain all the information required by such form. Whenever it is impracticable for an applicant to execute the application, it may be executed by his parent, guardian, attorney or representative, and in such cases, the application need not be under oath and need not be executed before a consular officer.

(b) *Filing of application.* If an applicant for the benefits of section 212 (d) (3) of the Immigration and Nationality Act is not in possession of a nonimmigrant visa and is not exempt from the presentation of such visa, the application shall be filed with the consular officer before whom the alien is required to apply for his nonimmigrant visa. In all other cases, the application shall be filed with the Assistant Commissioner, Inspections and Examinations Division.

(c) *Disposition of application.* If the Secretary of State or the consular officer recommends that an alien be admitted temporarily to the United States despite his inadmissibility, the application shall be forwarded with such recommendation to the Assistant Commissioner, Inspections and Examinations Division, who, in his discretion, may grant or deny the application. The Assistant Commissioner, Inspections and Examinations Division, may also, in his discretion, grant or deny any application which is authorized by this part to be filed directly with him. The applicant and the Secretary of State shall be given written notice of the decision. If the application is denied, the applicant shall also be informed of the reasons therefor and of the right of the alien to appeal to the Board in accordance with the provisions of Part 6 of this chapter, within ten days from the receipt of notification of such decision. If the application is granted initially or on appeal, it shall be under such terms and conditions, including exaction of bond on Form I–331, I–332 or I–337 as the Assistant Commissioner, Inspections and Examinations Division, or the Board, when granting the application, deems appropriate.

§ 212.91 *Return of paroled alien.* If the district director or officer in charge who has paroled an alien into the United States in accordance with § 212.9 determines that the purpose of the parole has been served, the paroled alien shall be taken into custody by an immigration officer under the order of such district director or officer in charge and returned forthwith to the custody from which such alien was paroled.

PART 212a—ADMISSION OF CERTAIN ALIENS TO PERFORM SKILLED OR UNSKILLED LABOR

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

212a.1 Aliens seeking to enter the United States for the purpose of performing skilled or unskilled labor; application for permission to enter United States.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

212a.11 Application.

212a.12 Disposition of application.

AUTHORITY: §§ 212a.1 to 212a.12 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 203, 212, 66 Stat. 166, 178, 183.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 212a.1 *Aliens seeking to enter the United States for the purpose of performing skilled or unskilled labor; application for permission to enter United States.* An alien of any of the classes described in section 101 (a) (27) (C), (D), or (E), of the Immigration and Nationality Act, and any alien described in the non-preference category of section 203 (a) (4) of that Act, who is ineligible to receive an immigrant visa and is subject to exclusion from the United States under section 212 (a) (14) of that Act may apply, or the person, institution, firm, organization or governmental agency for whom the alien will perform skilled or unskilled labor may apply in his behalf, for permission for such alien to enter the United States under the authority contained in section 212 (a) (14) of the Immigration and Nationality Act notwithstanding such ground of inadmissibility.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 212a.11 *Application*—(a) *Form.* An application for permission to enter the United States pursuant to this part and section 212 (a) (14) of the Immigration and Nationality Act shall be submitted in duplicate on Form I–129C. The application, properly executed, shall be filed at the office of the Service nearest the applicant's residence or principal operating office in the United States if he is a person other than the prospective immigrant. If the person filing this application is the prospective immigrant, he shall transmit the completed application directly to the Commissioner who shall transmit the application to the district director having administrative jurisdiction over the place in the United States wherein the applicant intends to reside as shown in the application.

(b) *Documents in support of application.* Applicants shall comply with the following requirements:

(1) If a trade organization, guild, professional society, educational or research institution, is active in the field of the work, labor or services in which the prospective immigrant is to be employed or engaged, the applicant shall request

from such organization, by registered mail return receipt requested, a written statement indicating whether such organization can supply persons capable of performing the work, labor or services which are to be performed by the prospective immigrant. The request to such organization for such statement shall set forth a description of the position sought to be filled and the terms, conditions, and place of employment. A copy of the request and reply shall be attached to the application. In the event no reply is received to such request, a copy of the letter sent to such organization and the receipt returned by the Post Office Department showing that the letter was delivered, shall be attached to the application.

(2) The applicant shall attach to the application affidavits of persons having special knowledge or information in the field of work, labor or services which the prospective immigrant is to perform, indicating the approximate length of time required for a person to become skilled or proficient in the performance of such work, labor, or services.

(3) If the applicant is not the prospective immigrant, he shall attach to the application as a part thereof, a statement of efforts made by him or in his behalf to secure persons in the United States to perform the work, labor or services to be performed by the prospective immigrant, including clippings of any advertisements placed in newspapers, trade journals, professional and similar publications in the field of such work, labor or services and copies of all correspondence, reports, replies, and responses received or obtained as a result of such advertisement. If no such reply, response, or report was received, the applicant shall so indicate.

(4) The applicant shall attach to the application as a part thereof, a statement setting forth a full, complete, and detailed analysis establishing in what manner the services of the prospective immigrant will be substantially beneficial prospectively to the national economy, cultural interest or welfare of the United States.

(5) The applicant shall attach to the application as a part thereof, a full, complete, and detailed description of the services to be performed by the prospective immigrant in the United States.

(6) The applicant shall attach to the application as a part thereof a full, complete, and detailed description of the high education, technical training, specialized experience, or exceptional ability of the prospective immigrant on the basis of which the prospective immigrant's services are alleged to be urgently required in the United States. Statements with respect to high education or technical training of the prospective immigrant shall be supported by original, certified, or photographic copies of diplomas, school certificates, or equivalent documents or affidavits attesting to such education or technical training executed by the person in charge of the records of the educational or other institution, firm, or establishment wherein such education or training was acquired, improved, or perfected. Statements with respect to specialized experience or exceptional ability of the prospective immigrant shall be supported by affidavits attesting to and describing the degree and extent of the immigrant's special experience or ability, executed by the appropriate officer of the firms, organizations, establishments, or other institutions wherein such special experience or ability was acquired, improved, or perfected.

§ 212a.12 *Disposition of application*—(a) *Investigation.* The district director or officer in charge having administrative jurisdiction over the office receiving an application shall, if the application is properly executed and adequately supported by documentary evidence, cause such investigation to be conducted as he deems necessary to the proper disposition of the application. If the investigation is made in an office of the Service other than a district office, the application and all accompanying papers shall, upon completion of such investigation, be forwarded to the district director having administrative jurisdiction over the office that made the investigation with a report and transcript of the investigation and the recommendation of the officer in charge.

(b) *Action by district director.* If the district director receiving an application either directly from the person filing the application or from the officer in charge is satisfied that the application should be approved he shall approve the application and note his decision thereon. If the district director is not satisfied that the application should be approved he shall disapprove the application and note his decision thereon. The applicant shall be informed of the decision and, if the application is disapproved, of the reasons therefor, and of his right to appeal to the Assistant Commissioner, Inspections and Examinations Division within 10 days from receipt of notification of decision.

PART 213—ADMISSION OF ALIENS ON GIVING BOND OR CASH DEPOSIT

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
213.1 Authority to admit under bond or cash deposit.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

213.11 Form of public charge bond.

AUTHORITY: §§ 213.1 and 213.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 213, 235, 66 Stat. 188, 198.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 213.1 *Authority to admit under bond or cash deposit.* An alien who applies for admission to the United States for permanent residence whose case is referred to the district director or officer in charge having administrative jurisdiction over the place where the examination for admission is being conducted, as provided in § 235.12 of this chapter, may be admitted to the United States in the discretion of such officer upon the furnishing of a bond on Form I–354 in the sum of not less than $1,000, or, in lieu of such bond, upon depositing cash in the sum of not less than $1,000 for the same purposes and subject to the same conditions as those set forth in Form I–354. If such officer does not so admit the alien, the special inquiry officer to whom the case is referred, as provided in § 235.12 of this chapter may, in his discretion, admit the alien upon the furnishing of bond or the depositing of cash as aforesaid.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 213.11 *Form of public charge bond.* All bonds, and all agreements covering cash deposits, given as a condition of admission of an alien under section 213 of the Immigration and Nationality Act shall be executed on Form I–354. If cash is deposited, the depositor shall give his power of attorney and agreement on Form I–304, authorizing the officers designated thereon to collect, assign, or transfer such deposit, in whole or in part, in case any of the conditions of the bond are violated; and the officer accepting such deposit shall give his receipt therefor on Form I–305.

PART 214—ADMISSION OF NONIMMIGRANTS: GENERAL

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214.1 Time for which nonimmigrants may be admitted.
214.2 Conditions of nonimmigrant status.
214.3 Bonds.
214.4 Extension of period of temporary admission.
214.5 Change of status as affecting period of admission.
214.6 Limitation.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

214.31 Bonds; referral of case by examining officer.
214.41 Extension of period of admission.

AUTHORITY: §§ 214.1 to 214.41 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 3, 4, 43 Stat. 154, as amended, 155 as amended, secs. 501–508, 65 Stat. 119–121, secs. 101, 102, 212, 214, 235, 66 Stat. 166, 173, 182, 189, 198; 8 U. S. C. 203, 204, 7 U. S. C., Sup., 1461–1468.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214.1 *Time for which nonimmigrants may be admitted.* The maximum period for which a nonimmigrant may be admitted initially to the United States shall be whatever period the admitting officer deems appropriate to accomplish the intended purpose of the alien's temporary stay in the United States, except that

(a) In no event shall such period exceed any limit fixed by any of the other provisions of this chapter relating to particular nonimmigrant classes; and

(b) Except as provided in section 102 of the Immigration and Nationality Act, such period shall be subject to the provisions of section 212 (a) (26) of the Immigration and Nationality Act in the case of a nonimmigrant required to present a passport; and

(c) A nonimmigrant admitted to the United States upon a waiver of the passport requirement, shall not be admitted beyond a date six months prior to the end of the period during which he will be eligible for readmission to the coun-

try whence he came or for admission to some other country.

§ 214.2 *Conditions of nonimmigrant status.* An alien found admissible as a nonimmigrant under the Immigration and Nationality Act shall be admitted to the United States, and an alien after admission to the United States as a nonimmigrant or after acquisition of a nonimmigrant status under the Immigration and Nationality Act or any prior act shall be permitted to remain in the United States only upon the following conditions:

(a) That while in the United States he will maintain the particular nonimmigrant status under which he was admitted or such other status as he may acquire in accordance with the provisions of the Immigration and Nationality Act or which he may have acquired in accordance with the provisions of any prior law.

(b) That he will depart from the United States within the period of his admission or any authorized extension thereof.

(c) That while in the United States he will not engage in any employment or activity inconsistent with and not essential to the status under which he is in the United States unless such employment or activity has first been authorized by the district director or the officer in charge having administrative jurisdiction over the alien's place of temporary residence in the United States.

(d) That he will not remain in the United States beyond a date six months, or in the case of a nonimmigrant admitted prior to the effective date of the Immigration and Nationality Act, two months, prior to the end of the period during which he will be eligible for readmission to the country whence he came or for admission to some other country, as evidenced by a valid passport or other travel document.

(e) That he will fulfill such other conditions as the admitting immigration officer, in his discretion, may impose or may have imposed to insure that he will depart from the United States at the expiration of the time for which he was admitted, and that he will maintain the status under which he was admitted or which he may have lawfully acquired subsequent to his admission.

§ 214.3 *Bonds.* Except as may be otherwise specifically provided by the Immigration and Nationality Act and by any provisions of this chapter relating to particular classes of nonimmigrants, in the discretion of the district director or the officer in charge having administrative jurisdiction over the port of entry or the special inquiry officer, or, pursuant to an order entered on appeal from the decision of a special inquiry officer, an alien applying for admission to the United States as a nonimmigrant may be required to post a bond in the sum of not less than $500 as a condition precedent to his admission to the United States to insure that he will depart from the United States at the expiration of the time for which he is admitted and that he will maintain the status under which he is admitted or which he may subsequently acquire under the Immigration and Nationality Act: *Provided*, That no such bond shall be required as a condition to the admission of any alien within the classes described in section 102 of the Immigration and Nationality Act. Bond shall be furnished on such form as is prescribed for the particular nonimmigrant classification under which the alien seeks to enter the United States.

§ 214.4 *Extension of period of temporary admission.* An alien other than one admitted in transit under section 101 (a) (15) (C) of the Immigration and Nationality Act or section 3 (3) of the Immigration Act of 1924, who is maintaining the nonimmigrant status under which he is permitted to remain in the United States and whose period of admission has not expired, may apply for and may be granted an extension or extensions of the period of his temporary admission, subject to the following limitations and conditions:

(a) All extensions shall be subject to the time limitations specified in § 214.1.

(b) The alien shall establish that he has fulfilled, and agrees that he will continue to fulfill, all the conditions set forth in § 214.2 and such other conditions as may be imposed as conditions precedent to the granting of the extension, including, in the case of an alien admitted as a nonimmigrant or as a nonquota immigrant student prior to December 24, 1952, the condition that he shall present with his application for the extension a passport or other travel document valid for his readmission to the country whence he came or to some other country for six months after expiration of the period for which the extension is requested.

(c) If the initial admission was for 29 days or less, an extension may be granted only in emergent or other extraordinary cases.

(d) In any case in which the grant of the extension would authorize the alien to remain in the United States for a period not exceeding one year after arrival, the officer deciding the application may in his discretion, require as a condition precedent to the granting of the extension that the alien furnish bond or to continue to furnish bond or to furnish bond in different sum, on the form and for the purposes stated in § 214.3.

(e) No extension which will authorize the alien to remain in the United States for a period exceeding one year after arrival shall be granted unless there has been furnished, or is furnished, a bond on the form, for the purposes, and in the sum provided in § 214.3: *Provided*, That a district director may authorize the granting of such extension without bond or with bond in less sum.

(f) Such other conditions and limitations as are prescribed by provisions of this chapter relating to particular classes of nonimmigrants.

(g) A nonimmigrant alien crewman shall not be granted any extension which would permit him to remain in the United States for more than 29 days from the date of his initial temporary landing.

§ 214.5 *Change of status as affecting period of admission.* An alien admitted to the United States under the Immigration and Nationality Act or any prior act as a nonimmigrant, whose status is subsequently changed in accordance with the provisions of the Immigration and Nationality Act, shall be permitted to remain in the United States for such period of time as shall have been fixed in the decision changing his status or any authorized extension thereof, in no event to exceed the time he continues to maintain the status so acquired.

§ 214.6 *Limitation.* The provisions of this part shall not be applicable to a nonimmigrant agricultural worker applying for admission, or admitted, to the United States in accordance with the provisions of Title V of the Agricultural Act of 1949, as amended. The case of such alien shall be governed by the provisions of Part 475 of this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 214.31 *Bonds; referral of case by examining officer.* If the examining immigration officer is satisfied that an alien would be admissible to the United States as a nonimmigrant provided a bond was furnished in accordance with the provisions of § 214.3, he shall refer the case to the district director or the officer in charge having administrative jurisdiction over the port of entry. If the district director or officer in charge is satisfied that the alien would be admissible provided such bond were furnished, he may admit the alien upon the furnishing of such bond. If the district director or the officer in charge is not so satisfied or if the bond is not furnished when required, the case of the alien shall be disposed of as provided in section 235 of the Immigration and Nationality Act.

§ 214.41 *Extension of period of admission*—(a) *Form of application; place and time of filing; accompanying documents; fee.* Application by an alien for an extension of the period of temporary admission shall be made on Form I–539. The application shall be submitted as soon as the alien is aware that he will not be able to complete the purpose of his temporary stay within the period for which he has been authorized to remain in the United States, but not less than 15 nor more than 30 days prior to the end of such period, unless the district director or officer in charge authorizes the filing of an application at an earlier date. The application shall be accompanied by the applicant's passport, any Form 257a or Form I–94C issued to him at the time of his admission to the United States or at the time of any prior extension, any fee required by Part 2 of this chapter, and such other documents as may be required by provisions of this chapter relating to particular nonimmigrant classifications.

(b) *Disposition of application.* The district director or the officer in charge receiving an application for an extension of temporary admission shall cause such investigation to be made as he deems necessary to the proper disposition of the application. He may, in his discretion and subject to the provisions of § 214.4, grant or deny such application or may grant such application upon such terms

and conditions, including the furnishing of bond, as he may deem appropriate. No appeal shall lie from his decision. If the application is granted, the officer granting the application shall note on the application form and the Form 257a or Form I-94C submitted by the applicant or prepared for him as provided in § 221.3 (c) of this chapter the date to which the alien is permitted to remain in the United States and any additional conditions which may have been imposed as conditions precedent to the granting of the application. If the application is denied, the officer denying it shall note on the application form and such Form 257a or Form I-94C the fact of such denial. Notwithstanding any of the provisions of this paragraph, the Assistant Commissioner, Inspections and Examinations Division, may require any classes of cases or individual cases to be submitted to him for initial decision. No appeal shall lie from the decision of the Assistant Commissioner.

(c) *Notice of decision.* The Form 257a or Form I-94C shall after decision be sent to the applicant together with any passport submitted by him and shall constitute notice to the applicant of the decision in the case. If the application is denied, the applicant shall also be informed that his departure from the United States is required within the period determined by the officer making the decision.

PART 214a—ADMISSION OF NONIMMIGRANTS: FOREIGN GOVERNMENT OFFICIAL

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214a.1 Acceptance of classification.
214a.2 Limitation as to time for which alien may be admitted.
214a.3 Bond.
214a.4 Failure to maintain status.
214a.5 Additional documents required in support of application for an extension of temporary stay.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 214a.1 to 214a.5 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 3, 43 Stat. 154, as amended, secs. 101, 214, 235, 66 Stat. 166, 189, 198; 8 U. S. C. 203.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214a.1 *Acceptance of classification.* Whenever an alien who applies for admission to the United States as a nonimmigrant of one of the classes described in section 101 (a) (15) (A) of the Immigration and Nationality Act presents to the examining immigration officer at a port of entry in the United States a valid unexpired nonimmigrant visa duly issued to him by a consular officer under such classification, the immigration officer shall accept the consular officer's classification of the alien and admit the alien, if he is otherwise admissible to the United States, unless specifically directed to the contrary by the Assistant Commissioner, Inspections and Examinations Division, after consultation with the Department of State, in which event, the examining immigration officer shall take further action as provided in section 235 of the Immigration and Nationality Act. For the purposes of this part, the term "immediate family" as used in section 101 (a) (15) (A) of the Immigration and Nationality Act means aliens who are closely related to the principal alien by blood, marriage, or adoption, and who reside regularly in the household of the principal alien.

§ 214a.2 *Limitation as to time for which alien may be admitted.* The period of an alien's admission to the United States as a nonimmigrant of the class described in section 101 (a) (15) (A) (i) or (ii) of the Immigration and Nationality Act shall not exceed such time as the Secretary of State continues to recognize him as a member of such class. An alien of the class described in clause (iii) of section 101 (a) (15) (A) of the Immigration and Nationality Act shall not be admitted initially to the United States for more than one year.

§ 214a.3 *Bond.* Nonimmigrants of the class described in section 101 (a) (15) (A) (iii) of the Immigration and Nationality Act who are required to furnish bond under § 214.3 or § 214.4 of this chapter shall do so on Form I-325.

§ 214a.4 *Failure to maintain status.* At such time as any official or employee described in clause (i) or clause (ii) of section 101 (a) (15) (A) of the Immigration and Nationality Act, or any official of a foreign government as described in section 3 (1) of the Immigration Act of 1924, as amended, is ineligible under the Immigration and Nationality Act and this chapter to remain in the United States in the status of such official or employee, any alien member of the immediate family of such official or employee, any attendant, servant, or personal employee of any such official or employee, and any member of the immediate family of such attendant, servant, or personal employee who has nonimmigrant status pursuant to section 101 (a) (15) (A) of the Immigration and Nationality Act or section 3 (1) of the Immigration Act of 1924, as amended, shall be regarded as having failed to maintain such status. This section shall not be construed as setting forth the sole ground on which the persons herein described may be regarded as having failed to maintain such status.

§ 214a.5 *Additional documents required in support of application for an extension of temporary stay.* An alien having the status of a nonimmigrant of the class described in section 101 (a) (15) (A) (iii) of the Immigration and Nationality Act or having the status of an attendant, servant, or personal employee of any official of a foreign government pursuant to the provisions of section 3 (1) of the Immigration Act of 1924, as amended, who applies for an extension of his temporary stay in such status shall attach to his application a written statement from the employing foreign government official describing the current and intended employment of the alien.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 214b—ADMISSION OF NONIMMIGRANTS: TEMPORARY VISITOR FOR BUSINESS OR PLEASURE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214b.1 Limitation as to time for which temporary visitors may be admitted.
214b.2 Bonds.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 214b.1 and 214b.2 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 214, 66 Stat. 166, 189.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214b.1 *Limitation as to time for which temporary visitors may be admitted.* An alien admitted to the United States as a nonimmigrant of the class described in section 101 (a) (15) (B) of the Immigration and Nationality Act shall be admitted initially for a period not to exceed six months unless such alien intends to sojourn in the United States in more than one immigration district, in which event the period of initial admission shall not exceed three months.

§ 214b.2 *Bonds.* Nonimmigrants of the class described in section 101 (a) (15) (B) of the Immigration and Nationality Act who are required to furnish bond shall do so on Form I-337 or Form I-317, as the admitting officer shall determine.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 214c—ADMISSION OF NONIMMIGRANTS: TRANSIT ALIENS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214c.1 Special prerequisites for admission.
214c.2 Limitation as to time for which transit aliens may be admitted.
214c.3 Bonds.
214c.4 Special conditions of admission.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 214c.1 to 214c.4 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 214, 66 Stat. 166, 189.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214c.1 *Special prerequisites for admission.* An alien applying for admission to the United States as a nonimmigrant in immediate and continuous transit through the United States under section 101 (a) (15) (C) of the Immigration and Nationality Act shall not be eligible for admission to the United States in such nonimmigrant classification unless:

(a) He has arranged for transportation to the country of his destination and is also in possession of sufficient funds to enable him to carry out the purpose of his transit journey through the United States or has such funds available to him in the United States, and

(b) He is in possession of a valid visa or other form of valid authority assuring his entry into the country of his destination if he is destined to a country other than the one from which he came.

§ 214c.2 *Limitation as to time for which transit aliens may be admitted.* An alien admitted to the United States as a nonimmigrant of the classes described in section 101 (a) (15) (C) of the Immigration and Nationality Act shall be admitted for a period of time fixed by the admitting officer, not to exceed 29 days.

§ 214c.3 *Bonds.* Nonimmigrants of the classes described in section 101 (a) (15) (C) of the Immigration and Nationality Act who are required to furnish bond under § 214.3 or § 214.4 of this chapter shall do so on Form I–336 unless they are within the terms of a bond furnished in accordance with the provisions of § 238.3 of this chapter: *Provided*, That the district director or the officer in charge having administrative jurisdiction over the port of entry, may in his discretion, in lieu of bond on Form I–336, require that the alien be accompanied while in transit by such number of immigration officers, guards, or attendants as will insure the alien's passage through and out of the United States without unnecessary delay, and that the expenses of such accompanying persons, including the cost of their transportation from the port of arrival to the port of departure and return, be borne by or on behalf of the alien or by the transportation line which brought the alien to the United States, which expenses shall include the cost of transportation of the accompanying persons from the port of arrival to the port of departure and return.

§ 214c.4 *Special conditions of admission.* An alien of the class described in section 101 (a) (15) (C) of the Immigration and Nationality Act whose nonimmigrant visa by its own terms is limited to transit to and from the United Nations Headquarters District, if otherwise admissible under the immigration laws, shall be admitted on the following additional conditions:

(a) That such alien shall proceed directly to New York City and shall remain continuously in that city during his sojourn in the United States, departing therefrom only if required in connection with his departure from the United States.

(b) That such alien shall be in possession of a valid visa or other form of valid authority assuring his entry into the country whence he came or to some other foreign country following his sojourn in the United Nations Headquarters District.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 214d—ADMISSION OF NONIMMIGRANTS; CREWMEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214d.1 Applicable provisions.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214d.1 *Applicable provisions.* The provisions of Parts 252 and 253 of this chapter shall control and govern the landing of crewmen as nonimmigrants of the class described in section 101 (a) (15) (D) of the Immigration and Nationality Act.

(Sec. 103, 66 Stat. 173. Interprets or applies secs. 101, 214, 66 Stat. 166, 189)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 214e—ADMISSION OF NONIMMIGRANTS; TREATY TRADER

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214e.1 Definitions.
214e.2 Limitations on time for which admitted.
214e.3 Bond.
214e.4 Failure to maintain status.
214e.5 Additional documents required in support of application for an extension of temporary admission.
214e.6 Trader and dependents admitted under Immigration Act of 1924.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

214e.61 Maintenance of status report.

AUTHORITY: §§ 214e.1 to 214e.61 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 3, 10, 43 Stat. 154, as amended, 158, as amended, secs. 101, 214, 223, 66 Stat. 166, 189, 194; 8 U. S. C. 203, 210.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214e.1 *Definitions.* As used in this part, the term:

(a) "Trader" means (1) an alien admitted to the United States under the provisions of section 101 (a) (15) (E) of the Immigration and Nationality Act; or (2) an alien admitted to the United States under the provisions of section 3 (6) of the Immigration Act of 1924; or (3) an alien who after admission lawfully acquires a status under clause (1) or (2) of this paragraph; or (4) an alien who is readmitted to the United States on the basis of a re-entry permit lawfully issued under the provisions of paragraphs (a) (2) and (b) of section 223 of the Immigration and Nationality Act; or (5) an alien who was readmitted to the United States on the basis of a re-entry permit lawfully issued under the provisions of section 10 (g) of the Immigration Act of 1924, as amended.

(b) "Dependent" means a trader's alien spouse or alien child admitted under clause (1), (2), (3), (4), or (5) of paragraph (a) of this section.

§ 214e.2 *Limitations on time for which admitted.* An alien admitted to the United States as a nonimmigrant of the class described in section 101 (a) (15) (E) of the Immigration and Nationality Act shall be admitted for a period of time fixed by the admitting officer.

§ 214e.3 *Bond.* Traders and dependents who are required to furnish bond under § 214.3 or § 214.4 of this chapter shall do so on Form I–338.

§ 214e.4 *Failure to maintain status.* A trader or dependent shall be deemed to have failed to maintain status upon the occurrence of any one of the following events, which are not exclusive as to what shall constitute failure to maintain status:

(a) In the case of a trader:

(1) The termination of the treaty on which the status of trader has been based; or

(2) A change by a trader from the activities specified in clause (i) of section 101 (a) (15) (E) of the Immigration and Nationality Act to the activities specified in clause (ii) of said section or vice versa unless, prior to making such change, he obtains consent to do so from the district director having administrative jurisdiction over the district in which the trader resides.

(b) In the case of a dependent:

(1) When the trader is no longer eligible to remain in the United States as a trader; or

(2) When the trader dies; or

(3) In the case of the dependent spouse, when the marriage to the trader terminates; or

(4) In the case of the dependent child, when such child marries or reaches the 21st anniversary of his birth;

unless at the time of the happening of any such event after the effective date of the Immigration and Nationality Act, the dependent in his own right would be entitled to the status of a nonimmigrant of the class described in section 101 (a) (15) (E) of the Immigration and Nationality Act were he applying for admission to the United States in such status in possession of appropriate documents; or unless at the time of the happening of any such event prior to December 24, 1952, the dependent in his own right at that time would have been entitled to the status of a nonimmigrant of the class described in section 3 (6) of the Immigration Act of 1924 were he applying for admission to United States in such status in possession of appropriate documents. Any such dependent who is entitled to a nonimmigrant status in his own right may be permitted to remain in the United States subject to the provisions of the Immigration and Nationality Act and this part. If a dependent spouse establishes such eligibility, the child of such spouse may also be permitted to remain in the United States subject to the applicable provisions of the Immigration and Nationality Act and this part. The fact that a dependent child establishes such eligibility shall not authorize the parent of such child to remain in the United States.

(c) Failure to submit a maintenance of status report in accordance with § 214e.6.

§ 214e.5 *Additional documents required in support of application for an extension of temporary admission.* A trader or dependent who applies for an extension of temporary admission shall attach to his application a maintenance of status report on Form I–126, properly executed and the supporting documents required by such form.

§ 214e.6 *Trader and dependents admitted under Immigration Act of 1924.* A trader or dependent admitted to the United States under the Immigration Act of 1924 without limitation of time shall make a report annually on the anniversary date of his original admission to the United States to the district direc-

tor or officer in charge having administrative jurisdiction over the place where the alien resides in the United States indicating whether he:

(a) Continues to be eligible for readmission to the country whence he came or for admission to some other country; and

(b) Has fulfilled and will continue to fulfill all the conditions prescribed by § 214.2 of this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 214e.61 *Maintenance of status report*—(a) *Form.* The maintenance of status report required by § 214e.6 shall be submitted on Form I–126, fully executed, and shall be accompanied by the alien's passport and by any Form 257a or I–94C issued to him at the time of his admission to the United States. All available data specified in Form I–126 shall be furnished by the alien.

(b) *Disposition of report.* After examination of the report and accompanying documents and after making such investigation as may be necessary, the district director or the officer in charge receiving the report shall determine whether the alien is complying with the conditions set forth in § 214.2 of this chapter. The decision of such officer shall be final and no appeal shall lie therefrom. If the alien is found to be complying with such conditions, the district director or the officer in charge shall note on the Form I–126 and on Form 257a or Form I–94C submitted by the alien or prepared for him as provided in § 221.3 (c) of this chapter the words "Status maintained" and the date of such determination. If the alien is found not to be complying with such conditions, such officer shall note on such forms the words "Status not maintained" and the date of such determination.

(c) *Notice of decision.* The Form 257a or Form I–94C shall be sent to the alien together with any passport submitted by him and shall constitute notice of the decision in the case. If the alien is found not to have maintained status, he shall also be informed that his departure from the United States within the time set forth in such notice is required.

PART 214f—ADMISSION OF NONIMMIGRANTS; STUDENTS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

214f.1 Special prerequisites for admission.
214f.2 Limitation on time for which admitted.
214f.3 Bond.
214f.4 Employment.
214f.5 Petition for approval.
214f.6 Approval of certain elementary and high schools.
214f.7 Withdrawal of approval.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

214f.51 Disposition of petition.
214f.71 Withdrawal of approval; procedure.

AUTHORITY: §§ 214f.1 to 214f.71 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 4, 43 Stat. 155, as amended, secs. 101, 214, 66 Stat. 166, 189; 8 U. S. C. 204.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214f.1 *Special prerequisites for admission.* An alien, otherwise admissible to the United States as a nonimmigrant of the class described in section 101 (a) (15) (F) of the Immigration and Nationality Act, shall not be eligible for admission to the United States in such nonimmigrant classification unless he agrees that while in the United States he will not enroll in any institution or place of study other than the one he is authorized to attend without prior consent of the district director having administrative jurisdiction over the place in which is located the institution or place of study the alien is authorized to attend, and unless he establishes that:

(a) He has been accepted by and has definitely arranged to enter an established institution of learning or other recognized place of study in the United States as described in section 101 (a) (15) (F) of the Immigration and Nationality Act;

(b) He seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study in the institution or recognized place of study designated by him and approved pursuant to law;

(c) He will carry a course of studies consisting of a minimum of 12 semester hours or the equivalent thereof if he is an undergraduate student, or consisting of a full program of study of the scope and nature required by such institution or place of study if he is a graduate student or a student at an American institute of research recognized by the Attorney General;

(d) He has sufficient scholastic preparation and knowledge of the English language to enable him to undertake his intended course, as indicated by a written statement from the institution or place of study to which he is to be admitted; and

(e) He is or will be financially able, subject to the provisions of this part, to pursue such course of study.

§ 214f.2 *Limitation on time for which admitted.* An alien may be admitted initially to the United States as a nonimmigrant of the class described in section 101 (a) (15) (F) of the Immigration and Nationality Act for a period not to exceed one year.

§ 214f.3 *Bond.* A nonimmigrant of the class described in section 101 (a) (15) (F) of the Immigration and Nationality Act who is required to furnish a bond under § 214.3 or § 214.4 of this chapter shall do so on Form I–374.

§ 214f.4 *Employment.* (a) An alien admitted as a nonimmigrant of the class described in section 101 (a) (15) (F) of the Immigration and Nationality Act or as a nonquota immigrant of the class described in section 4 (e) of the Immigration Act of 1924 shall not be permitted to work during a school term either for wages or for board or lodging unless he does not have sufficient means to cover his necessary expenses. If such alien wishes to accept employment, he shall, before accepting such employment, apply on Form I–24 to the district director having administrative jurisdiction over the place in which is located the approved institution or place of study attended by the applicant for permission to accept such employment. If such district director is satisfied that the alien is meeting all the conditions and requirements of his status, that he does not have sufficient means to cover his expenses, and that the desired employment will not interfere with his carrying successfully a course of study of the required scope, he may grant permission to the alien to accept such employment.

(b) Whenever employment for practical training is required or recommended by the institution or place of study attended by the applicant, the district director having administrative jurisdiction over the place in which the institution is located may permit employment of the alien for a six-month period subject to extension for not over two additional six-month periods, but any such extension shall be granted only upon certification by the school and the training agency that the practical training cannot be completed in a shorter period of time.

§ 214f.5 *Petition for approval.* Any institution of learning or other recognized place of study desiring the approval required by section 101 (a) (15) (F) of the Immigration and Nationality Act may file with the district director having administrative jurisdiction over the place in which the institution or place of study is located a petition for such approval on Form I–17 executed by the principal officer of such institution or place of study authorized to execute contracts. The district director, after consultation with the Office of Education of the United States, may approve the petition if he is satisfied that the petitioning institution or place of study:

(a) Is a bona fide institution of learning or recognized place of study; and

(b) Possesses the necessary facilities and is otherwise qualified for the instruction of students in recognized courses; and

(c) If it is engaged in the field of secondary education, that it qualifies graduates for acceptance to accredited schools of higher education; or

(d) If it is engaged in the field of higher education, that it

(1) Confers upon its graduates recognized bachelor, master, doctor, professional, or divinity degrees; or

(2) Does not confer such degrees but its credits are recognized by and transferable to an institution or place of study which does confer such degrees; or

(3) Is an American institute of research recognized by the Attorney General.

§ 214f.6 *Approval of certain elementary and high schools.* Any school, institution of learning or place of study located within a district adjacent to the land borders of the United States, which is recognized or accredited for academic study by the United States Office of Education or by the appropriate urban, county or State educational agency, and which agrees to report in writing to the district director having administrative jurisdiction over the place where such

school, institution or place of study is located the enrollment and termination of attendance of each nonimmigrant student, shall be regarded as having been approved in accordance with section 101 (a) (15) (F) of the Immigration and Nationality Act up to and including the senior year of high school or its equivalent, for the attendance of nonimmigrant students who have their residence in foreign contiguous territory and who return daily or weekly to such residence.

§ 214f.7 *Withdrawal of approval.* Approval granted under section 101 (a) (15) (F) of the Immigration and Nationality Act or section 4 (e) of the Immigration Act of 1924 to an institution of learning or place of study which fails, neglects, or refuses to comply with all the terms of its agreement or with the provisions of § 214f.5 or § 214f.6, whichever is applicable, and section 101 (a) (15) (F) of the Immigration and Nationality Act may be revoked by the district director having administrative jurisdiction over the place in which such institution or place of study is located.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 214f.51 *Disposition of petition.* A district director receiving a petition may, after consultation with the Office of Education of the United States, approve the petition if he is satisfied that the petition should be approved. If the district director is not so satisfied, he shall deny the petition. The petitioner shall be notified in writing of the decision and, if the petition has been denied, of the reasons therefor and that the petitioner has 10 days from receipt of notification of decision in which it may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter.

§ 214f.71 *Withdrawal of approval; procedure.* Whenever a district director having administrative jurisdiction over the place in which an approved institution of learning or place of study is located has reason to believe that such institution or place of study has failed, neglected, or refused to comply with all the terms of its agreement and with the provisions of § 214f.5 or § 214f.6, whichever is applicable, and section 101 (a) (15) (F) of the Immigration and Nationality Act, he shall cause a notice to be sent to such institution or place of study that it is proposed within 30 days of the delivery of the notice to enter a decision withdrawing the approval previously granted for reasons set forth in the notice. Within such 30-day period the institution or place of study may submit to the district director written representations, under oath and supported by documentary evidence, setting forth reasons why the approval should not be withdrawn. The period within which such representations may be submitted may be extended in the discretion of the district director upon timely request for such extension. After consideration of the facts presented, the district director shall notify the institution or place of study in writing of his decision and, if said decision is to withdraw the approval previously granted, the reasons therefor and that the institution or place of study has 10 days from receipt of notification of decision in which it may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter. If a decision withdrawing approval is made, the officer making such decision shall simultaneously make such provision as he deems appropriate with regard to the case of any alien attending such institution or place of study under section 101 (a) (15) (F) of the Immigration and Nationality Act or section 4 (e) of the Immigration Act of 1924.

PART 214g—ADMISSION OF NONIMMIGRANTS; FOREIGN GOVERNMENT REPRESENTATIVES TO INTERNATIONAL ORGANIZATIONS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214g.1 Acceptance of classification.
214g.2 Limitation as to time for which alien may be admitted.
214g.3 Bond.
214g.4 Failure to maintain status.
214g.5 Additional documents required in support of application for an extension of temporary stay.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 214g.1 to 214g.5 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 3, 43 Stat. 154, as amended, secs. 101, 214, 235, 66 Stat. 168, 189, 198; 8 U. S. C. 203.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214g.1 *Acceptance of classification.* Whenever an alien who applies for admission to the United States as a nonimmigrant of one of the classes described in section 101 (a) (15) (G) of the Immigration and Nationality Act presents to the examining immigration officer at a port of entry to the United States a valid unexpired nonimmigrant visa duly issued to him by a consular officer under such classification, the immigration officer shall accept the consular officer's classification of the alien and admit the alien, if he is otherwise admissible to the United States, unless specifically directed to the contrary by the Assistant Commissioner, Inspections and Examinations Division, after consultation with the Department of State, in which event the examining officer shall take further action as provided in section 235 of the Immigration and Nationality Act. For the purposes of this part, the term "immediate family" as used in section 101 (a) (15) (G) of the Immigration and Nationality Act means aliens who are closely related to the principal alien by blood, marriage, or adoption and who reside regularly in the household of the principal alien.

§ 214g.2 *Limitation as to time for which alien may be admitted.* The period of alien's admission to the United States as a nonimmigrant of the class described in section 101 (a) (15) (G) (i), (ii), (iii), or (iv) of the Immigration and Nationality Act shall not exceed such time as the Secretary of State continues to recognize him as a member of such class. An alien of the class described in clause (v) of section 101 (a) (15) (G) of the Immigration and Nationality Act shall not be admitted initially to the United States for more than one year.

§ 214g.3 *Bond.* Nonimmigrants of the class described in section 101 (a) (15) (G) (v) of the Immigration and Nationality Act who are required to furnish bonds under § 214.3 or § 214.4 shall do so on Form I–325.

§ 214g.4 *Failure to maintain status.* At such time as any representative, officer, or employee described in clauses (i) to (iv) inclusive of section 101 (a) (15) (G) of the Immigration and Nationality Act, or any representative, officer, or employee of an international organization as described in section 3 (7) of the Immigration Act of 1924, as amended, is ineligible under the Immigration and Nationality Act and this chapter to remain in the United States in the status of such representative, officer or employee, any alien member of the immediate family of such representative, officer, or employee, any attendant, servant or personal employee of any such representative, officer or employee, and any member of the immediate family of such attendant, servant, or personal employee who has nonimmigrant status pursuant to section 10[1] (a) (15) (G) of the Immigration and Nationality Act or section 3 (7) of the Immigration Act of 1924, as amended, shall be regarded as having failed to maintain such status. This section shall not be construed as setting forth the sole ground on which the persons herein described may be regarded as having failed to maintain such status.

§ 214g.5 *Additional documents required in support of application for an extension of temporary stay.* An alien having the status of a nonimmigrant of the class described in section 101 (a) (15) (G) (v) of the Immigration and Nationality Act or having the status of an attendant, servant, or personal employee of any representative, officer, or employee of an international organization pursuant to the provisions of section 3 (7) of the Immigration Act of 1924, as amended, who applies for an extension of his temporary stay in such status shall attach to his application a written statement from the representative, officer, or employee of the international organization describing the current and intended employment of the alien.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 214h—ADMISSION OF NONIMMIGRANTS: TEMPORARY SERVICES, LABOR OR TRAINING

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214h.1 Limitation as to time for which alien may be admitted.
214h.2 Bond.
214h.3 Special prerequisites for admission.
214h.4 Petition.
214h.5 Additional documents required in support of an application for an extension of temporary admission

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
214h.41 Petition to import.
214h.51 Application for extension of temporary admission; form and procedure.

AUTHORITY: §§ 214h.1 to 214h.51 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 214, 66 Stat. 168, 189.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214h.1 *Limitation as to time for which alien may be admitted.* An alien of the classes described in section 101 (a) (15) (H) of the Immigration and Nationality Act shall be admitted to the United States for such period, not to exceed one year, as may be authorized by the district director or the Assistant Commissioner, Inspections and Examinations Division, in granting a petition to import such alien.

§ 214h.2 *Bond.* Nonimmigrants of the classes described in section 101 (a) (15) (H) of the Immigration and Nationality Act who are required to furnish bonds under § 214.3 or § 214.4 shall do so on Form I–337, or I–320, whichever in the opinion of the district director or the Assistant Commissioner, Inspections and Examinations Division, is appropriate, and shall be in an amount specified by such officer.

§ 214h.3 *Special prerequisites for admission.* An alien of any of the classes described in section 101 (a) (15) (H) of the Immigration and Nationality Act shall not be admitted to the United States unless he establishes to the satisfaction of the admitting officer that he is destined in good faith to a petitioner whose petition for such alien's importation has been filed and approved in accordance with the provisions of section 214 (c) of the Immigration and Nationality Act and this part, and that he is entering the United States in good faith to perform the services, labor, or training specified in the petition.

§ 214h.4 *Petition.* The petition required by section 214 (c) of the Immigration and Nationality Act shall be filed under oath in duplicate on Form I–129B.

§ 214h.5 *Additional documents required in support of an application for an extension of temporary admission.* The temporary stay of an alien in the United States as a nonimmigrant of any of the classes described in section 101 (a) (15) (H) of the Immigration and Nationality Act may be extended on application filed by the employer or trainer of such alien.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 214h.41 *Petition to import—(a) Form and procedure.* A petition to import an alien as a nonimmigrant of the classes described in section 101 (a) (15) (H) of the Immigration and Nationality Act shall be submitted by the employer or trainer with such documentary or other evidentiary matter establishing the alien's eligibility for the classification as a nonimmigrant of the classes described in section 101 (a) (15) (H) and, if the alien is to enter under clause (ii) of said section, there shall be attached to, and made a part of, the petition a clearance order bearing a statement from the United States Employment Service, that (i) qualified workers of the kind proposed to be imported are not available within the United States, and (ii) the Employment Service policies have been observed: *Provided,* That a clearance card issued by the Employment Service of the Territory of Guam shall, in the case of a petition to import laborers for employment in Guam, be accepted in lieu of that issued by the United States Employment Service.

(b) *Petition to import more than one alien.* An employer who desires to import more than one alien may file a single petition on Form I–129B and include thereon all of the prospective nonimmigrants provided the prospective nonimmigrants included in any petition are proceeding from the same place of origin and are destined to the United States for the purpose of performing the same type of services.

(c) *Disposition.* The provisions of § 204.11 of this chapter shall govern the disposition of petitions filed under the provisions of this part.

§ 214h.51 *Application for extension of temporary admission; form and procedure.* Application for extension of temporary stay of an alien having a nonimmigrant classification described in section 101 (a) (15) (H) of the Immigration and Nationality Act shall be made in writing by the alien's employer or trainer under oath and shall include a statement describing the current and intended employment or training of the alien and, when originally required by § 214h.41, clearance from the United States Employment Service establishing that the facts which justified the importation of the alien under the Immigration and Nationality Act continue to exist. An employer or trainer who desires an extension of temporary stay for more than one alien may file a single application and include therein all of the nonimmigrants. If more than one nonimmigrant is included on a single application, it shall be regarded as a separate application for each such nonimmigrant for the purposes of Part 2 of this chapter, and a fee in an amount equal to $10 for each such nonimmigrant shall be submitted with the application.

PART 214i—ADMISSION OF NONIMMIGRANTS: REPRESENTATIVES OF INFORMATION MEDIA

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214i.1 Limitation as to time for which alien may be admitted.
214i.2 Bonds.
214i.3 Special conditions of admission.
214i.4 Failure to maintain status.
214i.5 Additional documents required in support of application for an extension of temporary admission.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 214i.1 to 214i.5 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 214, 66 Stat. 168, 189.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214i.1 *Limitation as to time for which alien may be admitted.* An alien admitted to the United States as a nonimmigrant of the class described in section 101 (a) (15) (I) of the Immigration and Nationality Act shall be admitted initially for a period fixed by the admitting officer not to exceed one year.

§ 214i.2 *Bonds.* Nonimmigrants of the class described in section 101 (a) (15) (I) who are required to furnish bond under § 214.3 or § 214.4 of this chapter shall do so on Form I–337.

§ 214i.3 *Special conditions of admission.* A nonimmigrant of the class described in section 101 (a) (15) (I) of the Immigration and Nationality Act shall be admitted to the United States on condition that (a) he will not change the information medium or his employer by which he is accredited unless and until he obtains consent to do so from the district director having administrative jurisdiction over the district in which the alien resides in the United States, and (b) he will depart from the United States at such time as the Secretary of State determines that the reciprocity required by section 101 (a) (15) (I) of the Immigration and Nationality Act has ceased to exist. For the purposes of section 101 (a) (15) (I) and this part, reciprocity shall be deemed to exist when the alien is accredited by a foreign information medium having its home office in a foreign country, the government of which grants similar privileges to representatives of such information medium with home offices in the United States, except that when the information medium is owned, operated, subsidized, or controlled by a foreign government, directly or indirectly, the reciprocity required shall be accorded by such foreign government.

§ 214i.4 *Failure to maintain status.* At such time as an alien of the class described in section 101 (a) (15) (I) of the Immigration and Nationality Act is ineligible under the Act and this chapter to remain in the United States in such status, the members of such alien's family having nonimmigrant status as such under section 101 (a) (15) (I) of the Immigration and Nationality Act shall be regarded as having failed to maintain such status. This section shall not be construed as setting forth the sole ground on which the persons herein described may be regarded as having failed to maintain status.

§ 214i.5 *Additional documents required in support of application for an extension of temporary admission.* An alien admitted to the United States as a nonimmigrant of the class described in section 101 (a) (15) (I) of the Immigration and Nationality Act who applies for an extension of his temporary admission shall attach to his application a statement in writing from his employer establishing that the alien is a representative of a foreign information medium in the United States and setting forth the alien's current and intended activities and the reasons for the extension.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 214j—ADMISSION OF NONIMMIGRANTS: EXCHANGE ALIENS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
214j.1 Definition.
214j.2 Limitation as to time for which alien may be admitted.
214j.3 Bonds.
214j.4 Special condition of admission.
214j.5 Employment.
214j.6 Extension of temporary admission; additional documents required in support of application.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 214j.1 to 214j.6 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 3, 43 Stat. 154, sec. 201, 62 Stat. 7, secs. 101, 214, 248, 402, 66 Stat. 167, 189, 218, 275; 8 U. S. C. 203, 22 U. S. C. 1446, 18 U. S. C. 1546.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 214j.1 *Definition.* As used in this part the term "exchange alien" means (a) an alien admitted to the United States prior to December 24, 1952, pursuant to section 201 of the United States Information and Educational Exchange Act of 1948 as a nonimmigrant under section 3 (2) of the Immigration Act of 1924 or, (b) an alien admitted or seeking admission to the United States pursuant to section 201 of the United States Information and Educational Exchange Act of 1948, as amended, as a nonimmigrant under section 101 (a) (15) of the Immigration and Nationality Act.

§ 214j.2 *Limitation as to time for which alien may be admitted.* An alien applying for admission to the United States as a nonimmigrant under section 201 of the United States Information and Educational Exchange Act of 1948, as amended, whose visa by its own terms indicates that it was issued under that Act, and who is otherwise admissible to the United States, may be admitted for the period specified in a written agreement, commitment, guarantee, or similar paper made or executed by such alien's approved sponsor or intended employer and presented by such alien at the port where he applies for admission to the United States, not to exceed one year.

§ 214j.3 *Bonds.* Exchange aliens shall not be required to furnish bond under § 214.3 or § 214.4 of this chapter.

§ 214j.4 *Special condition of admission.* A nonimmigrant of the class described in this part shall be admitted on the condition that he agrees not to apply for (a) a change of the nonimmigrant status under which he is admitted to any other class or classes of nonimmigrant pursuant to section 248 of the Immigration and Nationality Act, or (b) adjustment of status to that of a permanent resident pursuant to section 245 of said Act.

§ 214j.5 *Employment.* An exchange alien may accept remunerative employment in the United States only if it is consistent with the purpose of the United States Information and Educational Exchange Act of 1948, as amended.

§ 214j.6 *Extension of temporary admission; additional documents required in support of application.* An exchange alien who applies for an extension of his temporary admission shall, in addition to the documents required by § 214.41, submit with his application a statement in writing from his approved sponsor or employer specifying the period of extension desired, the terms of the alien's present and intended work or employment in behalf of his sponsor or employer, and the reasons for the extension.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 221—DISPOSITION OF ENTRY DOCUMENTS OF ALIENS ENTERING OR DEPARTING OTHER THAN AS NONIMMIGRANT CREWMEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
221.1 Forms 256a and I–132; presentation of.
221.2 Nonimmigrant visa Forms 257a.
221.3 Form I–94.
221.4 Form I–419; disposition.
221.5 Immigrants; surrender of documents upon departure.
221.6 Form I–95A; surrender by alien departing other than as a crewman.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 221.1 to 221.6 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 214, 221, 231, 238, 252, 269, 66 Stat. 189, 191, 195, 203, 220, 234.

CROSS REFERENCE: For disposition of entry documents of alien crewmen see Parts 251 and 252 of this chapter.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 221.1 *Forms 256a and I–132; presentation of.* An alien applying for admission to the United States for permanent residence who is in possession of a Form 256a or Form I–132 shall present such form to the examining immigration officer.

§ 221.2 *Nonimmigrant visa Forms 257a*—(a) *Action at time of entry.* An alien applying for admission to the United States who is in possession of a set of Forms 257 shall surrender such forms to the examining immigration officer. If the alien is admitted, the Form 257a shall be noted to show the data as to the admission and returned to the alien by the admitting officer.

(b) *Action at time of departure.* Except as specifically provided in this paragraph, an alien admitted upon presentation of a set of Forms 257, shall, at the time of his departure from the United States, surrender the Form 257a in his possession to the representative of the transportation company as provided in §§ 231.31 (a) and 231.42 (a) of this chapter; or, if those sections do not apply and the alien is departing to Canada, to the Canadian Immigration Officer for delivery to the appropriate United States Immigration Officer; or in any other case to the United States Immigration Officer at the port of departure. The Form 257a need not be surrendered:

(1) Until the departure from the United States of the last of the persons named thereon, if more than one person is included on the same Form 257a and all persons named thereon do not depart from the United States at the same time or at the same port;

(2) By any alien (including a citizen or resident of Mexico) who, during his temporary visit in the United States proceeds to Mexico for a visit of not more than 30 days, after which visit he intends to reenter the United States for the remainder of the period of his original temporary admission;

(3) By an alien departing as a cruise passenger as defined in § 231.1 (c) of this chapter;

(4) In any other case in which the Commissioner has instructed immigration officers to waive or defer the surrender of such form.

(c) *Return of Form 257a to alien.* If the Form 257a surrendered by an alien at the time of his departure from the United States bears a passport visa valid for more than one entry to the United States and with enough of the period of validity remaining to enable the alien to use the visa for an additional entry or reentries to the United States, he may request the Commissioner in writing to return the Form 257a to him. If the Commissioner deems it appropriate and proper, he may grant the request and return the Form 257a to such alien.

§ 221.3 *Form I–94*—(a) *Action at time of entry; preparation and presentation.* An alien applying for admission to the United States who is in possession of a set of Forms I–94 shall surrender such forms to the examining immigration officer. A person applying for admission to the United States who is in possession of a Form I–94F shall surrender such form to the examining immigration officer. Except as provided in paragraph (b) of this section, immigration officers at all ports of entry shall, without regard to whether the applying alien is admitted or held for further inquiry before a special inquiry officer, prepare a set of Forms I–94 for each alien applying for admission to the United States as a nonimmigrant who does not present a full set of Forms 257 or a full set of Forms I–94. If the alien is admitted, the Form I–94C shall be noted to show the data as to the admission and shall be returned to the alien by the admitting officer.

(b) *When not prepared by immigration officer.* Immigration officers shall not prepare a set of Forms I–94 for the following-described classes of aliens:

(1) A Canadian citizen or a British subject who has his residence in Canada, is admitted to the United States from contiguous territory or adjacent islands under a waiver of the nonimmigrant visa requirement unless:

(i) He is admitted for more than six months; or

(ii) Bond is required; or

(iii) Verification of departure is desired; or

(iv) The facts of the particular case are such that a record on Form I–94 is deemed advisable.

(2) An alien applying for admission who presents a nonimmigrant alien's border crossing identification card, whether he is admitted or held for further inquiry before a special inquiry officer.

(3) An alien applies for admission at a seaport of entry, is held for further inquiry before a special inquiry officer, and is not admitted.

(4) An alien for whom a Form I–94F was prepared in connection with preexamination and he is admitted upon presentation of that form.

(5) Members of the armed forces of the United States or of any country allied with the United States, traveling under orders, who are admitted to the United States under the auspices of, and under advance arrangements made with, the Department of Defense, provided a nominal roll or list of such aliens is furnished to, or obtained by, the examining immigration officer.

(6) An alien (including a citizen or resident of Mexico) who during his temporary visit in the United States, proceeds to Mexico for a visit of not more than 30 days, returns to the United States from Mexico within such period, and presents the Form 257a or the Form I–94C which he was permitted to retain at the time of his visit to Mexico.

(7) Aliens who are residents, but are not citizens of, Canada or Mexico are permitted to retain Form I–94C on departing from the United States, and continue to use that form for re-entry to the United States for the period of the validity of the nonimmigrant visa or such shorter period fixed in their case.

(8) An alien American Indian born in Canada who is within the scope of section 289 of the Immigration and Nationality Act, and who is admitted temporarily unless it appears that a record of his admission will be required at a later date.

(9) An alien who returns to the United States as a cruise passenger as defined in § 231.1 (c) of this chapter.

(c) *Issuance of Form I–94 upon application for extension of temporary admission or with report of maintenance of status.* A set of Forms I–94 shall be prepared for each alien who applies for an extension of the period of temporary admission or who submits a report of maintenance of status under § 214e.6 of this chapter, and who does not submit a Form 257a or I–94C with his application or report because he claims to have lost such form issued to him previously or because such form had not been issued to him. Such forms shall be prepared in the office of the Service receiving the application or report without regard to the action taken on the application or report. The Form I–94C appropriately noted shall be delivered to the alien as his notice of the decision on such application or report.

(d) *Action at time of departure.* Except as otherwise specifically provided in this paragraph, at the time of departure from the United States of an alien who is in possession of a Form I–94C, the alien shall surrender such form (i) to the representative of the transportation company as provided in §§ 231.31 (a) and 231.42 (a) of this chapter, or (ii) if those sections do not apply and the alien is departing to Canada to the Canadian Immigration Officer for delivery to the appropriate United States immigration officer; or (iii) in any other case to the United States immigration officer at the port of departure. If a departing alien is in possession of a Form 257a and a Form I–94C both forms shall be surrendered. The Form I–94C need not be surrendered:

(1) Until the departure from the United States of the last of the persons named thereon, if more than one person is included on the same Form I–94C and all persons named thereon do not depart from the United States at the same time or at the same port;

(2) By any alien (including a citizen or resident of Mexico) who, during his temporary visit to the United States proceeds to Mexico for a visit of not more than 30 days, after which visit he intends to reenter the United States for the remainder of the period of his original temporary admission;

(3) By an alien departing as a cruise passenger as defined in § 231.1 (c) of this chapter;

(4) In any other case in which the Commissioner has instructed immigration officers to waive or defer the surrender of such form.

(e) *Visa application number.* If an alien for whom a set of Forms I–94 is prepared as provided in this section presents a nonimmigrant visa, the visa application number (including any letters which are a part thereof) shall be noted on all copies of the Form I–94 in the box entitled "Travel Documents Presented".

§ 221.4 *Form I–419; disposition.* For each alien applying for the privilege of direct transit through the United States under section 238 (d) of the Immigration and Nationality Act, the master, commanding officer, or authorized agent of the vessel or aircraft on which the alien arrives shall surrender to the examining immigration officer at the port of arrival in the United States the set of Forms I–419 prepared for the alien by the transportation line. If the alien is found qualified to pass through the United States in transit, the examining immigration officer shall note on the Forms I–419 the date and place of the alien's arrival in the United States, and deliver the Forms I–419a and I–419b to the representative of the transportation line which brought the alien to the United States. Such forms shall be retained by the person in charge of the conveyance on which the alien is to be conveyed to the port of departure and shall be surrendered to the immigration officer at such port. The immigration officer shall note thereon the facts concerning the departure of the alien and shall return the Form I–419b to the person presenting it or to the transportation line he represents.

§ 221.5 *Immigrants; surrender of documents upon departure.* Whenever an alien who is in possession of Form I–151 or any other form of alien registration receipt card, or who is in possession of an immigrant identification card, resident alien's border crossing identification card (Form I–187), certificate of registry, or certificate of lawful entry, departs permanently from the United States, he shall surrender such cards and certificates to an immigration officer at the time of his departure.

§ 221.6 *Form I–95; surrender by alien departing other than as a crewman.* At the time of the departure from the United States of an alien who is in possession of a Form I–95A, the alien, if departing from the United States other than as a member of the crew, shall surrender such form to the representative of the transportation company as provided in §§ 231.31 (a) and 231.42 (a) of this chapter, or, if those sections do not apply and the alien is departing to Canada, to the Canadian immigration officer for delivery to the appropriate United States immigration officer at the port of departure. If such a departing alien is in possession of a Form 257a and the Form I–95A both forms shall be surrendered unless the Form 257a bears a valid nonimmigrant visa issued to him as a crewman pursuant to section 101 (a) (15) (D) of the Immigration and Nationality Act with enough of the period of validity remaining to enable the alien to use the visa for an additional voyage or voyages to the United States as a crewman.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 223—REENTRY PERMITS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
223.1 Issuance and extension of reentry permits.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

223.11 Application.
223.12 Reentry permit.
223.13 Disposition of reentry permit.

AUTHORITY: §§ 223.1 to 223.13 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 223, 66 Stat. 194.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 223.1 *Issuance and extension of reentry permits.* Subject to the provisions of this part, district directors shall issue reentry permits under section 223 of the Immigration and Nationality Act, and shall grant extensions of the period of validity of such permits.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 223.11 *Application*—(a) *Contents; form; submission.* An application for a reentry permit under the provisions of section 223 of the Immigration and Nationality Act shall be executed under oath and be submitted on Form I–131, in duplicate, with two photographs of the applicant. An application for a reentry permit shall not be accepted from an applicant who is not within the United States. An application for a reentry permit shall be submitted to the district director having administrative jurisdiction over the applicant's place of residence in the United States. In emergent cases, the application may be submitted to the office of the district director having administrative jurisdiction over the place where the applicant may be at the time of his application, and may be acted upon by such district director even though he may not have administrative jurisdiction over the applicant's place of residence. The application shall include, but shall not be limited to,

the following information with respect to the applicant: (1) Name currently used; (2) address in the United States; (3) place and date of birth; (4) alien registration number; (5) occupation and description of business activities in the United States; (6) date, place and manner of lawful admission to the United States for permanent residence, or admission to the United States as a treaty merchant; (7) name used at time of arrival; (8) father's name and mother's maiden name; (9) name and address of person to whom he was destined at time of admission to the United States; (10) by whom accompanied at time of such admission; (11) country of which applicant is a citizen, subject, or national; (12) date, place, and manner of last arrival in the United States; (13) name used at the time of last arrival; (14) marital status on the date of filing application, and if married the name and address of spouse; (15) present personal description; (16) name of employer; (17) port and date of proposed departure, name of vessel or other means of transportation on which he is departing, length of proposed absence, and reasons for going abroad; and (18) temporary address abroad.

(b) *When filed.* An application for a reentry permit shall be filed at least 30 days before the proposed date of the applicant's departure.

(c) *Action on application.* If the district director is satisfied (1) that the applicant meets the eligibility requirements contained in section 223 of the Immigration and Nationality Act, (2) that the application is made in good faith, and (3) that the alien's proposed departure from the United States would not be contrary to the interests of the United States, he shall grant the application and issue the permit, which shall be valid for the time thereon specified, not to exceed one year. If the district director is not satisfied that the application should be granted he shall deny it. The applicant shall be notified in writing of the decision with the reasons therefor, unless the disclosure of the reasons would, in the opinion of the district director, be prejudicial to the public interest, safety or security, in which event the reasons shall not be stated. At that time, the applicant shall be advised that he has 10 days from the date of receipt of notification of the decision in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division. If on such appeal the application is granted, the Assistant Commissioner shall notify the district director and the permit shall be issued by that officer. Notice to an applicant to call for the delivery of the permit shall constitute notice to him of the favorable decision made in the case, either initially or on appeal. If the application is denied and no appeal is taken, or is denied on appeal, the fee shall be returned to the applicant.

§ 223.12 *Reentry permit*—(a) *Form.* Reentry permits shall be issued on Form I–132, shall indicate whether they are issued under paragraph (a) (1) or (a) (2) of section 223 of the Immigration and Nationality Act, and the period of validity. In any case in which a reentry permit is valid for readmission only to Hawaii, such limitation shall be noted conspicuously on the face of the Form I–132.

(b) *Period of validity; extensions.* A reentry permit shall be valid for such period as the district director granting the application shall authorize, not to exceed one year from the date of issuance. An application for extension of a reentry permit shall be addressed to and filed with the district director having administrative jurisdiction over the applicant's place of residence in the United States. Such application shall be in writing and shall state (1) the applicant's name and address in the United States; (2) when, where, and the manner in which he departed from the United States; (3) port of landing and date of his arrival abroad; (4) countries visited by him in the order visited; (5) his reasons for requesting an extension and the period for which the extension is desired; and (6) his address to which the permit is to be returned. The application shall be executed under oath and shall be accompanied by the reentry permit sought to be extended. If executed in the United States the application may be sworn to or before any officer generally authorized to administer oaths, or before an immigration officer, without fee. If executed abroad it shall be executed before a consular officer. If the district director is satisfied that the period of validity should be extended, he may grant an extension for such period as to him shall appear appropriate, in no event, however, to exceed one year from the original expiration date. The extended period shall be noted on the permit, which shall be delivered to the applicant in person or by mail, or, if the applicant is outside the United States, the permit shall be forwarded to a consular officer abroad for delivery to the applicant. If the district director concludes that the requested extension should not be granted, he shall forward the application for the extension and all related papers to the Assistant Commissioner, Inspections and Examinations Division for decision. If the extension is granted by the Assistant Commissioner, the application and related papers shall be returned to the office of origin. The district director shall thereupon appropriately note the permit and forward it to the applicant in the manner provided herein. If the extension is denied, the fee shall be refunded, and the permit shall be returned to the applicant in the manner provided herein if the remaining period of its validity permits its use for return to the United States. Any number of extensions may be granted provided the period of validity does not extend beyond one year from the original expiration date of the permit.

(c) *Delivery.* The reentry permit shall be forwarded to the office of the Service designated by the applicant in the application, and the applicant shall obtain it from that office in person prior to his departure from the United States, except as provided in paragraph (d) of this section. The officer effecting delivery of the permit shall require the person calling for it to identify himself as the applicant, and, in the event minor discrepancies have been noted by the issuing officer, the officer effecting delivery shall obtain satisfactory explanation from the applicant as to such discrepancies. The applicant shall sign his name on the permit in the presence of the delivering officer. The officer making delivery shall place his signature in such manner that it shall cover part of the photograph and part of the permit. If for any reason it is concluded that the permit should not be delivered, it shall be returned to the district office of origin with a report of the reasons for nondelivery. In the event it is then determined on the basis of such report or upon reconsideration of the application that the permit should not be issued, the application shall be denied in the same manner as though it had not been granted previously and the applicant shall have the same right to appeal.

(d) *Emergent cases.* If the applicant satisfactorily establishes that a bona fide emergency exists requiring his departure from the United States before a permit can be issued and delivered, the permit, if issued, may be forwarded to a consular officer abroad for delivery to the applicant in the manner prescribed in paragraph (c). The applicant shall be informed that the acceptance of his application does not assure the issuance of the permit.

(e) *Registrants under Selective Service Act.* No reentry permit or extension thereof shall be issued or granted to any alien who is legally subject to registration for service in the armed forces in the United States unless the applicant shall present a permit from his local Selective Service Board to depart from the United States. A reentry permit issued to such an alien may be made valid for a period which will coincide with the period of absence authorized by the local board, except that in no instance shall the period exceed one year. For reasons which may appear appropriate to the issuing district director, the period of validity of the reentry permit may be for a shorter period than the period of absence authorized by the local board.

§ 223.13 *Disposition of reentry permit*—(a) *Upon application for admission.* The holder of a reentry permit applying for readmission into the United States shall present the permit to the examining immigration officer at the port of arrival, who, if he finds that the alien is the rightful holder of the permit, that the permit has not expired, and that the alien is otherwise admissible, shall note thereon the disposition of the alien's application for readmission. If the alien is admitted and the period of validity of the permit has not expired, the permit shall be returned to the alien. If the alien is not admitted, the reentry permit shall be retained in the custody of the Service pending final disposition of the alien's application for admission. If the alien is ultimately excluded the permit shall be returned to the issuing office for appropriate disposition.

(b) *Upon expiration.* Upon the expiration of the period of validity of a re-

entry permit, the permit shall be surrendered by the holder to the issuing office. If any such expired permit has not been surrendered to the Service, no subsequent reentry permit shall be issued to the same alien unless he shall first surrender the expired permit, or satisfactorily account for his failure so to do.

PART 231—LISTS OF ALIENS AND CITIZEN PASSENGERS ARRIVING OR DEPARTING

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
231.1 Definitions.
231.2 Arrival manifests and lists for vessels.
231.3 Departure manifests and lists for vessels.
231.4 Arrival manifests for aircraft.
231.5 Departure manifests for aircraft.
231.6 Ports of entry for aliens arriving by vessel or by land transportation.
231.7 Ports of entry for aliens arriving by aircraft.
231.8 Immigration stations in Canada.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

231.21 Arrival manifests and lists for vessels; general directions for preparation.
231.22 Arrival manifests and lists for vessels; delivery.
231.23 Landing card.
231.31 Departure manifest and lists for vessels.
231.41 Arrival manifests for aircraft.
231.42 Departure manifests for aircraft.

AUTHORITY: §§ 231.1 to 231.42 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 212, 231, 238, 239, 66 Stat. 167, 195, 203.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 231.1 *Definitions.* As used in this part:

(a) The term "through passenger" means a passenger, whether an alien or a national of the United States, (1) who has engaged through passage from one foreign country to another or to the same foreign country on a vessel which calls en route at one or more ports of entry of the United States, (2) who may desire to visit ashore at one or more of such ports of call while the vessel is in port, (3) who will leave such port on the same vessel, (4) who presents whatever document or documents are required for such admission, and (5) who is admissible to the United States.

(b) The term "shore leave" means the permission that is granted by the examining immigration officer to an alien through passenger to go ashore only for the time the vessel on which such passenger arrives remains in port, conditioned upon such passenger departing from such port on the same vessel at the time of its departure.

(c) The term "cruise passenger" means a passenger, whether an alien or a national of the United States, who has engaged passage on a vessel which does not proceed outside the Western Hemisphere and whose journey originates and terminates at the same United States port on the same vessel and without stopover at any foreign port beyond the time the vessel is in such port.

§ 231.2 *Arrival manifests and lists for vessels*—(a) *Forms.* Forms I–415 and I–416 shall be used to manifest passengers arriving by vessel at a port of the United States. Except as hereinafter provided for members of a family, the Form I–415 shall be used to manifest alien passengers and Form I–416 shall be used to manifest passengers who are citizens or nationals of the United States. The headings of Forms I–415 and I–416 shall show the manifest or list number, number or other designation of class, port and date of embarkation, name of vessel, and port and date of arrival. Each form shall show the title or position of the person preparing it and the name and address of the local agent of the vessel.

(1) *Form I–415—Manifest of Inbound Passengers (Aliens).* The heading for column 1 shall be "Family Name—Given name"; column 2, "Travel Document No.; Nationality"; column 3, "Number and Description of Pieces of Baggage"; column 4, "This column for use of Master, Surgeon, and U. S. Officers".

(2) *Form I–416—List of Inbound Passengers (U. S. Citizens and Nationals).* The heading for column 1 shall be "Family Name—Given name"; column 2, "U. S. Passport No.—Place of Birth"; column 3, "Number and Description of Pieces of Baggage"; column 4, "This column for use of Master, Surgeon and U. S. Officers".

(b) *Waiver.* An arrival passenger manifest or list shall not be required for a vessel on a trip solely between Canada and the continental United States or Alaska.

(c) *Report of passengers on board vessels traveling between ports of the United States.* The master or agent of a vessel which arrives at a port in the continental United States or at a port in any other place under the jurisdiction of the United States without touching at a foreign port, on a voyage originating in Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, shall submit in writing to the United States immigration officer at the port of arrival, the name, nationality, and residence of each passenger on board such vessel.

§ 231.3 *Departure manifests and lists for vessels*—(a) *Forms.* Except as provided in this part for through passengers, Forms I–434 and I–435 shall be used to manifest passengers departing on vessels from ports of the United States. Form I–434 shall be used to manifest alien passengers and I–435 shall be used to manifest passengers who are citizens or nationals of the United States. The headings of Forms I–434 and I–435 shall show the manifest or list number, port and date of sailing from the United States, name of steamship, and foreign port of destination.

(1) *Form I–434—Manifest of Outward-Bound Passengers (Aliens).* The heading for column 1 shall be "Family Name—Given Name"; column 2, "Travel Document No."; no heading for column 3 is prescribed.

On the back of the form there shall be the following affidavit:

I, ---------- (Name) ---------- (Title)
of the S. S. ---------- bound for ----------
do solemnly swear that, according to the best of my knowledge and belief, all passengers who departed on the said vessel, numbering ---------, are listed in the foregoing lists Nos. ------ to ------ and manifests Nos. ------- to -------, that concerning each the information recorded is correct, full, and complete in every respect; and that for each alien passenger listed there is, when required by regulations, attached to the said manifests and made a part thereof either a Foreign Service Form 257a or a Form I–94, I–424, or I–100a.

---------- (Name)

---------- (Title)

Sworn to before me this ------ day of ----------, 19----, at ----------.

(2) *Form I–435—List of Outward-Bound Passengers (U. S. Citizens and Nationals).* The heading for column 1 shall be "Family Name—Given Name"; column 2, "U. S. Passport No."; column 3, "Place of Birth; Date and Place of Naturalization"; column 4, "Length of Time Passenger Intends to Remain Abroad and Country of Destination".

On the back of Form I–435 there shall be the following affidavit:

I, ---------- (Name) ---------- (Title)
of the S.S. ---------- bound for ----------
do solemnly swear that, according to the best of my knowledge and belief, all passengers who departed on the said vessel, numbering ---------, are listed in the foregoing lists Nos. ------ to ------ and that concerning each the information recorded is correct, full, and complete in every respect.

(3) *Form I–424; report of departure of alien.* The Form I–424 shall contain the following information regarding the passenger: name, occupation, last address in the United States, date and place of birth, nationality, whether male or female, whether married, single, widowed or divorced, destination abroad, purpose and length of intended stay abroad, date and place of last entry into United States, whether such entry was as a permanent resident or for temporary stay, date and port of departure from United States and name of departing vessel or aircraft, the sheet and line number of the outgoing manifest on which his name appears, and any "V" or "T" number that may be shown in his passport or, if in possession of a reentry permit, the file number appearing in the upper right-hand corner thereof.

(b) *Waiver.* A departure passenger manifest or list shall not be required for a vessel on a trip solely between Canada and the continental United States or Alaska.

§ 231.4 *Arrival manifests for aircraft*—(a) *Forms.* Form I–466 shall be used to manifest passengers arriving by aircraft except that whenever the number of such passengers does not exceed the number that can be listed in the space provided for the manifesting of passengers on Customs Form 7507, such passengers may be manifested on such form in lieu of Form I–466 but in accordance with all other provisions of § 231.41.

(1) *Form I–466—Air passengers manifest.* The heading shall show the name

of the owner or operator, aircraft registration marks and nationality, flight number, date, port of embarkation, and port of disembarkation. Each such form shall show the title or position of the person preparing it. The heading for column 1 shall be, "Surname—Given name—Middle initial"; column 2, "For use of owner; operator only"; and column 3, "For official use only".

(b) *Waiver.* Arrival passenger manifests shall not be required for an aircraft arriving directly in the continental United States or Alaska on a trip which originated in Canada or the French islands of St. Pierre or Miquelon.

(c) *Report of passengers on board aircraft traveling between airports of the United States.* The commanding officer or agent of an aircraft which arrives at an airport in the continental United States or at an airport in any other place under the jurisdiction of the United States without touching at a foreign port, on a flight originating in Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, shall submit in writing to the United States immigration officer at the airport of arrival, the surname, given name, and middle initial of each passenger on board such aircraft.

§ 231.5 *Departure manifests for aircraft*—(a) *Forms.* Form I–466 shall be used to manifest passengers departing by aircraft.

(1) *Form I–466—Air passenger manifests.* The air passenger manifest shall be on the same form and shall contain the same information as prescribed in § 231.41.

(b) *Waiver.* Departure air passenger manifest shall not be required for an aircraft departing directly from the continental United States or Alaska for Canada or the French Islands of St. Pierre or Miquelon.

§ 231.6 *Ports of entry for aliens arriving by vessel or by land transportation.* Subject to the limitations prescribed in this section, the following places are hereby designated as ports of entry for aliens arriving by any means of travel other than aircraft. Such ports are listed according to location by districts. The designations of such ports are divided into three classes—Class A, Class B, and Class C. Class A means that the port is a designated port of entry for all aliens. Class B means that the port is a designated port of entry only for aliens who at the time of applying for admission are lawfully in possession of valid and unexpired resident aliens' border crossing identification cards or valid nonresident aliens' border crossing cards, or are admissible without documents under the waiver of documents contained in this chapter. Class C means that the port is a designated port of entry only for aliens who are arriving in the United States as crewmen as that term is defined in section 101 (a) (10) of the Immigration and Nationality Act with respect to vessels.

DISTRICT NO. 1—ST. ALBANS, VT.

CLASS A

Bridgewater, Maine.
Calais, Maine (includes Ferry Point, Union and Milltown Bridges).
Coburn Gore, Maine.
Eastport, Maine.
Fort Fairfield, Maine.
Fort Kent, Maine.
Houlton, Maine.
Jackman, Maine.
Limestone, Maine.
Lubec, Maine.
Madawaska, Maine.
Van Buren, Maine.
Vanceboro, Maine.
Connecticut Lakes, N. H.
Alexandria Bay, N. Y.
Cape Vincent, N. Y.
Champlain, N. Y.
Chateaugay, N. Y.
Clayton, N. Y.
Fort Covington, N. Y.
Malone, N. Y.
Mooers, N. Y.
Morristown, N. Y.
Ogdensburg, N. Y.
Rooseveltown, N. Y.
Rouses Point, N. Y.
Thousand Island Bridge, N. Y.
Trout River, N. Y.
Waddington, N. Y.
Alburg, Vt.
Alburg Springs, Vt.
Beebe Plain, Vt.
Beecher Falls, Vt.
Canaan, Vt.
Derby Line, Vt.
East Richford, Vt.
Highgate Springs, Vt.
Newport, Vt.
North Troy, Vt.
Norton, Vt.
Richford, Vt.
St. Albans, Vt.
West Berkshire, Vt.

CLASS B

Boundary Cottage, Maine.
Daaquam, Maine.
Easton, Maine.
Estcourt, Maine.
Forest City, Maine.
Four Falls Road, Maine.
Hamlin, Maine.
Hodgdon, Maine.
Knoxford Line Road (Mars Hill), Maine.
Lake Frontier, Maine.
Littleton Maine.
Monticello, Maine.
Munson Mills Road, Maine.
Orient, Maine.
Robbinston, Maine.
St. Francis, Maine.
St. Pamphile, Maine.
Cannons Corners, N. Y.
Churubusco, N. Y.
Hogansburg, N. Y.
Jamison's Line, N. Y.
Thousand Island Park, N. Y. (June, July, and August only).
Morses Line, Vt.

CLASS C

Bangor, Maine (the port of Bangor includes, among others, the port facilities at Bar Harbor, Belfast, Brewer, Bucksport, Jonesport, Northeast Harbor, Prospect Harbor, Sandypoint, Seal Harbor, Searsport, and South West Harbor, Maine.

DISTRICT NO. 2—BOSTON, MASS.

CLASS A

Portland, Maine.
Boston, Mass. (the port of Boston includes, among others, the port facilities at Braintree, Cambridge, Chelsea, Everett, Medford, Quincy, Somerville, and Weymouth, Mass.).
Gloucester, Mass.
New Bedford, Mass.
Providence, R. I.

CLASS C

Bridgeport, Conn.
New Haven, Conn.
New London, Conn. (includes the port facilities at Groton, Conn.).
Stamford, Conn.
Bath, Maine.
Boothbay Harbor, Maine.
Rockland, Maine.
Beverly, Mass.
Buzzards Bay, Mass.
Danvers, Mass.
Fairhaven, Mass.
Fall River, Mass.
Lynn, Mass.
Marblehead, Mass.
Nantucket, Mass.
Newburyport, Mass.
Oak Bluffs, Mass.
Plymouth, Mass.
Provincetown, Mass.
Salem, Mass.
Scituate, Mass.
Somerset, Mass.
Woods Hole, Mass.
Portsmouth, N. H.
Davisville, R. I.
Melville, R. I.
Newport, R. I.
Quonset Point, R. I.

DISTRICT NO. 3—NEW YORK, N. Y.

CLASS A

New York, N. Y. (the port of New York includes, among others, the port facilities at Bayonne, Carteret, Elizabeth, Elizabethport, Guttenberg, Hoboken, Jersey City, Linden, Newark, Perth Amboy, Port Newark, Sayreville, Sewaren, and Weehawken, N. J.; and at Poughkeepsie and Yonkers, N. Y.).

DISTRICT NO. 4—PHILADELPHIA, PA.

CLASS A

Philadelphia, Pa. (the port of Philadelphia includes, among others, the port facilities at Delaware City, Lewes, New Castle, and Wilmington, Del.; at Artificial Island, Billingsport, Camden, Deepwater Point, Gibbstown, Gloucester City, Paulsboro, and Trenton, N. J.; and at Chester, Essington, Fort Mifflin, and Marcus Hook, Pa.).

DISTRICT NO. 5—BALTIMORE, MD.

CLASS A

Baltimore, Md.
Morehead City, N. C.
Wilmington, N. C.
Newport News, Va.
Norfolk, Va.

CLASS C

Piney Point, Md.
Alexandria, Va.
Old Point Comfort, Va.
Richmond, Va.
U. S. Navy Mine Depot, Cheatham Annex, Va.

DISTRICT NO. 6—MIAMI, FLA.

CLASS A

Mobile, Ala.
Apalachicola, Fla.
Bocagrande, Fla.
Fernandina, Fla.
Fort Pierce, Fla.
Jacksonville, Fla.
Key West, Fla.
Miami, Fla.
Panama City, Fla.
Pensacola, Fla.
Port Everglades, Fla.
St. Augustine, Fla.
Tampa, Fla.
West Palm Beach, Fla.
Brunswick, Ga.

Savannah, Ga.
Lake Charles, La.
New Orleans, La. (the port of New Orleans includes, among others, the port facilities at Avondale, Bell Chasse, Braithwaite, Chalmette, Destrahan, Gretna, Harvey, Marrero, Norco, Port Sulphur, St. Rose, and Westwego, La.).
Gulfport, Miss.
Aguadilla, P. R.
Ensenada, P. R.
Fajardo, P. R.
Humacao, P. R.
Jobos, P. R.
Mayaguez, P. R.
Ponce, P. R.
San Juan, P. R.
Charleston, S. C.
Georgetown, S. C.
Christiansted, St. Croix, V. I.
Frederiksted, St. Croix, V. I.
Cruz Bay, St. John, V. I.
Charlotte Amalie, St. Thomas, V. I.

CLASS C

Carrabelle, Fla.
Port St. Joe, Fla.
St. Petersburg, Fla.
Baton Rouge, La.
Morgan City, La.

DISTRICT NO. 7—BUFFALO, N. Y.

CLASS A

Buffalo, N. Y.
Lewiston, N. Y.
Niagara Falls, N. Y.
Oswego, N. Y.
Rochester, N. Y.
Youngstown, N. Y.
Cleveland, Ohio.
Erie, Pa.

CLASS C

Dunkirk, N. Y.
Sodus Point, N. Y.
Ashtabula, Ohio.
Conneaut, Ohio.
Fairport, Ohio.
Lorain, Ohio.

DISTRICT NO. 8—DETROIT, MICH.

CLASS A

Algonac, Mich.
Detroit, Mich.
Marine City, Mich.
Marysville, Mich.
Port Huron, Mich.
Roberts Landing, Mich.
St. Clair, Mich.
Sault Ste. Marie, Mich.
Sandusky, Ohio.
Toledo, Ohio.

CLASS B

Detour, Mich.
Mackinac Island, Mich.

CLASS C

East Chicago, Ind.
Gary, Ind.
Michigan City, Ind.
Alpena, Mich.
Baraga, Mich.
Bay City, Mich.
Benton Harbor, Mich.
Charlevoix, Mich.
Copper Harbor, Mich.
Detour, Mich.
Eagle River, Mich.
Escanaba, Mich.
Frankfort, Mich.
Grand Haven, Mich.
Holland, Mich.
Houghton, Mich.
Kipling, Mich.
L'Anse, Mich.
Ludington, Mich.
Mackinac Island, Mich.
Mackinaw City, Mich.
Manistee, Mich.
Manistique, Mich.
Marquette, Mich.
Munising, Mich.
Muskegon, Mich.
Northport, Mich.
Ontonagon, Mich.
Port Island, Mich.
Petoskey, Mich.
Rogers City (Calcite), Mich.
Saginaw, Mich.
South Haven, Mich.
Traverse City, Mich.
Huron, Ohio.
Marblehead, Ohio.

DISTRICT NO. 9—CHICAGO, ILL.

CLASS A

Chicago, Ill.
Isle Royale, Mich.
Baudette, Minn.
Duluth, Minn. (the port of Duluth includes, among others, the port facilities at Superiod, Wis.).
International Falls, Minn.
Lancaster, Minn.
Noyes, Minn.
Pigeon River, Minn.
Pine Creek, Minn.
Ranier, Minn.
Roseau, Minn.
Warroad, Minn.
Winton, Minn.
Ambrose, N. Dak.
Antler, N. Dak.
Carbury, N. Dak.
Dunseith, N. Dak.
Fortuna, N. Dak.
Hannah, N. Dak.
Hansboro, N. Dak.
Maida, N. Dak.
Neche, N. Dak.
Noonan, N. Dak.
Northgate, N. Dak.
Pembina, N. Dak.
Portal, N. Dak.
St. John, N. Dak.
Sarles, N. Dak.
Sherwood, N. Dak.
Walhalla, N. Dak.
Westhope, N. Dak.
Green Bay, Wis.
Milwaukee, Wis.

CLASS B

Crane Lake, Minn.
Gunflint Lake, Minn.
Indus, Minn.
Oak Island, Minn.
Lake Metegoshe, N. Dak.

CLASS C

Menominee, Mich.
Grand Marais, Minn.
Two Harbors, Minn.
Algoma, Wis.
Ashland, Wis.
Bayfield, Wis.
Kenosha, Wis.
Kewaunee, Wis.
Manitowoc, Wis.
Marinette, Wis.
Oconto, Wis.
Peshtigo, Wis.
Port Washington, Wis.
Racine, Wis.
Sheboygan, Wis.
Sturgeon Bay, Wis.
Washburn, Wis.

DISTRICT NO. 12—SEATTLE, WASH.

CLASS A

Boundary, Alaska.
Eagle, Alaska.
Haines, Alaska.
Juneau, Alaska.
Ketchikan, Alaska (the port of Ketchikan includes, among others, the port facilities at Sitka and Wrangell, Alaska; Ketchikan proper).
Skagway, Alaska.
Tok Junction, Alaska.
Eastport, Idaho.
Porthill, Idaho.
Babb, Mont.
Chief Mountain, Mont. (May–October).
Del Bonita, Mont.
Coathaunt Camp, Mont. (May–October).
Havre, Mont.
Loring, Mont.
Opheim, Mont.
Raymond, Mont.
Roosville, Mont.
Scobey, Mont.
Sweetgrass, Mont.
Turner, Mont.
Whitetail, Mont.
Astoria, Oreg.
Coos Bay, Oreg.
Portland, Oreg.
Aberdeen, Wash.
Anacortes, Wash.
Bellingham, Wash.
Blaine, Wash.
Danville, Wash.
Edmonds, Wash.
Everett, Wash.
Ferry, Wash.
Friday Harbor, Wash. (the port of Friday Harbor includes, among others, the port facilities at Roche Harbor, Wash.).
Laurier, Wash.
Longview, Wash.
Lynden, Wash.
Metaline Falls, Wash.
Neah Bay, Wash.
Northport, Wash.
Olympia, Wash.
Oroville, Wash.
Port Angeles, Wash.
Port Townsend, Wash.
Seattle, Wash.
South Bend, Wash.
Sumas, Wash.
Tacoma, Wash.

CLASS B

Trail Creek, Mont.
Whitlash, Mont.
Nighthawk, Wash.
Point Roberts, Wash.

CLASS C

Pelican, Alaska.
Bangor, Wash.
Blake Island, Wash.
Bremerton, Wash.
DuPont, Wash.
Houghton, Wash.
Kingston, Wash.
Mukilteo, Wash.
Orchard Point, Wash.
Point Wells, Wash.
Port Gamble, Wash.
Port Orchard, Wash.
Shuffleton, Wash.
Winslow, Wash.

DISTRICT NO. 13—SAN FRANCISCO, CALIF.

CLASS A

San Francisco, Calif.

CLASS C

Eureka, Calif.

DISTRICT NO. 14—SAN ANTONIO, TEX.

CLASS A

Beaumont, Tex.
Brownsville, Tex. (the port of Brownsville includes, among others, the port facilities at Port Isabel, Tex.).
Corpus Christi, Tex. (the port of Corpus Christi includes, among others, the port facilities at Harbor Island and Ingleside, Tex.).
Del Rio, Tex.
Eagle Pass, Tex.
Freeport, Tex.
Galveston, Tex. (the port of Galveston includes, among others, the port facilities at Port Bolivar and Texas City, Tex.).
Hidalgo, Tex.
Houston, Tex. (the port of Houston includes, among others, the port facilities at Baytown, Tex.).
Laredo, Tex.

Los Ebanos, Tex.
Port Arthur, Tex. (the port of Port Arthur includes, among others, the port facilities at Orange and Sabine, Tex.).
Rio Grande City, Tex.
Roma, Tex.
Thayer, Tex.
Zapata, Tex.

CLASS B

Dolores, Tex.
San Ygnacio, Tex.

DISTRICT NO. 15—EL PASO, TEX.

CLASS A

Douglas, Ariz.
Lukeville, Ariz.
Naco, Ariz.
Nogales, Ariz.
Sasabe, Ariz.
Columbus, N. Mex.
El Paso, Tex.
Fabens, Tex.
Presidio, Tex.
Yaleta, Tex.

CLASS B

Lochiel, Ariz.
Antelope Wells, N. Mex.
Monument No. 67, near Cloverdale, N. Mex.
Boquillas, Tex.
Candelaria, Tex.
Castolon, Tex.
Chinati, Tex.
Fort Hancock, Tex.
Hot Springs, Tex.
Lajitis, Tex.
Polovo, Tex.
Porvenir, Tex.
Ruidosa, Tex.

DISTRICT NO. 16—LOS ANGELES, CALIF.

CLASS A

San Luis, Ariz.
Andrade, Calif.
Calexico, Calif.
San Diego, Calif.
San Luis Obispo, Calif. (the port of San Luis Obispo includes, among others, the port facilities at Avila, Calif.).
San Pedro, Calif. (this is the port of Los Angeles and includes, among others, the port facilities at El Segundo, Long Beach Harbor Area, and Redondo Beach, Calif.).
San Ysidro, Calif.
Tecate, Calif.
Ventura, Calif. (the port of Ventura includes, among others, the port facilities at Port Hueneme and Elwood, Calif.).

CLASS B

Campo, Calif.

DISTRICT NO. 17—HONOLULU, T. H.

CLASS A

Agana, Guam, M. I. (including the port facilities at Apra Harbor, Guam).
Honolulu, T. H.

CLASS B

Hilo, T. H.

CLASS C

Kahului, T. H.
Port Allen, T. H.

§ 231.7 *Ports of entry for aliens arriving by aircraft.* (a) The following international airports are hereby designated as ports of entry for aliens arriving by aircraft:

Agana, Guam, Marianas Islands, Agana Field.
Akron, Ohio, Municipal Airport.
Albany, N. Y., Municipal Field.
Baudette, Minn., Baudette Municipal Airport.
Bellingham, Wash., Bellingham Airport.
Brownsville, Tex., Rio Grande Valley International Airport at Brownsville, Tex.
Buffalo, N. Y., Municipal Airport.
Burlington, Vt., Burlington Municipal Airport.
Calexico, Calif., Calexico Municipal Airport.
Caribou, Maine, Caribou Municipal Airport.
Cleveland, Ohio, Cleveland Hopkins Airport.
Cut Bank, Mont., Cut Bank Airport.
Detroit, Mich., Detroit Municipal Airport.
Detroit, Mich., Wayne County Airport.
Douglas, Arizona, Bisbee-Douglas Airport.
Duluth, Minn., Duluth Municipal Airport.
Eagle Pass, Tex., Eagle Pass Airport.
El Paso, Tex., International Airport.
Fort Yukon, Alaska, Fort Yukon Airfield.
Fort Lauderdale, Fla., Broward County Airport.
Grand Forks, N. Dak., Grand Forks Municipal Airport.
Great Falls, Mont., Gore Field.
Havre, Mont., Havre-Hill County Airport.
International Falls, Minn., International Falls Municipal Airport.
Juneau, Alaska, C. A. A. Field.
Juneau, Alaska, Juneau Airport.
Ketchikan, Alaska, Ketchikan Airport.
Key West, Fla., Meacham Field.
Laredo, Tex., Laredo Municipal Airport.
Malone, N. Y., Malone Dufort Airport.
Massena, N. Y., Massena Airport.
Miami, Fla., Chalks Flying Service Seaplane Base.
Miami, Fla., Miami International Airport.
Nogales, Arizona, Nogales International Airport.
Ogdensburg, N. Y., Ogdensburg Harbor.
Ogdensburg, N. Y., Ogdensburg Municipal Airport.
Oroville, Wash., Dorothy Scott Municipal Airport.
Oroville, Wash., Dorothy Scott Seaplane Base.
Pembina, N. Dak., Fort Pembina Airport.
Portal, N. Dak., Portal Airport.
Port Townsend, Wash., Port Townsend Airport.
Put in Bay, Ohio, Put in Bay Airport.
Rochester, N. Y., Rochester Municipal Airport.
Rouses Point, N. Y., Rouses Point Seaplane Base.
San Diego, Calif., San Diego Municipal Airport (Lindbergh Field).
Sandusky, Ohio, John G. Hinde Airport.
San Juan, P. R., Isla Grande Airport.
Sault Ste. Marie, Mich., Sault Ste. Marie Airport.
Seattle, Wash., Boeing Municipal Air Field.
Seattle, Wash., Lake Union.
Skagway, Alaska, Skagway Municipal Airport.
Spokane, Wash., Felts Field.
Swanton, Vt., Warren R. Austin Airport.
Tampa, Fla., Tampa International Airport.
Watertown, N. Y., Watertown Municipal Airport.
West Palm Beach, Fla., Palm Beach International Airport.
Wrangell, Alaska, Wrangell Seaplane Base.

(b) In addition to the places named in paragraph (a) of this section, other places where permission for certain aircraft to land officially has been given, and places where emergency or forced landings are made under the provisions of Part 239 of this chapter, shall be regarded as designated for the entry of aliens arriving by such aircraft.

§ 231.8 *Immigration stations in Canada.* The following-designated United States immigration stations are located in Canada and are within the organization of the districts indicated.

DISTRICT NO. 1—ST. ALBANS, VT.

Halifax, Nova Scotia.
St. John, New Brunswick.
Montreal, Quebec.
Quebec, Province of Quebec.

DISTRICT NO. 2—BOSTON, MASS.

Yarmouth, Nova Scotia (May–September).

DISTRICT NO. 7—BUFFALO, N. Y.

Toronto, Ontario.

DISTRICT NO. 9—CHICAGO, ILL.

Winnipeg, Manitoba.

DISTRICT NO. 12—SEATTLE, WASH.

Sidney, British Columbia.
Victoria, British Columbia.
Vancouver, British Columbia.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 231.21 *Arrival manifests and lists for vessels; general directions for preparation*—(a) *Alien manifests.* Separate Form or Forms I–415 shall be prepared prior to the vessel's arrival at a port in the United States. The surname of the passengers shall be entered on such forms so far as practicable in alphabetical order:

(1) For alien immigrant passengers who embarked at the same port abroad and who are destined to disembark at the same port in the United States;

(2) For alien nonimmigrant passengers who embarked at the same port abroad and who are destined to disembark at the same port in the United States;

(3) For alien through passengers without regard to their port of embarkation abroad or the foreign country to which they are destined. Manifests for through passengers shall be submitted in duplicate. The headings of Forms I–415 covering through passengers shall be properly filled in so as to indicate the facts of arrival of the vessel, with the added notation "and proceed foreign via _____" (inserting the names of the other ports of call to be made in the United States on the voyage with the final port of call shown last). Such notation shall be entered under the words "Arriving at port of _____," appearing directly above columns 3 and 4 of the Form I–415.

In manifesting passengers under (1), (2), and (3), if the number of passengers does not exceed the number that can be manifested on one Form I–415, such passengers shall be grouped according to class of travel and manifested on one Form I–415 according to class, with the designation of the class noted in the body of the form at the head of each class group. If the number of such passengers exceeds the maximum number that can be listed on one Form I–415, the passengers shall be grouped according to class of travel and a separate Form I–415 shall be used to manifest the passengers in each class, and the designation of the class shall be shown in the heading of each form used.

(b) *Citizen or national manifests.* The foregoing procedure for the manifest grouping of alien passengers shall apply, so far as it is applicable, to the manifest grouping of passengers who are citizens or nationals of the United States, and in respect of through passengers who are citizens or nationals of the United States, the same notation prescribed in paragraph (a) (3) of this section shall be added directly above columns 3 and 4 of the Form I–416.

(c) *Numbering of manifests.* Manifest Forms I–415 and I–416 shall be numbered consecutively in the space provided therefor in the upper right-hand corner of the form commencing with number

"1" for each voyage, all the Forms I–416, if any, shall be numbered before assigning number to any Forms I–415.

(d) *Family members.* Notwithstanding any other provisions of this section as to class groupings and use of separate manifests, all passengers who are members of one family, who embark at the same port abroad, and who are destined to disembark at the same port in the United States, shall be manifested on the same manifest sheet. If they are traveling in different classes, they shall be listed under the class of the head of the family; if some are aliens and others United States citizens or nationals, they shall all be listed on the alien manifest Form I–415 and the notation "USC" or "USN" shall be entered after the names of the citizen or national members.

(e) *Stowaways.* Any stowaway shall be manifested on the last numbered form, and the notation "stowaway" shall be entered in the last column of the form opposite the name of each stowaway.

(f) *Listing documents.* There shall be entered in column (2) of Form I–415 the serial number and letter of any Foreign Service Form 256 or 257, or Immigration Form I–100a which the passenger is required to present for admission to the United States. The notation "WOV–419" shall be made in column (2) if the alien is to pass through the United States under the provisions of section 238 (d) of the Immigration and Nationality Act. In the case of each alien passenger who does not have a Form 256, 257, I–100a, I–132, or I–419, the persons responsible for the delivery of the manifest shall prepare as a part thereof a set of immigration Forms I–94 and deliver them to such passenger for surrender by him to the United States immigration officer at the port which the passenger is to be examined for admission to the United States. The serial number of such Form I–94 shall be entered in column (2) of Form I–415 opposite the name of each passenger for whom such set of forms is prepared. Whenever a set of Forms I–94 is prepared for a passenger who has a nonimmigrant visa, the visa application number and letter shall be entered on all copies of the Form I–94 in the box entitled "Travel documents presented". In the case of each alien passenger who is in possession of a permit to reenter the United States (Form I–132) the persons responsible for the delivery of the manifest shall prepare as a part thereof a Form I–132C and deliver it to such passenger. The notation "I–132C" shall be entered in column (2) of Form I–415 opposite the name of each passenger for whom such form is prepared.

§ 231.22 *Arrival manifests and lists for vessels; delivery.* (a) Immediately upon the arrival at the first port in the United States of a vessel with respect to which a passenger manifest is required, one legible copy of manifest Forms I–415 and I–416 prepared in accordance with § 231.21 (a) (1) and (2) and two legible copies of manifest Forms I–415 and I–416 prepared in accordance with § 231.21 (a) (3), fully executed as provided in this part and assembled in numerical order, covering all of the passengers on board without regard to the port to which ultimately destined, shall be delivered to the immigration officer boarding the vessel at such port of first arrival. To facilitate inspection, an advance copy of manifest Forms I–415 and I–416 may be delivered to the officer in charge of the first port of arrival prior to the arrival of the vessel, but the furnishing of such advance copy shall not relieve the responsible parties from furnishing a complete manifest to the immigration officer at the first port of call which shall indicate any changes or corrections which differ from the advance copy. If an arriving vessel is to touch at more than one United States port, the inspection of all passengers shall, if practicable, be completed at the first port of arrival. If the inspection of all passengers at the first port of arrival is impracticable, the inspection of passengers destined to subsequent ports of arrival shall be deferred in the discretion of the examining immigration officer. In such event, the manifest of those passengers not inspected at the first port of arrival shall be returned to the master for presentation at the subsequent ports of arrival. The procedure followed at the first port of arrival, as prescribed by this paragraph, shall also be followed at any subsequent ports of arrival. Whenever any passenger desires to land at any port in the United States other than the one to which he is manifested, his name shall be stricken by the ship's officer from the manifest upon which it was originally recorded and transferred to the manifest intended for the port where the passenger wishes to land. Such change on the manifest shall be made only with the prior knowledge of the immigration officer and shall be attested by his signature and title placed opposite each entry. On the manifest to which the name is transferred, the immigration officer shall note: "Transferred from manifest of passengers for ----------, ---------- dated ----------, ---------- Immigration Officer."

(b) With respect to through passengers, both copies of the manifests shall be delivered to the immigration officer boarding the vessel at the first port of call in the United States. The passengers listed thereon shall be inspected as to their eligibility for shore leave as provided in this part.

(c) Both copies of such manifests shall indicate which through passengers are eligible for shore leave and which are not eligible. The original copy of such manifests shall be returned by the immigration officer to the master of the vessel who shall present them at each subsequent port of call to the immigration officer boarding the vessel who shall return them to the master after examination of such manifests. Prior to the departure of the vessel from its last port of call in the United States, the original copies of such manifests shall be delivered to an immigration officer with Forms 257a, I–94C, relating to such departing passengers. Such delivery shall be in lieu of the delivery of departure manifests relating to such passengers required by § 231.3, provided all of the procedural requirements for departure manifests prescribed by § 231.31 have been observed. Departure manifests at the intermediate ports of call shall not be required for through passengers.

§ 231.23 *Landing card.* To facilitate examination of passengers and for convenience in identifying them on arrival, there may be given to each passenger listed on Form I–415 or I–416 a ticket or "landing card" disclosing his name and the number of the manifest and line number thereof on which his name appears.

§ 231.31 *Departure manifest and lists for vessels*—(a) *General directions for preparation.* (1) Separate Form or Forms I–434 or I–435 shall be used:

(i) For each port in the United States covering persons embarking at such port.

(ii) For passengers destined to each port of foreign debarkation, unless (*a*) all of the alien passengers boarding at the same port of embarkation in the United States can be recorded on one Form I–434, in which event they shall be grouped according to the port of debarkation, the name of which shall be noted in the body of the Form I–434 at the head of each group, or (*b*) all citizen and national passengers boarding at the same port of embarkation in the United States can be recorded on one Form I–435, in which event they shall be grouped according to the port of embarkation, the name of which shall be noted in the body of the Form I–435 at the head of each group.

(2) Forms I–434 and I–435 shall be numbered consecutively in the indicated space in the upper right-hand corner of the heading, commencing with No. 1 for each voyage, all the Forms I–435, if any, to be numbered before assigning numbers to any Forms I–434. In column 2 of Form I–434 opposite the name of each passenger there shall be entered the serial number and letter of any Foreign Service Form 257a, immigration Form I–94C, immigration Form I–95A, or immigration Form I–100a in his possession which was last used by such passenger to enter the United States, as evidenced by the Service notation thereon. Unless it is not required to be surrendered by the departing alien, such form shall be surrendered by the passenger to the representative of the transportation company who shall note thereon by printing in ink, rubber stamp, or typewriter, the name of the port of embarkation, the date of departure therefrom, and the name of the vessel. The representative shall attach such form to, and make it a part of, the Form I–434 relating to the passenger whose form it is. If an alien has been permitted to pass through the United States under the provisions of section 238 (d) of the Immigration and Nationality Act, the notation "WOV–419" shall be entered in column 2 of Form I–434 opposite the name of the alien. Whenever a departing alien passenger does not surrender Form 257a, I–94C, I–95A, I–100a, or I–419a, the persons responsible for the delivery of the departure manifest shall cause to be executed as a part thereof an immigration Form I–424 for each such alien passenger; shall place the notation "I–424" in column 2 opposite the name of each

such passenger; and shall attach the Form I–424 to, and make it a part of, the department manifest.

(3) The term "Deportee" shall be noted in column 2 of Form I–434 opposite the name of each passenger who has been arrested within the United States and is being deported or who has been excluded from the United States and is being deported pursuant to such exclusion. Any Form 257a, I–94C, I–95A, or I–100a surrendered by or in behalf of such deportee, or in the absence of any such form, the Form I–424 prepared for such deportee, shall be conspicuously marked "Deportee".

(b) *Delivery.* Except as otherwise provided in this paragraph, Forms I–434 and I–435 and attached documents fully executed in accordance with this part and assembled in numerical order, shall be delivered to the immigration official at each port of embarkation in the United States prior to the departure of the vessel therefrom with respect to all passengers boarding the vessel at that port who are destined to a place outside the United States. If more than one Form I–434 or Form I–435 is used at a port of embarkation, the affidavit on the last numbered form only need be executed. Vessels making voyages to and from the United States at regular or periodic intervals according to a published schedule of which there is sufficient notice to all concerned may deliver the Form or Forms I–434 and I–435, together with the documents required to be attached, to the district director or officer in charge of the office having administrative jurisdiction over the respective ports of embarkation subsequent to the departure of the vessel therefrom but within such time as to be received by each such officer within 30 days following the departure of the vessel from its last port of embarkation in the United States on that voyage. Notwithstanding the foregoing exception, clearance shall not be granted to any vessel unless the Forms I–434 and I–435, and attached documents, are delivered prior to departure if the district director or officer in charge having administrative jurisdiction over the post of departure knows or has reason to believe that the vessel will not return to a port in the United States within 30 days of its departure from its last port of embarkation in the United States or that the Form or Forms I–434 and I–435 and attached documents will not be delivered so as to be received within the 30 day period herein provided.

(c) *Debarkation of passenger prior to departure for a foreign port.* In any case in which a passenger originally destined to a place outside the United States leaves the vessel either at the initial port of embarkation or at any other port of call in the United States and prior to the departure of the vessel from the United States, the persons responsible for the delivery of the departure manifest shall upon acquiring knowledge thereof notify the Service of such debarkation. If such knowledge is acquired prior to the departure of the vessel from the United States but subsequent to the delivery of the manifest covering such passenger, the notification shall be given by delivering to the immigration officials at the port where the vessel is then located prior to its departure, a supplemental Form I–434 if the debarking passenger is an alien, or a supplemental Form I–435, if the passenger is a citizen or national of the United States. The supplemental form shall contain the complete heading as on the original but only the information as to the passenger who debarked with a notation in the last column as to the date and port of such disembarkation. If knowledge of such disembarkation is acquired subsequent to the departure of the vessel from the United States and subsequent to the delivery of the manifest covering such passenger, the notification shall be given by wireless or radio to the district director or officer in charge having administrative jurisdiction over the port where such passenger initially embarked and, in addition, the supplemental form previously referred to herein shall be prepared and mailed promptly to such officer. If the departure manifest covering such passenger is not delivered prior to the departure of the vessel from the United States as provided in paragraph (c) of this section, the notification shall be made by striking out the name and information relating to such debarking passenger on the manifest on which it appears and by noting in the last column thereof the date and port of disembarkation in the United States. Any document surrendered by such passenger which is still in the possession of the transportation company shall be forwarded with the manifest.

(d) *Waiver in certain cases*—(1) *Through passengers.* As provided in § 231.22, the original copy of the arrival manifests covering through passengers shall be accepted in lieu of departure manifests required to be prepared by this section.

(2) *Cruise passengers.* The district director or officer in charge having administrative jurisdiction over the office in which is located the United States port of origin and termination of the voyage of cruise passengers may, on written request of the transportation company made in advance of the departure of the vessel waive the filing of Forms I–534 and I–435 and the other documents for cruise passengers on condition (i) that Forms I–415 and I–416 are delivered to the examining immigrant officer immediately upon the return of the vessel to the port in the United States from which the cruise started and prior to the debarkation of any passenger; and (ii) that a Form I–424 be executed and attached to the Form I–415 for each alien passenger who failed to return with the vessel to such port, indicating on such form the place where such alien left the vessel; and (iii) that a Form I–435 be executed and delivered, listing such citizen or national passengers who failed to return with the vessel to such port, indicating on such form the place where such passenger left the vessel.

§ 231.41 *Arrival manifests for aircraft*—(a) *General directions for preparation.* (1) Except as otherwise provided in this part, Form I–466 shall be used for manifesting passengers arriving in the United States by aircraft. If all of the passengers manifested on a single Form I–466 are destined to disembark at the same port in the United States, the name of such port of debarkation shall be shown in the heading of the form in the space provided, otherwise, the passengers shall be grouped according to their respective ports of debarkation in the United States, the name of the port of debarkation noted in the body of the form at the head of each group, and the heading for port of debarkation marked "Various". Members of a family embarking at the same port abroad and destined to disembark at the same port in the United States shall be listed consecutively within the group to which they belong. Any stowaway aboard shall be manifested on the last form prepared, and the notation "stowaway" shall be entered in the second column opposite the name of each stowaway.

(2) In the case of each alien passenger who does not have a Foreign Service Form 256 or 257 or an immigration Form I–100a, I–132, or I–419 the persons responsible for the delivery of the manifest shall prepare as a part thereof a set of immigration Forms I–94 and deliver them to such passenger for surrender by him to the United States immigration officer at the port where the passenger is to be examined for admission to the United States. Whenever a set of Forms I–94 is prepared for a passenger who has a nonimmigrant visa, the visa application number and letter shall be entered on all copies of the Form I–94 in the box entitled "Travel documents presented".

(3) In the case of each alien passenger who is in possession of a permit to reenter the United States (Form I–132) the persons responsible for the delivery of the manifest shall prepare as a part thereof a Form I–132C and deliver it to such passenger for surrender by him to the United States immigration officer at the port where the passenger is to be examined for admission to the United States.

(b) *Delivery.* (1) Immediately upon the arrival at the first port in the United States of an aircraft for which a passenger manifest is required to be delivered, three legible copies of such manifest fully executed as provided in this part covering all of the passengers on board, without regard to the port to which such passengers are ultimately destined, shall be delivered to the immigration officer who is to inspect the passengers at that port.

(2) If an arriving aircraft is to touch at more than one United States port, the inspection of all passengers shall, if practicable, be completed at the first port of arrival. If the inspection of all passengers at the first port of arrival is impracticable, the inspection of passengers destined to subsequent ports of arrival shall be deferred in the discretion of the examining immigration officer. In such event the manifest of those passengers not inspected at the first port of arrival shall be returned to the commander of the aircraft for presentation at the subsequent ports of arrival. The

procedure followed at the first port of arrival, as prescribed by this paragraph, shall also be followed at any subsequent ports of arrival.

§ 231.42 *Departure manifests for aircraft*—(a) *General directions for preparation.* (1) The name of the foreign port of debarkation shall be entered in the heading of the Form I–466 in the space provided therefor if all of the passengers who are manifested on a single Form I–466 are destined to disembark at the same foreign port, otherwise, the passengers shall be grouped according to their respective foreign ports of debarkation, the name of the port of debarkation noted in the body of the form at the head of each group, and the heading on the form for port of debarkation marked, "Various." Members of a family destined to the same port of debarkation shall be listed consecutively within the group to which they belong.

(2) Each alien passenger shall surrender to the representative of the transportation company any Foreign Service Form 257a, immigration Form I–94C, immigration Form I–95A, or immigration Form I–100a in his possession which was last used by such passenger to enter the United States as evidenced by the Service notation thereon, unless such form is not required to be surrendered. The representative of the transportation company shall note on each such surrendered form by printing in ink, rubber stamp or typewriter, the name of the port of embarkation in the United States, the date of departure therefrom, and the registration marks of the aircraft. The representative shall attach such form to, and make it a part of, the Form I–466 relating to such passenger. Whenever a departing alien passenger does not surrender Form 257a, I–94C, I–95A, I–100a, or I–419a, the persons responsible for the delivery of the departure manifest shall cause to be executed as a part thereof an immigration Form I–424 for each such alien passenger and shall attach the Form I–424 to the departure manifest.

(3) In the case of each alien passenger who has been arrested in the United States and is being deported from the United States or has been excluded from the United States and is being deported pursuant to such exclusion, any Form 257a, I–94C, I–95A, or I–100a surrendered by or in behalf of such deportee, or in the absence of any such form, the Form I–424 prepared for such deportee, shall be marked conspicuously "Deportee".

(b) *Delivery.* Except as otherwise specifically provided in this paragraph, Forms I–466 together with the documents required to be attached thereto, fully executed in accordance with the provisions of this part, shall be delivered prior to departure to the immigration officials at the port in the United States from which the aircraft will proceed to a place outside the United States. Manifest Form I–466 for aircraft making flights to and from the United States at regular or periodic intervals according to a published schedule of which there is sufficient notice to all concerned may be delivered together with the documents required to be attached thereto subsequent to the departure of the aircraft, but within such time as to be received by the immigration officer in charge of the port from which the aircraft proceeded to a foreign port within 4 days following the departure of such aircraft. Notwithstanding the foregoing exception, clearance shall not be granted any aircraft unless the Forms I–466 and attached documents are delivered prior to departure, if the district director or officer in charge having administrative jurisdiction over the port of departure knows or has reason to believe that the aircraft will not return to a port in the United States within 30 days of its departure or that the forms and documents attached will not be delivered so as to be received by him within the 4-day period herein provided.

(c) *Debarkation of passenger prior to departure for a foreign port.* In any case in which a passenger originally destined to a place outside the United States leaves the aircraft prior to its departure for a foreign port, the persons responsible for the delivery of the manifest shall upon acquiring knowledge thereof notify the Service of such debarkation. If such knowledge is acquired prior to the departure of the aircraft from the United States but subsequent to the delivery of the manifest, the notification shall be given by delivering, prior to the departure of the aircraft, a supplemental Form I–466 to the immigration official at the port from which the aircraft is to proceed to a foreign port. The supplemental form shall contain the complete heading as on the original but only the information as to the passenger who left the aircraft with a notation in column 2 as to the debarkation of the passenger prior to departure. If knowledge of such debarkation is acquired subsequent to the departure of the aircraft and subsequent to the delivery of the manifest, the notification shall be given by wireless or radio to the district director or officer in charge having administrative jurisdiction over the port from which the aircraft departed to a foreign port and the supplemental form previously referred to shall be prepared and mailed promptly to such officer via air mail. If the departure manifest is not delivered prior to the departure of the aircraft from the United States as provided in paragraph (b) of this section, the notification shall be made by striking out the name and information relating to such debarking passenger on the Form I–466 and by noting in the second column of that form the facts of such debarkation. Any document surrendered by such passenger which is in the possession of the transportation company shall be forwarded with the manifest.

PART 232—DETENTION OF ALIENS FOR OBSERVATION AND EXAMINATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
232.1 Definitions.
232.2 Authority to detain and designate place of detention of aliens for observation and examination.
232.3 Responsibility for safekeeping of aliens ordered removed from vessel or airport of arrival for observation and examination.
232.4 Place of detention.
232.5 Liability for detention expenses.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

232.11 Removal and detention of aliens.
232.51 Collection of detention expenses.
232.52 Reimbursement of transportation line for detention expenses in certain cases.

AUTHORITY: §§ 232.1 to 232.52 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 3, 63 Stat. 166, sec. 232, 66 Stat. 196, as amended; 8 U. S. C., Sup., 836.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 232.1 *Definitions.* For the purposes of this part the term "transportation line" means a vessel, aircraft, transportation line, transportation company, steamship company, or the master, commanding officer, authorized agent, owner, charterer, or consignee of a vessel or aircraft, and the term "alien" means any alien as defined by the Immigration and Nationality Act and any person applying for admission to the United States as a citizen or national of the United States.

§ 232.2 *Authority to detain and designate place of detention of aliens for observation and examination.* The authority to detain aliens and to designate the place of detention, if detention is required other than on board a vessel or at the airport of arrival, under the provisions of section 232 of the Immigration and Nationality Act may be exercised by the examining immigration officer, or by the district director or officer in charge having administrative jurisdiction over the port at which such aliens arrived.

§ 232.3 *Responsibility for safekeeping of aliens ordered removed from vessel or airport of arrival for observation and examination.* The responsibility for the safekeeping during the removal and subsequent detention of an alien (including an alien crewman), who has been ordered removed from a vessel or airport of arrival and detained pursuant to section 232 of the Immigration and Nationality Act and this part shall be upon the transportation line bringing the alien to the United States, except that such transportation line shall be relieved of that responsibility during such time as the alien is detained on premises owned or controlled by the United States.

§ 232.4 *Place of detention.* Any alien who is ordered removed or detained pursuant to section 232 of the Immigration and Nationality Act and this part shall, unless treatment in a hospital is necessary, be kept in custody in a facility operated by the Service if such a facility exists at the port of arrival or if at a nearby port there is such a facility which can be utilized. If no such facility is available such alien may, with the approval of the district director or officer in charge having administrative jurisdiction over the port of arrival, be detained at a place to be arranged for by the transportation line bringing him to the United States.

§ 232.5 *Liability for detention expenses.* In any case in which an alien (including alien crewman) is removed from a vessel or airport of arrival and detained for observation and examination under section 232 of the Immigration and Nationality Act and this part, the transportation line bringing such alien to the United States shall be responsible initially for the payment of detention expenses if the district director or officer in charge having administrative jurisdiction over the port of arrival has reason to believe from the facts presented that such detention expenses may properly be assessed against the transportation line. In any such case the transportation line, at the option of the district director or officer in charge, shall be required to obligate itself in a manner satisfactory to such officer for the payment of the expenses referred to herein, and may be required to make payment in advance, or deposit security, with respect to each alien so detained.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 232.11 *Removal and detention of aliens.* Whenever the district director, officer in charge or examining immigration officer, in his discretion, determines that an alien should be removed from a vessel or airport of arrival for detention elsewhere for the purpose of observation and examination, such officer shall serve or cause to be served on the transportation line bringing such alien to the United States a notice, on Form I-259, directing such removal. The notice shall specify the date and time the alien is to be removed, the place at which he is to be detained, and the reasons for the removal.

§ 232.51 *Collection of detention expenses.* In all cases in which the Government has initially paid the detention expenses and expenses incident thereto of an alien detained pursuant to section 232 of the Immigration and Nationality Act, bills pertaining to the detention expenses shall be presented monthly or oftener, at the option of the district director or officer in charge, to the responsible transportation line as soon as liability therefor is established to the satisfaction of the district director or officer in charge. Such expenses shall include, but shall not be limited to, expenses of maintenance, medical treatment in hospital or elsewhere, and burial in the event of death. At ports where the Service maintains hospitals, the hospital expenses shall be such as are fixed by the Service and at other hospitals they shall be such as are fixed by the authorities thereof.

§ 232.52 *Reimbursement of transportation line for detention expenses in certain cases.* A transportation line which has paid the detention expenses referred to in § 232.5 shall, upon presentation of itemized receipts, be reimbursed from the applicable appropriation of the Service if it is finally determined that the transportation line should not be assessed for the payment of such expenses. The reimbursement shall cover only reasonable amounts actually expended for such expenses, but the reimbursement for the cost of maintenance shall not, except in unusual circumstances and unless the expense was incurred with the prior approval of the district director or officer in charge having administrative jurisdiction over the port, exceed the maximum per diem allowance prescribed in section 836 of Title 5 of the United States Code in lieu of subsistence. No reimbursement shall be made for detention expenses incurred after the alien has been offered for deportation to the transportation line which brought him to the United States.

PART 233—TEMPORARY REMOVAL FOR EXAMINATION UPON ARRIVAL

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
233.1 Definitions.
233.2 Assumption of responsibility.
233.3 Expenses of removal; payment.
233.4 Burial expenses.
233.5 Liability for detention expenses.
233.6 Termination of Government liability for detention expenses.
233.7 Place of detention.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

233.31 Collection of removal expenses.
233.51 Collection of detention expenses.
233.52 Reimbursement of transportation line for detention expenses in certain cases.

AUTHORITY: §§ 233.1 to 233.52 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 1, 2, 46 Stat. 1467; as amended, 54 Stat. 858, sec. 3, 63 Stat. 166, as amended, secs. 233, 237, 66 Stat. 197, 201; 8 U. S. C. 109a–109c, 5 U. S. C., Sup., 836.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 233.1 *Definitions.* For the purposes of this part the term "transportation line" means a vessel, aircraft, transportation line, transportation company, steamship company, or the master, commanding officer, authorized agent, owner, charterer, or consignee of a vessel or aircraft, and the term "alien" means any alien as defined by the Immigration and Nationality Act and any person applying for admission to the United States as a citizen or national of the United States.

§ 233.2 *Assumption of responsibility.* Whenever a transportation line, in accordance with the provisions of section 233 (a) of the Immigration and Nationality Act and this part, desires to assume responsibility for the safekeeping of an alien during his removal to a designated place for examination and inspection, it shall submit a request therefor to the district director or officer in charge having administrative jurisdiction over the port of arrival. If the request is approved by the district director or officer in charge, the transportation line shall execute an agreement on Form I-259A, and the district director or officer in charge shall cause a notice to detain and remove, on Form I-259, to be served upon the transportation line. Such notice shall specify the date and time the alien is to be removed, the place to which such removal shall be made, and the reason therefor. If such agreement is executed, the removal of the alien shall not be made by an immigration officer.

§ 233.3 *Expenses of removal; payment.* Whenever an alien (including an alien crewman) is removed for examination and inspection by an immigration officer under section 233 (a) of the Immigration and Nationality Act and this part, the expenses of removal to be borne by the transportation line shall include payment for the salary of such officer for the time consumed in the removal, including travel time of the officer from and to the office at which he is stationed. The hourly rate of pay for such officer shall be based upon his gross annual salary. For the purposes of this section any fraction of an hour consumed in the removal of the alien shall be considered as a full hour. Any portion of such services which is performed after 5 p. m. or before 8 a. m., or on Sundays or holidays, shall be compensated for at the rate specified in the act of March 2, 1931, as amended by the act of August 22, 1940 (8 U. S. C. 109a–109c). The expenses to be borne by the transportation line shall also include, but shall not be limited to the costs of transportation of the officer and alien, meals, cost of matrons, nurses, attendants, guards, ambulances, and similar costs for any accompanying alien whose protection or guardianship is required if the alien being removed for inspection and examination is helpless by reason of sickness or mental or physical disability or infancy.

§ 233.4 *Burial expenses.* For the purposes of section 233 of the Immigration and Nationality Act the burial expenses referred to therein shall include the payment of an amount not exceeding $10.00 in any case for the services of a minister of any religious denomination.

§ 233.5 *Liability for detention expenses.* In any case in which an alien (including alien crewmen) is removed from a vessel or aircraft and detained for examination and inspection under section 233 or 237 of the Immigration and Nationality Act and this part, the transportation line bringing such alien to the United States shall be responsible initially for the payment of detention expenses if the district director or officer in charge having administrative jurisdiction over the port of arrival has reason to believe from the facts presented that such detention expenses may properly be assessed against the transportation line. In any such case the transportation line, at the option of the district director or officer in charge, shall be required to obligate itself in a manner satisfactory to such officer for the payment of the expenses referred to herein, and may be required to make payment in advance or deposit security, with respect to each alien so detained.

§ 233.6 *Termination of Government liability for detention expenses.* Any detention expenses and expenses incident thereto which are required to be borne by the Government under section 233 or 237 of the Immigration and Nationality Act shall continue to be borne by the Government until the alien is offered for deportation to the transportation line which brought him to the United States. Thereafter all detention expenses and expenses incident thereto shall be borne by such transportation line.

§ 233.7 *Place of detention.* Any alien who arrives in the United States by vessel or aircraft and who is ordered removed temporarily therefrom pending final decision as to his admissibility shall be detained at such appropriate place as shall be designated for that purpose by the district director or officer in charge having administrative jurisdiction over the port of arrival.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 233.31 *Collection of removal expenses.* Bills pertaining to removal expenses of an alien removed pursuant to section 233 of the Immigration and Nationality Act and this part shall be presented monthly or oftener, at the option of the district director or officer in charge, to the responsible transportation line.

§ 233.51 *Collection of detention expenses.* In all cases in which the Government has initially paid the detention expenses and expenses incident thereto and the deportation expenses of a detained alien, pursuant to section 233 or 237 of the Immigration and Nationality Act, bills pertaining to the detention and deportation expenses shall be presented monthly or oftener, at the option of the district director or officer in charge, to the responsible transportation line as soon as liability therefor is established to the satisfaction of the district director or officer in charge. Such expenses shall include, but shall not be limited to, expenses of maintenance, medical treatment in hospital or elsewhere, burial in the event of death and transfer to the vessel or aircraft in the event of deportation. At ports where the Service maintains hospitals, the hospital expenses shall be such as are fixed by the Service, and at other hospitals they shall be such as are fixed by the authorities thereof.

§ 233.52 *Reimbursement of transportation line for detention expenses in certain cases.* A transportation line which has paid the detention expenses referred to in § 233.5 shall, upon presentation of itemized receipts be reimbursed from the applicable appropriation of the Service if it is finally determined that the transportation line should not be assessed for the payment of such expenses. The reimbursement shall cover only reasonable amounts actually expended for such expenses, but the reimbursement for the cost of maintenance shall not, except in unusual circumstances and unless the expense was incurred with the prior approval of the district director or officer in charge having administrative jurisdiction over the port, exceed the maximum per diem allowance prescribed in section 836 of Title 5 of the United States Code in lieu of subsistence. No reimbursement shall be made for detention expenses incurred after the alien has been offered for deportation to the transportation line which brought him to the United States.

PART 235—INSPECTION OF ALIENS APPLYING FOR ADMISSION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
- 235.1 General qualifications and requirements for the admission of aliens.
- 235.2 Examination postponed.
- 235.3 Detention of aliens.
- 235.4 Admitted alien assisted.
- 235.5 Preexamination in certain parts of the United States; who may apply.
- 235.6 Pre-inspection in certain parts of the United States.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

- 235.11 Notice of referral to Special Inquiry Officer.
- 235.12 Referral of certain cases to district director or officer in charge.
- 235.13 Reading test.
- 235.14 Notation in passports.
- 235.15 Temporary exclusion.
- 235.51 Preexamination procedure.

AUTHORITY: §§ 235.1 to 235.51 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 212, 213, 221, 235, 236, 237, 242, 252, 66 Stat. 167, 184, 185, 186, 188, 191, 198, 200, 201, 208, 220.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 235.1 *General qualifications and requirements for the admission of aliens.* The following general qualifications and requirements shall be met by an alien seeking to enter the United States regardless of whether he seeks to enter for permanent, indefinite, or temporary stay, and regardless of the purpose for which he seeks to enter:

(a) The alien shall apply in person at a place designated as a port of entry for aliens.

(b) The alien shall apply for admission at a time when the immigration office at the port is open for the inspection of applicants for admission.

(c) The alien shall make his application in person to an immigration officer.

(d) The alien shall present whatever documents are required.

(e) The alien shall establish to the satisfaction of the immigration officer that he is not subject to exclusion under the immigration laws, Executive orders, or Presidential proclamations and that he is entitled under all of the applicable provisions of the immigration laws and this chapter to enter the United States.

§ 235.2 *Examination postponed—(a) Alien and members of family.* Whenever an alien upon arrival, or pending the determination of his right to admission to the United States, is found or believed to be suffering from a disability which in the opinion of the examining immigration officer or special inquiry officer renders it impracticable to proceed with the examination under the Immigration and Nationality Act, the facts shall be reported to the district director or officer in charge having administrative jurisdiction over the port of arrival who shall determine whether the examination should proceed or be postponed. If the examination is postponed and the testimony of such alien is required to determine the admissibility of members of his family, the determination of such cases may be postponed in the discretion of such district director or officer in charge until the examination of such alien becomes practicable. If such alien's testimony is not so required, and if the alien's admission is in no manner necessary to the financial support of the remaining family members and he appears to be eligible for admission provided he recovers from the disability or no disability is found to exist, the family members may be examined forthwith and, if found eligible for admission to the United States, admitted:

(1) upon the deposit of a sum of money (or transportation ticket and money) sufficient to defray the expenses of conveying the alien whose case is postponed to his final destination; and

(2) upon the deposit of a further sum of money (or transportation ticket and money) sufficient to cover the cost of the service and transportation of a proper attendant from the port of arrival to the point of destination or deportation and return, if it appears to the officer in charge that such attendant is or may be necessary for the proper care and attention of the alien.

(b) *Accompanying alien.* If it appears to the examining immigration officer that an alien not found to be admissible is likely to be certified by the examining medical officer as helpless from sickness or mental or physical disability or infancy, pursuant to section 237 (e) of the Immigration and Nationality Act, the examination of any accompanying alien, whose protection or guardianship will be required by the alien not found admissible, shall be postponed pending decision of the case of the alien likely to be excluded.

§ 235.3 *Detention of aliens.* All aliens (including alien crewmen) arriving at a port in the United States by vessel or aircraft shall be detained aboard the vessel or at the airport of arrival by the master, commanding officer, purser, person in charge, agent, owner, or consignee of such vessel or aircraft until admitted or otherwise permitted to land by an officer of the Service. Notice or order to so detain shall not be required.

§ 235.4 *Admitted alien assisted.* Notwithstanding admission, and for reasons satisfactory to the district director or officer in charge, when facilities are available, any alien may remain a few days at an immigration station upon payment of the actual cost of such maintenance. If in such a case the delay in leaving the immigration station is due to accident or other unavoidable circumstances and the alien is without sufficient means to defray the expenses incident thereto, the district director or the officer in charge, may in his discretion, authorize such expense, but in such event he shall report the case promptly to the Central Office with full reasons for his action and request that the authorization be ratified.

§ 235.5 *Preexamination in certain parts of the United States; who may apply.* When an office of the Service is located in Hawaii, Alaska, Guam, Puerto Rico, the Virgin Islands of the United States, or any outlying posses-

sion of the United States, a person (whether an alien or one claiming United States nationality) who is residing, and is entitled under the immigration laws to reside permanently, in any of the places enumerated herein, and who intends to apply for temporary or permanent admission to any other part of the United States or outlying possession of the United States, may appear before the district director or the officer in charge having administrative jurisdiction over such office for examination as to his admissibility to the United States.

§ 235.6 *Pre-inspection in certain parts of the United States.* In the case of any aircraft proceeding from Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States destined directly and without touching at a foreign port or place to any other of such places or to the continental United States, the examination required by the Immigration and Nationality Act of the passengers and crew may be made prior to the departure of the aircraft, and in such event, final determination of admissibility shall be made immediately prior to such departure. The examination shall be conducted in accordance with sections 235, 236, and 237 of the Immigration and Nationality Act and this part and Parts 236 and 237 of this chapter, except that if it appears to the examining immigration officer that any person in the United States being examined under this section is *prima facie* deportable from the United States, further action with respect to his examination shall be deferred and an application for a warrant of arrest shall be made and further proceedings conducted as provided in section 242 of the Immigration and Nationality Act and Part 242 of this chapter. When the inspection procedure described above is applied to any aircraft, persons examined and found admissible shall be placed aboard the aircraft, or kept at the airport separate and apart from the general public until they are permitted to board the aircraft. No other person shall be permitted to depart on such aircraft until and unless he is found to be admissible as provided in this section.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 235.11 *Notice of referral to Special Inquiry Officer.* If, in accordance with the provisions of section 235 (b) of the Immigration and Nationality Act, the examining immigration officer detains an alien for further inquiry before a special inquiry officer, he shall immediately sign and deliver to the alien a Notice To Alien Detained For Hearing By Special Inquiry Officer (Form I–122). If the alien is unable to read or understand the notice, it shall be read and explained to him by an employee of the Service, through an interpreter, if necessary, prior to such further inquiry.

§ 235.12 *Referral of certain cases to district director or officer in charge.* The immigration officer conducting the preliminary examination of an alien who is applying for admission to the United States for permanent residence and who is liable to be excluded because he is likely to become a public charge or because of a physical disability other than tuberculosis, leprosy, or a dangerous contagious disease, shall refer the question of the alien's admission to the district director or officer in charge having administrative jurisdiction over the place where the examination is being conducted. The district director or officer in charge may, in his discretion, admit the alien on primary inspection, if the alien is otherwise admissible, in accordance with Part 213 of this chapter. If the district director or officer in charge does not so admit the alien, the question of his admission shall be referred to a special inquiry officer, and the special inquiry officer may, in his discretion, admit the alien, if he is otherwise admissible, in accordance with the provisions of Part 213 of this chapter.

§ 235.13 *Reading test.* Aliens who are subject to the provisions of section 212 (a) (25) of the Immigration and Nationality Act shall demonstrate their ability to read and understand matter printed in plainly legible type and in a language or dialect designated by the alien at the time of examination. In applying the reading test immigration officers shall use the printed and numbered test slips supplied by the Service for that purpose, and a record shall be made upon the manifest or hearing record of the special inquiry officer showing both the class and serial number of the slip used in each case and the language or dialect designated by the applicant and actually used in the examination. No two aliens listed upon the same manifest sheet shall be examined at seaports by the use of the same slip. If the examining immigration officer is unable to speak and understand the language or dialect in which the alien is examined, the services of an interpreter shall be used for interpreting into spoken English the printed matter read by the alien. Whenever because of lack of the qualified interpreters necessary for the observance of the general method prescribed herein, or for any other reason, it is impracticable to adopt said general method, immigration officers may employ such other means as will clearly demonstrate the alien's ability, or lack of ability, to read and understand what he has read.

§ 235.14 *Notation in passports.* Whenever an alien admitted temporarily to the United States is issued a Form 257a or Form I–94C, the admitting officer shall, by means of a stamp, record on the passport presented by the alien the word "Admitted" and the date and place of admission. There shall be inscribed in the passport as a part of such notation the visa application number (including any letters that are part thereof) appearing on the form 257a, if such number does not appear in the passport visa, or the serial number (including any letters that are part thereof) of the Form I–94C. Whenever an alien is admitted permanently to the United States, the admitting immigration officer shall, by means of a stamp, record on any passport presented by the alien the word "Admitted," the date and place of admission, and the section of law under which the alien is admitted.

§ 235.15 *Temporary exclusion*—(a) *Report.* Any immigration officer who temporarily excludes an alien under the provisions of section 235 (c) of the Immigration and Nationality Act shall report such action promptly to the district director having administrative jurisdiction over the port at which such alien arrived. If the subject of the report is an alien who seeks to enter the United States other than under section 101 (a) (15) (D) of the Immigration and Nationality Act, the report shall be forwarded by the district director to the Commissioner and further action shall be taken thereon as provided in paragraph (c) of this section.

(b) *Action in cases of alien crewmen.* If the subject of the report is an alien crewman who seeks to land as a nonimmigrant pursuant to section 101 (a) (15) (D) of the Immigration and Nationality Act, the district director shall determine whether the crewman is inadmissible to the United States under paragraph (27), (28), or (29) of section 212 (a) of that Act. If the district director is satisfied that the crewman is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the district director, in the exercise of his discretion, concludes would be prejudicial to the public interest, safety, or security, he shall direct the examining immigration officer not to grant such crewman a conditional permit to land, and the reasons for taking such action shall not be disclosed to the crewman. Otherwise, the case shall be returned by the district director to an examining immigration officer to determine whether a conditional permit to land should be granted such crewman pursuant to section 252 of the Immigration and Nationality Act.

(c) *Action by Commissioner.* If the Commissioner is satisfied that the alien is inadmissible to the United States under paragraph (27), (28), or (29) of section 212 (a) of the Immigration and Nationality Act and if the Commissioner, in the exercise of his discretion, concludes that such inadmissibility is based on information of a confidential nature the disclosure of which would be prejudicial to the public interest, safety, or security, he may (1) deny any hearing or further hearing by a special inquiry officer and order such alien excluded and deported; or (2) enter such other order in the case as he deems appropriate. In any other case the Commissioner shall direct that the alien be given a hearing or further hearing before a special inquiry officer.

(d) *Finality of decision.* The decision of the district director or the Commissioner provided for in paragraphs (b) and (c) of this section respectively shall be final and no appeal may be taken therefrom. The decision of the Commissioner shall be in writing, signed by him and, unless it contains confidential matter, a copy shall be served on the alien. If the decision contains confidential matter, a separate order showing only the ultimate disposition of the case

shall be signed by the Commissioner and served on the alien.

(e) *Hearing by special inquiry officer.* In any case in which the Commissioner directs that an alien temporarily excluded be given a hearing or further hearing before a special inquiry officer, such hearing and all further proceedings in the case shall be conducted in accordance with the provisions of section 236 and other applicable sections of the Immigration and Nationality Act to the same extent as though the alien had been referred to a special inquiry officer by the examining immigration officer; except, that if confidential information, not previously considered in the case, is adduced supporting the exclusion of the alien under paragraph (27), (28), or (29) of section 212 (a) of the Immigration and Nationality Act, the disclosure of which, in the discretion of the special inquiry officer, may be prejudicial to the public interest, safety, or security, the special inquiry officer may again temporarily exclude the alien under the authority of section 235 (c) of the Immigration and Nationality Act and further action shall be taken as provided in this section.

§ 235.51 *Preexamination procedure*—(a) *Action by district director or officer in charge*—(1) *Applicant eligible for permanent residence.* The district director or officer in charge shall cause such investigation of the applicant to be conducted as he deems necessary. If such officer is satisfied (i) that the person is eligible to apply under § 235.5; (ii) that any claim to United States nationality has been established; and (iii) that the person is clearly and beyond a doubt admissible for permanent residence without a visa and passport to the place to which destined, he shall cause to be prepared and issued to such person a Form I–94F and shall note on the reverse side thereof the place and date of the preexamination and the words "Issued under 8 CFR 235.5" followed by the signature of the issuing officer in the space provided. The names and ages of children under 14 may be included in the Form I–94F prepared for an accompanying parent or guardian.

(2) *Applicant eligible for temporary admission only.* The district director or officer in charge shall cause such investigation of the applicant to be conducted as he deems necessary. If the applicant is within the purview of the proviso to section 212 (d) (7) of the Immigration and Nationality Act and is eligible under said Act for temporary admission only, without a visa and passport, the district director or officer in charge shall cause to be prepared and issued to the applicant a complete set of Forms I–94 if he is satisfied that the applicant is clearly and beyond a doubt admissible to the place to which destined. The Forms I–94 shall be noted as provided above for the Form I–94F. The names and ages of children under 14 may be included in the Forms I–94 prepared for an accompanying parent or guardian.

(b) *Action at port of arrival.* If the person to whom a Form I–94 has been issued in accordance with paragraph (a) of this section applies for admission within 30 days of the notation of the preexamining officer and there has been no subsequent change in the person's immigration status, he may be admitted upon identification. Upon admission, the form or forms presented shall be surrendered as provided in § 221.3 of this chapter. If, notwithstanding the determination made on preexamination, the examining immigration officer at the port of entry is not satisfied of the person's admissibility, further action shall be taken as provided in sections 235, 236, and 237 of the Immigration and Nationality Act, this part, and Parts 236 and 237 of this chapter, unless it appears to such examining immigration officer that such person would be *prima-facie* deportable under the Immigration and Nationality Act from that part of the United States or possession of the United States from which he came, in which event an application for a warrant of arrest shall be made, and further proceedings conducted, as procided in Part 242 of this chapter. In such case further action on the application for admission shall be deferred pending disposition of the proceedings under Part 242 of this chapter.

(c) *Aliens not eligible.* If the district director or officer in charge is not satisfied that the alien is eligible for temporary or permanent admission under this section he shall not issue a Form I–94. No appeal shall lie from the decision of the district director or officer in charge refusing issuance of a Form I–94 under this part but such refusal shall be without prejudice to a subsequent application for admission at the place of intended destination.

PART 236—EXCLUSION OF ALIENS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
236.1 Authority of special inquiry officers.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

236.11 Conduct of hearing.
236.12 Decision of special inquiry officer.
236.13 Advice to alien found excludable.
236.14 Finality of decision.
236.15 Appeal by alien.
236.16 Appeal by district director or officer in charge.
236.17 Fingerprinting of excluded aliens; photographs.

AUTHORITY: §§ 236.1 to 236.17 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 212, 221, 235, 236, 263, 66 Stat. 183, 191, 198, 200, 224.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 236.1 *Authority of special inquiry officers.* Subject to any specific limitation prescribed by this chapter and by the Immigration and Nationality Act, special inquiry officers shall, in determining cases referred to them for further inquiry as provided in section 235 of the Immigration and Nationality Act, exercise such discretion and authority conferred upon the Attorney General by said Act as is appropriate and necessary for the disposition of such cases.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 236.11 *Conduct of hearing*—(a) *General provisions; duties of special inquiry officers.* At the commencement of the hearing the special inquiry officer shall enter of record as an exhibit in the case a copy of the Form I–122 previously delivered to the alien by the examining immigration officer as provided in Part 235 of this chapter. The special inquiry officer shall rule upon objections, introduce material and relevant evidence in behalf of the Government and the alien, and otherwise regulate the course of the hearing, and exercise such other powers and authority as are conferred upon him by the Immigration and Nationality Act and this chapter. If the alien has a relative or a friend present at the hearing who is a witness in the case, the testimony of the relative or friend shall be completed before he is permitted to remain at the hearing, unless, in the discretion of the special inquiry officer, his presence before testifying will not be prejudicial to a proper determination of the case. During the course of the hearing the alien's attorney or representative shall be permitted to examine the alien and he, or the alien, shall be permitted to examine any witnesses offered in the alien's behalf, to cross-examine any witnesses called by the Government, to offer evidence material and relevant to any matter in issue, and to make objections which shall be stated succinctly and entered on the record. Argument in support of objections and any irrelevant material or unduly repetitious matter shall be excluded from the record. If the alien is not represented by an attorney or representative, the special inquiry officer shall advise the alien of his rights, as described in this section, and shall assist the alien in the presentation of his case to the end that all of the material and relevant facts may be adduced.

(b) *Development of facts relating to penalties incurred by transportation company.* In all cases in which there is reason to believe that any administrative fine prescribed may have been incurred, the special inquiry officer shall develop in the course of the hearing all facts and circumstances material to a determination of liability to such fine.

(c) *Medical examiner as witness.* Whenever the certificate of an examining surgeon does not adequately describe the nature, character, and extent of the physical defect, disease, or disability which may affect the ability of the alien to earn a living and the alien has not affirmatively established that he will not have to earn a living, the special inquiry officer shall call the examining surgeon as a witness and interrogate him fully as to the particular nature, character, and extent of the defect, disease, or disability. Such testimony shall be made a part of the record.

(d) *Record in illiteracy cases.* In all cases in which the reading test is applied and aliens are rejected as unable to read and understand, the record shall, in addition to the number of the reading card used, clearly set forth (1) that the alien designated the particular language used in the test, (2) the complete English text appearing on the card, (3) a definite finding by the special inquiry officer as to the degree to which the alien failed to read and understand, and (4) if the alien

claims to be within any class exempted from the test, a definite finding by the special inquiry officer as to the validity of such claim.

§ 236.12 *Decision of special inquiry officer.* Whenever an alien is excluded by a special inquiry officer he shall be advised of the decision of such officer and the reasons therefor and, if the alien is entitled to appeal to the Board, he shall be so advised. If at the conclusion of the hearing the special inquiry officer admits the alien, he shall so state for the record and, if no appeal is taken from such decision, the special inquiry officer shall take further action as provided in Part 221 of this chapter with respect to notation and disposition of documents.

§ 236.13 *Advice to alien found excludable*—(a) *Return voyage.* An excluded alien shall be informed of the provisions of section 237 (a) of the Immigration and Nationality Act relating to the transportation expenses of his deportation from the United States, and to the class of travel in connection therewith. If the alien is entitled to refund of passage money he shall be so informed.

(b) *Permission to reapply.* The special inquiry officer excluding an alien shall advise him of the provisions of the Immigration and Nationality Act and of this chapter relating to the necessity of obtaining permission to reapply for admission to the United States should he desire to reapply within one year from his deportation under the excluding decision. The fact that such advice has been given to the alien of that notification shall be noted in the record together with the alien's foreign address. In cases in which the alien is excluded for causes which can readily be removed or overcome, he may be advised by the special inquiry officer that the application for permission to reapply for admission may then and there be made. If the alien does not appeal from the excluding decision and desires to make such application, the special inquiry officer may, in his discretion grant him permission to reapply for admission. Written notification of such permission shall be furnished to the alien for his use in subsequent proceedings. If the application for permission to reapply is denied by the special inquiry officer no appeal shall lie from such denial, but it shall be without prejudice to any further application made by the applicant pursuant to § 212.6 of this chapter. If an appeal is taken from a decision of the special inquiry officer as provided in section 236 (b) of the Immigration and Nationality Act, the decision on appeal, if adverse to the alien, may grant him permission to reapply for admission within one year.

(c) *Alien certified for mental condition; right of medical appeal.* An alien certified under paragraphs (1), (2), (3), (4), or (5) of section 212 (a) of the Immigration and Nationality Act shall be advised of his right to appeal to a board of medical officers of the United States Public Health Service, and of his right to produce before such board one expert medical witness at the alien's own cost and expense. In the event the alien desires to appeal to such medical board, the district director or officer in charge having administrative jurisdiction over the office in which the proceedings are pending shall, in conformity with regulations prescribed by the United States Public Health Service, make such arrangements with the office of the Surgeon General as may be necessary for the convening of such medical board.

(d) *Notice of possible appeal by officer in charge.* In any case falling within the purview of § 236.16 in which the decision of the special inquiry officer is to admit the alien, the special inquiry officer shall advise the alien at the conclusion of the hearing that the decision is not final and is subject to possible appeal by the district director or officer in charge having administrative jurisdiction over the office in which the hearing was conducted, and that such appeal may be taken within a period of 5 days after a transcript of the record is made available to such district director or officer in charge.

(e) *Contents of record.* The exact language employed in conveying information to an alien in accordance with this section, and the alien's replies or acknowledging statements, shall be made a part of the record in the case.

§ 236.14 *Finality of decision.* The decision of the special inquiry officer shall be final except when:

(a) The case has been certified to the Assistant Commissioner, Inspections and Examinations Division, as provided in § 7.1 (b) of this chapter, or certified to the Board as provided in § 6.1 (c) of this chapter; or

(b) The alien takes an appeal as provided in § 236.15; or

(c) The district director or officer in charge takes an appeal as provided in § 236.16.

§236.15 *Appeal by alien.* If an alien desires to take an appeal from a decision of a special inquiry officer he shall be required to state for the record immediately following the decision of the special inquiry officer (a) whether or not he takes an appeal from the decision and, (b) whether or not he desires to file a brief in support of his appeal. If the alien desires to appeal, he shall thereupon be required to submit a completed Form I–290A. If the alien desires to file a brief, he shall be allowed 5 days from the date of the decision within which to submit his brief to the district director or officer in charge having administrative jurisdiction over the office in which the proceeding was conducted. Upon good cause shown, such district director or officer in charge, or the special inquiry officer who presided at the hearing, or the Board may, in their discretion, extend the time within which the brief may be submitted. In any case in which the alien has stated that he desires to submit a brief, he may, within the period allowed for the submission of such brief, file with the district director or officer in charge a written waiver thereof.

§ 236.16 *Appeal by district director or officer in charge.* The district director or officer in charge having administrative jurisdiction over the office in which the hearing was conducted may require any case or classes of cases to be referred to him for review in which the decision of the special inquiry officer is to admit the alien. The district director or officer in charge shall, within 5 days after receipt of the transcript of the record in any such case, determine whether or not he desires to appeal to the Board. If an appeal is taken by the district director or officer in charge, written notice thereof shall be delivered to the alien and the alien shall be advised that he may make such representations to the Board as he may desire, including the filing of a brief. If the alien desires to file a brief, he shall be allowed 5 days from receipt of notification of appeal within which to file a brief with the district director or officer in charge for transmittal to the Board with the record in the case. The filing of such brief may be waived by the alien. For good cause shown, such district director, officer in charge, or the special inquiry officer who presided at the hearing, or the Board, may in their discretion, extend the time within which the brief may be submitted.

§ 236.17 *Fingerprinting of excluded aliens; photographs.* Every alien 14 years of age or older who is excluded from admission to the United States by a special inquiry officer shall be fingerprinted, unless during the preceding year he has been fingerprinted at an American consular office. Any alien so excluded, regardless of his age, shall be photographed if a photograph is required by the district director or officer in charge having administrative jurisdiction over the office in which the proceeding was conducted.

PART 237—DEPORTATION OF EXCLUDED ALIENS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

237.1 Stay of deportation of excluded alien.
237.2 Cost of maintenance not assessed.
237.3 Imposition of penalty.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

237.11 Request for stay of deportation; detention expenses.
237.12 Notice to transportation line of alien's exclusion.
237.13 Notice to district director of proposed departure.
237.14 Aliens rejected at ports outside the United States.
237.15 Excluded aliens requiring special care and attention.
237.21 Submission of proof by transportation line.

AUTHORITY: §§ 237.1 to 237.21 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 233, 237, 238, 243, 280, 66 Stat. 197, 201, 202, 214, 230.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 237.1 *Stay of deportation of excluded alien.* The immediate deportation of an excluded alien as provided in section 237 (a) of the Immigration and Nationality Act may be stayed in the discretion of district directors, upon a determination that immediate deportation is not practicable or proper, or that the alien's testimony is necessary in behalf of the United States as provided in section 237 (d) of that Act.

§ 237.2 *Cost of maintenance not assessed.* Whenever the owner or owners of a vessel or aircraft, in order to exempt the transportation line from liability for the cost of the alien's maintenance, seek to establish that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation as provided in section 237 (a) (2) (B) of the Immigration and Nationality Act, such claim shall be established to the satisfaction of the district director having administrative jurisdiction over the port of arrival. No appeal shall lie from a decision adverse to such claim.

§ 237.3 *Imposition of penalty.* Penalties for violation of sections 233 and 237 of the Immigration and Nationality Act shall be imposed in accordance with the provisions of Part 280 of this chapter. A bond or undertaking submitted to obtain clearance as provided in section 237 (b) of that Act shall be on Form I–310.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 237.11 *Request for stay of deportation; detention expenses.* A stay of deportation may be authorized by the district director having administrative jurisdiction over the place where the alien is located on his own instance, or upon a written request of the alien filed with the district director setting forth under oath the reasons for requesting such stay. The district director may, in his discretion, grant or deny the alien's request. No appeal shall lie from a denial of a request for a stay. In case the alien is detained, whether at the expense of the Government or the transportation line, the request of the alien for a stay shall not be granted unless sufficient cash is deposited to defray the cost of his continued detention and expenses incident thereto for the period of time deportation is requested to be stayed, or, in lieu of cash, a bond acceptable to the district director is given guaranteeing the payment of all such expenses. In any case in which a stay is granted under section 237 (d) of the Immigration and Nationality Act and the alien is detained by the Service, the district director may, in his discretion, authorize the alien's release under bond on Form I–324 as provided in section 237 (d) of that Act and under such terms and conditions as the district director may, in his discretion, prescribe.

§ 237.12 *Notice to transportation line of alien's exclusion.* Whenever it is determined that an alien shall be excluded and deported the alien shall, immediately or as promptly as the circumstances permit, be offered for deportation to the master, commanding officer, purser, person in charge, agent, owner or consignee of the vessel or aircraft by which the alien is to be deported, as determined by the district director, with a notice specifying the cause of exclusion and the class of travel in which such alien arrived and in which the alien is to be deported.

§ 237.13 *Notice to district director of proposed departure.* At least 24 hours' notice of the time of sailing of every vessel which has brought aliens to the United States shall be given to the district director or officer in charge having administrative jurisdiction over the port at which such vessel arrived: *Provided,* That such district director or officer in charge may, in his discretion, accept notice that is given less than 24 hours in advance of sailing whenever it appears to such officer that it was impossible or impracticable for the transportation line to furnish such information earlier.

§ 237.14 *Aliens rejected at ports outside the United States.* Any alien destined to the United States, who has been brought to a port in foreign contiguous territory or adjacent islands by a transportation line signatory to a contract made pursuant to section 238 (a) of the Immigration and Nationality Act, and who is there excluded from admission to the United States, shall be returned to the country whence he came by the transportation line bringing him unless, upon examination by officials of such territory or island, such alien is admitted to such territory or island.

§ 237.15 *Excluded aliens requiring special care and attention.* The provisions of § 243.11 of this chapter shall apply to the deportation of aliens under this part.

§ 237.21 *Submission of proof by transportation line.* A transportation line claiming exemption from liability for the cost of the alien's maintenance in accordance with the provisions of § 237.2 shall be afforded a reasonable period of time, as determined by the district director, within which to submit to the district director affidavits and briefs in support of its claim.

PART 238—ENTRY THROUGH OR FROM FOREIGN CONTIGUOUS TERRITORY AND ADJACENT ISLANDS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
238.1 Inspection outside the United States.
238.2 Contracts with transportation lines.
238.3 Contracts and bonding agreement for certain transit aliens.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

238.11 Preexamination outside the United States.

AUTHORITY: §§ 238.1 to 238.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 221, 235, 236, 237, 238, 66 Stat. 192, 198, 200, 201, 202.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 238.1 *Inspection outside the United States.* All inspections and medical examinations which may be conducted in foreign contiguous territory or adjacent islands under the provisions of section 238 of the Immigration and Nationality Act, shall be in all respects similar to those conducted at ports of entry in the United States, and officials of the United States making the inspections and examinations required under the immigration laws of the United States shall be provided with all necessary facilities.

§ 238.2 *Contracts with transportation lines.* The contracts with transportation lines including bonding agreements, referred to in section 238 of the Immigration and Nationality Act, shall be made by the Commissioner in behalf of the government, and shall be in such form as the Commissioner shall prescribe.

§ 238.3 *Contracts and bonding agreement for certain transit aliens.* Transportation lines desiring to bring to the United States aliens in direct and continuous transit through the United States en route to foreign destinations in accordance with the provisions of section 238 (d) of the Immigration and Nationality Act shall apply to the Commissioner for the privilege of entering into a contract, including a bonding agreement. Such contract, if agreed to by the Commissioner shall be on Form I–426 or I–426A in duplicate, whichever the Commissioner deems appropriate, and shall require the transportation line to furnish a bond on Form I–318 or I–318A, as designated by the Commissioner, containing such terms and conditions as the Commissioner shall require and guaranteeing that any aliens permitted to pass through the United States pursuant to the agreement will proceed and depart in accordance with the terms and conditions of the agreement.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 238.11 *Preexamination outside the United States*—(a) *Who may apply.* Subject to the limitations hereinafter provided, whenever officers of the Service are stationed in foreign contiguous territory or adjacent islands, persons (whether citizens or nationals of the United States or aliens) who intend to apply for admission to the United States may appear before such officer to be preexamined as to their admissibility to the United States. Persons required by the Immigration and Nationality Act and this chapter to be in possession of a permit to enter or a passport shall not be preexamined unless such permit to enter or passport is presented.

(b) *Preparation of Form I–94.* A full set of Forms I–94 shall be prepared by an immigration officer for an alien presenting himself for preexamination if such set of forms would be required to be prepared under the provisions of § 221.3 of this chapter were the alien applying at a port of entry for admission to the United States. If a full set of Forms I–94 would not be so required and if the applicant is an alien not in possession of a permit to enter, or if the applicant is a citizen or a national of the United States, the immigration officer shall prepare a Form I–94F for the applicant. The names and ages of children under 14 years of age may be included in the Form I–94 prepared for an accompanying parent or guardian.

(c) *Procedure when applicant is found to be admissible.* If the examining officer determines that the applicant being preexamined is admissible to the United States he shall note that determination on the Form I–94E, I–94F, I–132, 256a or 257d prepared for or presented by the applicant, and return the form (attached to any other pertinent immigration documents) to the applicant for presentation and surrender at the actual

port of entry in the United States. If the applicant applies for admission to the United States at a port of entry in the United States within 30 days from the finding of admissibility by the notation of the preexamining officer and there has been no subsequent change in the applicant's immigration status, the applicant may be admitted upon identification, provided he presents valid, unexpired documents as required by the Immigration and Nationality Act and this chapter in the case of a person applying for admission without having been preexamined. The port of entry into the United States shall be the "record" port of entry for all purposes. If notwithstanding the determination on preexamination, the examining immigration officer at the port of entry is not satisfied that the applicant is admissible, further action shall be taken as provided in sections 235, 236, and 237 of the Immigration and Nationality Act and Parts 235, 236, and 237 of this chapter to the same extent as though the alien had not been preexamined.

(d) *Procedure when applicant is not found to be admissible.* If the examining immigration officer is not satisfied that the applicant being preexamined is admissible to the United States, further action shall be taken as provided in sections 235, 236, and 237 of the Immigration and Nationality Act and Parts 235, 236, and 237 of this chapter to the same extent as though the applicant were applying for admission at a port of entry, except that if the applicant is found to be admissible by a special inquiry officer or on appeal, the provisions of paragraph (c) of this section shall govern the further disposition of the case.

PART 239—SPECIAL PROVISIONS RELATING TO AIRCRAFT; DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

239.1 Definitions.
239.2 Landing requirements.
239.3 Aircraft; how considered.
239.4 International airports for entry of aliens.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 239.1 to 239.4 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 231, 239, 66 Stat. 195, 203.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 239.1 *Definitions.* As used in this part, the term "scheduled airline" means any individual, partnership, corporation, or association engaged in air transportation upon regular schedules to, over, or away from the United States, or from one place to another in the United States, and holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity issued pursuant to the Civil Aeronautics Act of 1938.

§ 239.2 *Landing requirements*—(a) *Place of landing.* Aircraft carrying passengers or crew required to be inspected Act shall land at the international airports enumerated in § 231.7 of this chapter unless permission to land elsewhere shall first be obtained from the Commissioner of Customs in the case of aircraft operated by scheduled airlines, and in all other cases from the Collector of Customs or other Customs officer having jurisdiction over the airport of entry nearest the intended place of landing. Whenever such permission is granted, the owner, operator, or person in charge of the aircraft shall pay any additional expenses incurred in inspecting passengers or crew on board such aircraft, except that when permission is granted to a scheduled airline to land an aircraft operating on a schedule no inspection charge shall be made for overtime service performed by immigration officers if the aircraft arrives substantially in accordance with schedules on file with the Service.

(b) *Advance notice of arrival.* Aircraft carrying passengers or crew required to be inspected under the Immigration and Nationality Act, except aircraft of a scheduled airline arriving in accordance with the regular schedule filed with the Service at the place of landing, shall not land unless notice of the intended flight has been furnished to the immigration officers at or nearest the intended place of landing. Such notice shall specify the type of aircraft, the registration marks thereon, the name of the aircraft commander, the place of last departure, the airport of entry, or other place at which landing has been authorized, number of alien passengers, number of citizen passengers, and the estimated time of arrival. The notice shall be sent in sufficient time to enable the officers designated to inspect the aircraft to reach the airport of entry or such other place of landing prior to the arrival of the aircraft.

(c) *Permission to discharge or depart.* Aircraft carrying passengers or crew required to be inspected under the Immigration and Nationality Act shall not discharge or permit to depart any passenger or crewman without permission from an immigration officer.

(d) *Emergency or forced landing.* Should any aircraft carrying passengers or crew required to be inspected under the Immigration and Nationality Act make a forced landing in the United States, the commanding officer or person in command shall not allow any passenger or crewman thereon to depart from the landing place without permission of an immigration officer, unless such departure is necessary for purposes of safety or the preservation of life or property. As soon as practicable, the commanding officer or person in command, or the owner of the aircraft, shall communicate with the nearest immigration officer and make a full report of the circumstances of the flight and of the emergency or forced landing.

§ 239.3 *Aircraft; how considered.* Except as otherwise specifically provided in the Immigration and Nationality Act and this chapter, aircraft arriving in or departing from the continental United States or Alaska directly from or to foreign contiguous territory or the French islands of St. Pierre or Miquelon shall be regarded for the purposes of the Immigration and Nationality Act and this chapter as other transportation lines or companies arriving or departing over the land borders of the United States.

§ 239.4 *International airports for entry of aliens.* International airports for the entry of aliens shall be those airports designated as such by the Commissioner. An application for designation of an airport as an international airport for the entry of aliens shall be made to the Commissioner and shall state whether the airport (a) has been approved by the Secretary of Commerce as a properly equipped airport, (b) has been designated by the Secretary of the Treasury as a port of entry for aircraft arriving in the United States from any place outside thereof and for the merchandise carried thereon, and (c) has been designated by the Federal Security Administrator as a place for quarantine inspection. An airport shall not be so designated by the Commissioner without such prior approval and designation, and unless it appears to the satisfaction of the Commissioner that conditions render such designation necessary or advisable, and unless adequate facilities have been or will be provided at such airport without cost to the Federal Government for the proper inspection and disposition of aliens, including office space and such temporary detention quarters as may be found necessary. The designation of an airport as an international airport for the entry of aliens may be withdrawn whenever, in the judgment of the Commissioner, there appears just cause for such action.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 242—ALIENS: APPREHENSION, CUSTODY AND DETERMINATION OF DEPORTABILITY

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

242.1 Warrant of arrest.
242.2 Detention or release of aliens from custody.
242.3 Release.
242.4 Voluntary departure prior to commencement of hearing; authority.
242.5 Hearing.
242.6 Authority of special inquiry officers.
242.7 Reinstatement of prior order of deportation; authority.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

242.11 Investigations.
242.12 Applications for warrants of arrest.
242.13 Issuance of warrants of arrest.
242.14 Execution of warrants of arrest.
242.21 Report to district director of continued detention.
242.31 Release prior to entry of order of deportation; conditions.
242.32 Release after order of deportation; conditions.
242.33 Warning of penal provision.
242.34 Institution cases.
242.35 Cost of maintenance pending deportation.
242.41 Voluntary departure prior to commencement of hearing; procedure.
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242.51 Hearing; time for.
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Sec.
242.61 Decision of special inquiry officer.
242.71 Apprehension of alien.
242.72 Release from custody.
242.73 Conduct of hearing; decision; finality of order.
242.74 Relief from deportation.
242.75 Scope of hearing.
242.76 Scope of decision.
242.77 Appeal.

AUTHORITY: §§ 242.1 to 242.77 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 242, 244, 287, 292, 66 Stat. 208, 214, 233, 235.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 242.1 *Warrant of arrest*—(a) *Issuance.* Subject to the limitations provided in this part, district directors, district enforcement officers, district officers and the assistant district officers who are in charge of investigations, and officers in charge of suboffices may issue warrants of arrest.

(b) *Cancellation; termination of proceedings.* In any case in which a warrant of arrest has been issued by any of the officers described in paragraph (a) of this section, the district director having administrative jurisdiction over the case may (1) cancel the warrant of arrest if it has not been served, or (2) prior to the actual commencement of the hearing under a served warrant of arrest, terminate proceedings thereunder, if in either case, he is satisfied clearly and beyond a doubt on the evidence then before him that the alleged alien is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or has departed from the United States subsequent to the issuance of the warrant of arrest.

§ 242.2 *Detention or release of aliens from custody.* District directors, district enforcement officers, or officers in charge may exercise the authority contained in section 242 of the Immigration and Nationality Act to continue in, detain in, or release aliens from, custody.

§ 242.3 *Release*—(a) *Prior to final order.* Except as provided in § 242.72, pending final determination of deportability, an alien taken into or continued in custody under a warrant of arrest in a deportation proceeding may be detained, released under bond on Form I–353, or released on conditional parole, in the discretion of the district director, the district enforcement officer, or the officer in charge having administrative jurisdiction over the place where the alien is detained. Such bond or parole may be revoked at any time in the discretion of any of such officers.

(b) *After final order of deportation; within six months' period*—(1) *Alien detained.* Except as provided in § 242.72, at any time during the period of six months immediately following the date of the making of the final order of deportation as determined under section 242 (c) of the Immigration and Nationality Act, the alien, if then in custody of the Service, may be released under bond on Form I–353, or on conditional parole, in the discretion of the district director, district enforcement officer, or officer in charge having administrative jurisdiction over the place where the alien is detained. Such bond or parole may be revoked at any time in the discretion of any of such officers.

(2) *Alien previously released under bond.* During the period of 6 months following the date of the making of a final order of deportation as determined under section 242 (c) of the Immigration and Nationality Act, in the discretion of the district director, district enforcement officer, or officer in charge having administrative jurisdiction over the office which authorized the alien's release, an alien previously released under bond pending final determination of deportability pursuant to paragraph (a) of this section may be (i) continued at liberty under such bond, (ii) continued at liberty under such bond but with such other or additional conditions as then are deemed appropriate, (iii) continued at liberty under conditional parole in lieu of bond, in which event the outstanding bond shall be revoked and canceled, or (iv) taken into physical custody and detained, in which event, unless a breach has occurred, the outstanding bond shall be revoked and canceled.

(3) *Alien previously released on conditional parole.* During the period of six months following the date of the making of a final order of deportation as determined under section 242 (c) of the Immigration and Nationality Act, in the discretion of the district director, district enforcement officer, or officer in charge having administrative jurisdiction over the office which authorized the alien's release, an alien previously released on conditional parole pending final determination of deportability pursuant to paragraph (a) of this section may be (i) continued at liberty under such parole, (ii) continued at liberty under such parole but with such other or additional terms as then are deemed appropriate, (iii) continued at liberty under bond in lieu of conditional parole, in which event the outstanding conditional parole order shall be revoked and canceled, or (iv) taken into physical custody and detained, in which event the outstanding conditional parole order shall be revoked and canceled.

(c) *Release; supervision after six month's period has expired; warning of penal provisions.* An alien against whom an order of deportation has been outstanding for more than six months shall, pending deportation, be placed under supervision by the district director, district enforcement officer, or officer in charge having administrative jurisdiction over the office in which the detention or release of such alien was authorized. An alien placed under supervision pursuant to this paragraph shall be advised of the penal provisions of section 242 (d) of the Immigration and Nationality Act. Aliens placed under such supervision shall, among other things, be required to:

(1) Appear from time to time at specified times or intervals before an officer of the Service for identification;

(2) Submit, if necessary, to medical and psychiatric examination at government expense;

(3) Give information under oath as to his nationality, circumstances, habits, associations and activities, and other information whether or not related to the foregoing as may be deemed fit and proper; and

(4) Conform to such reasonable written restrictions on his conduct or activities as may be prescribed.

§ 242.4 *Voluntary departure prior to commencement of hearing; authority.* Subject to the limitations contained in § 242.41, the authority contained in section 242 (b) of the Immigration and Nationality Act to permit aliens to depart voluntarily from the United States may be exercised by district directors and officers in charge.

§ 242.5 *Hearing.* The person against whom a warrant of arrest has been issued and upon whom it has been served shall be referred to as the respondent. The proceedings before a special inquiry officer under section 242 (b) of the Immigration and Nationality Act shall be termed a hearing.

§ 242.6 *Authority of special inquiry officers.* In determining cases submitted for hearing, special inquiry officers shall exercise the authority contained in section 242 (b) of the Immigration and Nationality Act to order deportation, and the authority contained in section 244 of the Immigration and Nationality Act to suspend deportation and to authorize voluntary departure, subject to the limitations contained in this part and in Parts 6 and 7 of this chapter.

§ 242.7 *Reinstatement of prior order of deportation; authority.* Subject to the limitations hereinafter provided, the authority contained in section 242 (f) of the Immigration and Nationality Act to find that an alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation shall be exercised by special inquiry officers.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 242.11 *Investigations*—(a) *Persons believed to be subject to deportation.* The case of every person believed to be subject to arrest and deportation shall be investigated by such officer as may be designated for that purpose.

(b) *Purpose of investigation.* The purpose of the investigation shall be to discover whether or not a prima facie case for deportation exists; that is, whether there is credible evidence reasonably establishing that the person investigated is an alien and that he is subject to deportation.

(c) *Recorded statements.* Whenever, in the course of an investigation, information is obtained which indicates that the person investigated is subject to arrest and deportation, and it is desired to use such information as evidence in support of an application for a warrant of arrest, such information shall be reduced to writing either in narrative or question-and-answer form and signed by the person furnishing the information. Whenever such recorded statement is to be obtained from any person, the investigating officer shall (1) identify himself to such person, (2) warn the person that any statement made by him may be used

as evidence against him in any subsequent proceeding, and (3) place the person under oath or affirmation.

(d) *Refusal to make, or refusal or inability to sign a statement.* Whenever, in the course of an investigation, admissions or statements are obtained from the person under investigation or statements are made by any other person which indicate that the person investigated may be subject to arrest and deportation, but there is a refusal to make a statement under oath or affirmation, or a refusal or inability to sign the statement by name or by mark, the investigating officer shall make a report setting forth the facts admitted or stated. Such report, with any unsigned or unsworn statement which has been reduced to writing, may be used in support of an application for a warrant of arrest if the investigating officer certifies that no other evidence to establish the facts stated in the report can readily be obtained.

§ 242.12 *Applications for warrants of arrest.* If, after preliminary investigation, the investigating officer determines that a prima facie case for deportation of an alien exists, he shall apply for a warrant of arrest to an officer having authority to issue warrants of arrest.

§ 242.13 *Issuance of warrants of arrest.* Any officer mentioned in § 242.1 (a) who receives an application for a warrant of arrest may issue such warrant in any case in which he determines that a prima facie case for deportation has been established.

§ 242.14 *Execution of warrants of arrest*—(a) *Service.* Except as provided in § 242.34, an alien against whom a warrant of arrest has been issued shall be taken into custody under the authority of the warrant of arrest, or if previously taken into custody without a warrant of arrest under the authority contained in section 287 of the Immigration and Nationality Act, shall be continued in custody under the warrant of arrest subsequently issued unless his release is authorized. In either case a copy of the warrant of arrest shall be served upon the alien, and he shall then be fully advised of the cause of his arrest. If the alien is confined in a penal or mental institution but is competent to understand the nature of the proceedings, a copy of the warrant of arrest shall be served upon him and upon the person in charge of the institution. The alien shall then be fully advised of the charges against him but he shall not be taken into physical custody of the Service until released from confinement. If such alien is not competent to understand the nature of the proceedings, a copy of the warrant of arrest shall be served only upon the person in charge of the institution in which the alien is confined, and such service shall be deemed service upon the alien. In cases of mental incompetency, whether or not confined in an institution, and in cases of children under 16 years of age, an additional copy of the warrant of arrest shall be served upon such alien's guardian, near relative, or friend, whenever possible.

(b) *Notice of right to counsel and release from custody.* Upon service of the warrant of arrest, the alien shall be advised of his right to representation by counsel, at no expense to the Government, at the hearing to be held under the warrant of arrest. When taken into physical custody of the Service he shall be informed whether he is to be continued in custody or, if release from custody has been authorized, of the amount and conditions of bond or terms of conditional parole under which he may be released. Similar advice shall be given to the guardian, near relative, or friend in cases involving mentally incompetent aliens, whether or not confined in institutions, and in cases of aliens under 16 years of age.

(c) *Fingerprints; photographs.* Every alien 14 years of age or older who is arrested under a warrant of arrest in accordance with the provisions of paragraph (a) of this section, or without a warrant of arrest under the authority of section 287 of the Immigration and Nationality Act, shall be fingerprinted. Any alien so arrested, regardless of his age, shall be photographed if a photograph is required by the district director or the officer in charge having administrative jurisdiction over the case.

§ 242.21 *Report to district director of continued detention.* In any case in which a district enforcement officer or officer in charge has exercised the authority to continue or detain an alien in custody, the facts and a report of the action taken shall be promptly transmitted to the district director having administrative jurisdiction over the office in which the proceedings were instituted. Further action shall be taken in the case, with respect to the alien's detention or release, as the district director shall direct.

§ 242.31 *Release prior to entry of order of deportation; conditions.* The conditions of any bond or terms of parole authorized by § 242.3 (a) shall include but shall not be limited to:

(a) A condition that the alien be produced, or will produce himself

(1) When required to do so for the purpose of defending himself against the charge or charges under which he was taken into custody and any other charges which subsequently may be lodged against him,

(2) For deportation, if an order of deportation is made,

(3) When the alien's detention is ordered as provided in § 242.3,

(4) For the purpose of furnishing additional information necessary to the final disposition of the case; and

(b) Such other conditions or terms as are otherwise directed, or which the officer granting the release deems appropriate in the case. If a bond is required and accepted, it shall be executed on Form I–353 and shall be in an amount not less than $500.

§ 242.32 *Release after order of deportation; conditions.* The conditions of any bond or terms of parole authorized by § 242.3 (b) shall include but shall not be limited to:

(a) A condition that the alien be produced, or will produce himself

(1) When required to do so for deportation,

(2) For the purpose of furnishing additional information necessary to the final disposition of his case,

(3) When the alien's detention is ordered as provided in § 242.3; and

(b) Such other conditions or terms as are otherwise directed, or which the officer granting the release deems appropriate in the case. If a bond is required and accepted, it shall be executed on Form I–353 and shall be in an amount not less than $500.

§ 242.33 *Warning of penal provision.* An alien against whom a final order of deportation is outstanding by reason of his being a member of any of the classes described in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241 (a) of the Immigration and Nationality Act shall be advised of the penal provisions of section 242 (e) of the said Act.

§ 242.34 *Institution cases.* In the absence of special instructions, an alien confined in an institution shall not be accepted into physical custody by the Service until an order of deportation has been made and the Service is ready to deport the alien.

§ 242.35 *Cost of maintenance pending deportation.* The cost of maintaining aliens in custody after arrest and pending deportation may be borne by the Government, except that when an alien is an inmate of a public or private institution at the time of the commencement of deportation proceedings, no expense shall be incurred by the Government until he is taken into physical custody by the Service.

§ 242.41 *Voluntary departure prior to commencement of hearing; procedure.* Any alien, other than an alien prima facie deportable under section 242 (f) of the Immigration and Nationality Act, who believes himself to be eligible for voluntary departure under section 242 (b) of the said act may apply therefor at an office of the Service at any time prior to the commencement of the hearing under a warrant of arrest in his case. The district director or officer in charge having administrative jurisdiction over the office receiving an application for voluntary departure may cause such investigation to be conducted as he deems necessary to determine whether the relief requested should be granted. If such officer is satisfied that:

(a) The alien is subject to deportation upon any ground other than those set forth in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241 (a) of the Immigration and Nationality Act,

(b) The alien is willing and able to depart promptly from the United States,

(c) The alien apparently will be admitted to the country of his destination, and

(d) The application should be granted, he shall grant the application and shall inform the alien of the time within which and under what conditions the

departure shall be effected. If such officer is not so satisfied that the application should be granted, he shall deny the application and shall take further action as is provided by the Immigration and Nationality Act and this chapter for the ultimate disposition of the case. No appeal shall lie from such denial, but the denial shall be without prejudice to the alien's right to apply for relief from deportation under any provision of the said Act.

§ 242.42 *Revocation of grant of voluntary departure.* If, subsequent to the granting of an application for voluntary departure under § 242.41 it is ascertained prior to the alien's actual departure from the United States that the alien should not be permitted to depart voluntarily under that section, the grant of voluntary departure may be revoked by any district director or officer in charge without notice. Thereupon, further proceedings shall be taken under this chapter and the Immigration and Nationality Act as are warranted by the facts in the case.

§ 242.51 *Hearing; time for.* The respondent shall have a reasonable period of time after the service of the warrant of arrest within which to arrange for the presentation of his case, including, if desired, representation by counsel. The district director or the officer in charge having administrative jurisdiction over the office in which the proceedings are pending shall assign the case to a special inquiry officer for hearing.

§ 242.52 *Notice of hearing.* The respondent shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held. Notice of hearings shall be prepared on Form I–226. A copy of such notice shall be served upon the respondent, and, in any case in which the respondent has been released on bond, upon the surety on the bond. The notice of hearing shall inform the respondent of the nature of the charges, the time and place at which the hearing will be held, and the respondent's privilege of being represented, at no expense to the Government by such counsel, authorized to practice in such proceedings, as he shall choose. Notice of hearing may be waived by the respondent and such waiver shall be made a part of the record of the case.

§ 242.53 *Conduct of hearing*—(a) *Special inquiry officer; general powers.* The special inquiry officer assigned to conduct the hearing under this part shall have authority to:

(1) Administer oaths and affirmations;

(2) Issue, during the course of a hearing, any subpenas authorized by law;

(3) Conduct the hearing, present and receive evidence, and rule upon all objections to the introduction of evidence or motions made during the course of the hearing;

(4) Take or cause depositions to be taken;

(5) Make decisions in accordance with § 242.61 or § 242.76; and

(6) Take any further action consistent with applicable provisions of law and regulation.

(b) *Special inquiry officers; general duties.* The special inquiry officer shall conduct a fair and impartial hearing. No decision of deportability shall be valid unless based upon reasonable, substantial and probative evidence. He shall exclude from the record any evidence that is irrelevant, immaterial, or unduly repetitious. In his discretion, he may exclude from the record any argument in support of objections, but in such event, the respondent may submit a brief in support of such objections. If the testimony is transcribed, the special inquiry officer shall certify that to the best of his knowledge and belief the transcript is a true and correct report of everything that was stated during the course of the hearing, including oaths administered and rulings on objections, but excluding statements made off the record.

(c) *Special inquiry officers; specific duties.* At the commencement of the hearing under this part, the special inquiry officer shall (1) place the respondent under oath or affirmation, (2) advise the respondent of his right to representation, at no expense to the Government, by counsel authorized to practice in such proceedings, as he shall choose, and require him to state then and there for the record whether he desires such representation, (3) enter of record a copy of the warrant of arrest and explain to the respondent in simple, understandable language the nature of the charges contained therein, (4) advise the respondent that he will have a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government, and (5) present the evidence, including the interrogation, examination, and cross-examination of the respondent and witnesses to the extent necessary, as to (i) alienage, (ii) date, place and manner of entry of the respondent into the United States, (iii) grounds for deportation, (iv) factors bearing upon the respondent's eligibility for discretionary relief if application therefor has been made, and (v) such other matter as may be pertinent to the issues in the case. Except in the case of an alien prima facie deportable under section 242 (f) of the Immigration and Nationality Act, the special inquiry officer, in such cases and at such time during the hearing as he deems appropriate, may advise the respondent concerning application for the privilege of suspension of deportation or voluntary departure under the provisions of section 244 of the said Act, and shall further advise the respondent of his right to specify the country to which his deportation is to be directed in the event such deportation is required by law and request the respondent to specify such country for the record.

(d) *Special inquiry officers; additional charges.* If it appears during the hearing that the respondent may be deportable on grounds other than or in addition to those stated in the warrant of arrest, the special inquiry officer, except as provided in § 242.75, may lodge additional charges against the respondent and shall develop evidence upon such charges in like manner as on the charges specified in the warrant of arrest. When additional charges are lodged, the special inquiry officer shall explain these charges to the respondent in simple, understandable language and shall advise him, if he is not represented by an attorney or other qualified representative, that he may be so represented if he desires, and require him to state then and there for the record whether he desires such representation. The special inquiry officer shall also inform the respondent that he may have a reasonable period of time within which to meet the additional charges, if he desires, and require him to state then and there whether he desires such additional time.

(e) *Withdrawal and substitution of special inquiry officer.* The special inquiry officer assigned to conduct the hearing may at any time withdraw if he deems himself disqualified. If a special inquiry officer becomes unavailable to complete his duties within a reasonable time, another special inquiry officer shall be assigned to complete the case. In such event, the new special inquiry officer shall familiarize himself with the record in the case and shall state for the record that he has done so.

(f) *Assignment of examining officer in addition to special inquiry officer; duties of examining officer.* Prior to the commencement of a hearing, or during the course of a hearing upon the request of the special inquiry officer presiding at such hearing, the district director or the officer in charge having administrative jurisdiction over the place where the proceedings are pending, in his discretion, may assign an immigration officer to act at the hearing as the examining officer. The examining officer shall in such case conduct any required interrogation of the respondent and of the witnesses in behalf of the Government, examine or cross-examine the respondent's witnesses and present evidence bearing upon the question whether the respondent is subject to deportation. Except as provided in §§ 242.74 and 242.75, he shall lodge such additional charges as he may find to be applicable and, if the respondent has applied for relief from deportation, inquire thoroughly into the respondent's eligibility for the relief requested, and develop such other information as may be pertinent to the proper disposition of the case. The assignment of an examining officer shall not impair the authority conferred by the Immigration and Nationality Act or this chapter upon the special inquiry officer presiding at such hearing.

(g) *Representation by counsel.* If the respondent is represented at the hearing by an attorney or other qualified representative, the attorney or representative shall be permitted to be present during the entire hearing, to introduce evidence in behalf of the respondent and to cross-examine witnesses. The attorney or representative shall be permitted to state his objections succinctly, and they shall be entered on the record. If representation is waived, the respondent shall be

permitted to introduce evidence in his own behalf, to cross-examine witnesses, and to make objections which shall be entered on the record.

(h) *Interpreters.* If the services of an interpreter are found necessary in the conduct of a hearing, the special inquiry officer, if qualified, may act as interpreter with the consent of the respondent, or he may request the district director or the officer in charge having administrative jurisdiction of the office in which the proceedings are pending to furnish an interpreter, who shall be sworn to interpret and translate accurately, unless the interpreter is an employee of the Service, in which event, no such oath shall be required.

(i) *Postponement and adjournment of hearings.* Prior to the commencement of a hearing, the district director or the officer in charge having administrative jurisdiction of the office wherein the case is pending, may grant a reasonable postponement for good cause shown, at his own instance upon notice to the respondent, or upon request of the respondent. After the commencement of the hearing, the special inquiry officer presiding at the hearing may grant a reasonable adjournment for good cause shown, at his own instance upon notice to the respondent or upon request of the respondent. A continuance of the hearing for the purpose of allowing the alien to obtain representation, shall not be granted more than once, unless sufficient cause for the granting of more time is shown. The file or the record of hearing shall reflect the action taken with respect to any postponement or adjournment of hearing. Exceptions to a ruling on a request for a postponement or an adjournment of hearing may be taken by the respondent and, if taken, shall be noted on the record.

(j) *Consolidation.* Whenever two or more cases pending in the same district involve common questions of law or fact, the district director or the officer in charge having administrative jurisdiction of the office wherein the cases are pending, may order a joint hearing of any or all matters and issues common to the cases, he may order all such hearings consolidated, and may make such further orders as may tend to avoid unnecessary cost and delay.

§ 242.54 *Contents of record; evidence*—(a) *Record.* The testimony, the exhibits, the decision of the special inquiry officer, and all written motions and other papers and requests filed in the proceeding, shall constitute the record in the case.

(b) *Use of prior statements.* The special inquiry officer may enter of record any statement, oral or written, which is material and relevant to any issue in the case, previously made by the respondent or any other person during any investigation, examination, or hearing. If objection thereto is made by the alien or his counsel or representative, the reasons for the objection, as well as the ruling thereon by the special inquiry officer, shall be made a part of the record.

(c) *Stipulation.* Whenever any facts or other matters at issue in the case have been stipulated in writing prior to the hearing, upon agreement between an officer of the Service and the respondent and his attorney or representative, and the stipulation has been signed by such persons, the special inquiry officer may enter the stipulation as an exhibit of record. Nothing in this paragraph shall preclude an oral or written confession or admission of any fact during a hearing under this part.

(d) *Application for discretionary relief.* Except in the case of an alien who is prima facie deportable under section 242 (f) of the Immigration and Nationality Act, at any time during the hearing the respondent may apply for suspension of deportation on Form I–256A or for voluntary departure, under section 244 of the said Act. The burden of establishing that he meets the statutory requirements for discretionary relief shall be upon the respondent. He may submit any evidence in support of his application which he believes should be considered by the special inquiry officer.

§ 242.61 *Decision of special inquiry officer*—(a) *Preparation of written decision.* Except as provided in paragraph (b) of this section and § 242.76, the special inquiry officer shall, as soon as practicable after the conclusion of the hearing, prepare a written decision signed by him which shall set forth a summary of the evidence adduced and his findings of fact and conclusions of law as to deportability, unless such findings and conclusions are waived by the respondent orally during the hearing or by written waiver filed with the special inquiry officer after the conclusion of the hearing. If the respondent has applied for discretionary relief in accordance with the provisions of § 242.54 (d), the decision shall also contain a discussion of the evidence relating to the alien's eligibility for such relief and the reasons for granting or denying such application. The decision shall be concluded with the order of the special inquiry officer as provided in paragraph (c) of this section.

(b) *Oral decision.* In any case in which he deems such action appropriate, the special inquiry officer may, after conclusion of the hearing, state for the record in the presence of the respondent or his counsel or representative his decision, which shall include the summary, findings, conclusions, discussion, and order referred to in paragraph (a) of this section. The respondent shall thereupon state for the record whether he desires to be served with a written decision as provided in paragraph (d) of this section. If he then and there waives service of a written decision, the respondent shall thereupon state for the record whether he appeals from the decision of the special inquiry officer to the Board. If such appeal is taken, the respondent shall, at the same time, submit a Notice of Appeal (Form I–290A) completed in accordance with paragraph (f) of this section and shall be required to state whether he desires to submit to the district director or officer in charge, having administrative jurisdiction over the office in which the hearing was held, a brief in support of such appeal for consideration by the Board. If he desires to submit a brief, the respondent shall be allowed ten days from the date of the oral decision within which to submit his brief to such district director or officer in charge. For good cause shown, such district director or officer in charge or the special inquiry officer presiding at the hearing, or the Board, in their discretion, may extend the time within which the brief may be submitted. In any case in which the respondent states for the record that he desires to submit a brief, he may, within the period allowed for the submission of such brief, file with the district director or the officer in charge a written waiver thereof.

(c) *Order of special inquiry officer.* The order of the special inquiry officer shall be (1) that the alien be deported, or (2) that the proceedings be terminated, or (3) that the alien's deportation be suspended, or (4) that the alien be granted voluntary departure at his own expense in lieu of deportation within such period of time or authorized extension thereof and under such conditions as the district director or officer in charge having administrative jurisdiction of the office in which the case is pending shall direct, with the further order that, if he fails to depart, he be deported, or (5) that such other action be taken in the proceedings as may be required for the appropriate disposition of the case. The special inquiry officer shall not have authority to designate at whose expense or to which country the alien shall be deported.

(d) *Notice of decision.* In any case in which the respondent has not waived service of a written decision, the district director or the officer in charge having administrative jurisdiction of the office in which the proceeding is pending shall cause a signed copy of the decision of the special inquiry officer to be served on the respondent, with the notice referred to in § 6.11 of this chapter.

(e) *Finality of order.* The order of the special inquiry officer shall be final except when:

(1) The case has been certified as provided in § 7.1 (b) or § 6.1 (c); or

(2) An appeal is taken to the Board of Immigration Appeals.

(f) *Appeals.* (1) The filing of a Notice of Appeal (Form I–290A) in accordance with paragraph (b) of this section shall constitute the taking of an appeal referred to in Part 6 of this chapter and this part.

(2) No appeal shall lie from an order of a special inquiry officer denying an application for voluntary departure as a matter of discretion, where:

(i) The special inquiry officer has found the alien statutorily eligible for voluntary departure, and

(ii) The alien has been in the United States for a period of less than five years at the time of the service of the warrant of arrest in deportation proceedings.

In all other cases (except those covered by paragraph (e) (1) of this section) an appeal shall lie from an order of the special inquiry officer under this part to the Board of Immigration Appeals. The reasons for the appeal shall be stated briefly in the Notice of Appeal

(Form I–290A). Where deportability is contested, the alien or his representative shall be required to indicate in the Notice of Appeal (Form I–290A), the particular findings of fact or conclusions of law with which he disagrees; and failure to do so may constitute a ground for dismissal of the appeal by the Board.

(3) An appeal shall be taken within ten days after receipt of the written decision of the special inquiry officer, or, if a written decision is waived, at the time of such waiver. All appeals shall be filed on Form I–290A.

§ 242.71 *Apprehension of alien.* An alien within the purview of section 242 (f) of the Immigration and Nationality Act shall be taken into custody in accordance with §§ 242.1, and 242.11 to 242.14, inclusive. The warrant of arrest shall charge the alien with deportability only under section 242 (f) of the said Act. The prior order of deportation, properly identified, shall constitute prima facie cause for deportation under section 242 (f) of the said Act.

§ 242.72 *Release from custody.* The provisions of § 242.3 (a) and (b) shall not be applicable to the case of any alien apprehended under § 242.71 unless specific authority to release thereunder has been granted by the Commissioner or the Assistant Commissioner, Detention, Deportation, and Border Patrol Division.

§ 242.73 *Conduct of hearing; decision; finality of order.* Except as hereafter provided in §§ 242.74 to 242.76 inclusive, all of the provisions of §§ 242.5, 242.51 to 242.54, 242.6 and 242.61 shall apply to the case of an alien apprehended in accordance with § 242.71.

§ 242.74 *Relief from deportation.* An alien who is prima facie deportable under the provisions of section 242 (f) of the Immigration and Nationality Act shall not be permitted to apply for voluntary departure in lieu of deportation or for suspension of deportation and shall not be granted such relief.

§ 242.75 *Scope of hearing.* The hearing referred to in § 242.73 shall be limited solely to a consideration and determination of the following issues:

(a) Identity of respondent, i. e., whether respondent is in fact a person who was previously deported or departed pursuant to an order of deportation.

(b) Whether the respondent was previously deported as a member of any of the classes described in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241 (a) of the Immigration and Nationality Act.

(c) Whether the respondent unlawfully reentered the United States. If during the course of such hearing it is ascertained that the respondent is not deportable under section 242 (f) of the said Act, the special inquiry officer shall if appropriate, lodge additional charges against the respondent, and further proceedings shall continue as provided in this part.

§ 242.76 *Scope of decision.* If, on the basis of the evidence presented, the special inquiry officer has determined that the respondent is deportable under section 242 (f) of the Immigration and Nationality Act, he shall state for the record at the conclusion of the hearing and in the presence of the respondent his decision in the case, which shall consist of (a) a summary of the evidence adduced; (b), unless waived by the respondent, his findings of fact and conclusions of law as to the issues described in § 242.75; and (c) an order that the respondent be deported under the previous order of deportation in accordance with section 242 (f) of the Immigration and Nationality Act.

§ 242.77 *Appeal.* The order of the special inquiry officer that the respondent be deported under the previous order of deportation in accordance with section 242 (f) of the Immigration and Nationality Act may be appealed by the respondent to the Board in accordance with the provisions of § 242.61 (f).

PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

243.1 Issuance of warrants of deportation; country to which alien shall be deported; cost of detention; care and attention of alien.
243.2 Finality of decision.
243.3 Execution of warrants of deportation.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

243.11 Special care and attention for aliens.
243.12 Deportation of lepers.
243.13 Alien addict discharged from United States Public Health Service Hospital.
243.14 Notice to transportation line.
243.15 Deportation to foreign contiguous territory.

AUTHORITY: §§ 243.1 to 243.15 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 242, 243, 66 Stat. 208, 212.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 243.1 *Issuance of warrants of deportation; country to which alien shall be deported; cost of detention; care and attention of alien*—(a) *Issuance.* In any case in which an order of deportation becomes final a warrant of deportation shall be issued. District directors shall issue warrants of deportation.

(b) *Determination of place and cost of deportation, and necessity for attendants.* District directors shall exercise the authority contained in section 243 of the Immigration and Nationality Act to designate the country to which, and at whose expense an alien in the United States shall be deported, and to determine when an alien's mental or physical condition requires the employment of a person to accompany the alien.

§ 243.2 *Finality of decision.* No appeal shall lie from the decision of the district director in the exercise of the authority described in § 243.1.

§ 243.3 *Execution of warrants of deportation*—(a) *Taking alien into custody.* Upon the issuance of a warrant of deportation or as soon thereafter as the circumstances of the case require, the alien, if not in the physical custody of the Service, shall be taken into such custody under the authority of such warrant of deportation and deported.

(b) *Stay of deportation.* Except as otherwise provided herein, the district director having administrative jurisdiction over the place where the alien is located may, in the exercise of his discretion, and for good cause shown, stay the execution of a warrant and order of deportation for such time and under such conditions as he may deem appropriate. He may grant such stay upon his own instance or upon request of the alien. A request for a stay by the alien shall be in writing, shall be filed with the district director, and shall be supported by an affidavit setting forth the reasons for the request and by such other evidentiary matter as may support the request. In any case in which the request for a stay of deportation is predicated upon a claim by the alien that he would be subject to physical persecution if deported to the country designated by the district director, the office receiving the request shall transmit it to the Commissioner for decision. Notice of disposition of the alien's request shall be served upon him but neither the making of the request nor the failure to receive a notice of decision thereon shall relieve or excuse the alien from presenting himself for deportation at the time and place designated for his deportation. No appeal shall lie from a denial of a request for a stay of deportation, but such denial shall not preclude the Board from granting a stay in connection with a motion to reopen or a motion to reconsider as provided in § 6.21 (a) of this chapter.

(c) *Voluntary departure under order of deportation.* Subject to the limitations and provisions of sections 242 (g) and 243 of the Immigration and Nationality Act, the district director having administrative jurisdiction over the place where the alien is located may, in his discretion, permit an alien who has been ordered deported to depart voluntarily from the United States under the order of deportation.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 243.11 *Special care and attention for aliens*—(a) *Duty of transportation line.* Whenever it is determined by the district director than an alien about to be deported requires special care and attention, the transportation line responsible for the expense of the alien's deportation shall provide for such care and attention as may be required by the alien's condition not only during the voyage from the United States to the foreign country to which the alien is to be deported but also during the foreign inland journey as hereinafter provided. Such alien shall be delivered to the master, commanding officer, or the officer in charge of the vessel or aircraft on which the alien is to be deported, who shall be given Form I–287 and duplicate carbon sheets A, B, and C thereof. Sheet A and the receipt attached thereto shall be filled out except as to signature by an immigration officer. The receipt attached to sheet A shall be signed by the officer of the vessel or aircraft to whom the alien has been delivered and returned forthwith to the

immigration officer making delivery. Sheets B and C shall be retained by the receiving officer and in due course filled out by the agents or persons therein designated and by them returned by mail as herein provided.

(b) *Procedure at foreign port of disembarkation.* The transportation line shall at its own expense forward the alien from the foreign port of disembarkation to his destination in charge of a proper attendant except only in cases where the foreign public officials decline to allow such attendant to proceed and themselves take charge of the alien, which fact shall be recorded by the transportation line by executing the form provided in the lower half of sheet C of Form I–287. If the foreign public officials do not take charge of the alien at the port of disembarkation, but at an interior frontier, both forms on sheet C shall be filled out, the former in relation to the inland journey as far as such frontier.

(c) *Failure of transportation line to provide special care.* Whenever a transportation line responsible for the expenses of the alien's deportation fails, refuses, or neglects to provide personal care and attention for such alien requiring such care and attention, or whenever such line fails, refuses, neglects to return sheets B and C of Form I–287, properly executed within 90 days after the departure of such alien, or otherwise fails, refuses, or neglects to comply with the provisions of this section, the district director shall thereafter and without notice employ suitable persons, at the expense of the transportation line, to accompany aliens requiring personal care and attentoin who are deported on any vessel or aircraft of such line.

§ 243.12 *Deportation of lepers.* Cases of aliens afflicted with leprosy shall be handled in accordance with the governing regulations and instructions issued by the Surgeon General, United States Public Health Service, Federal Security Agency.

§ 243.13 *Alien addict discharged from United States Public Health Service Hospital.* Any alien who has been sentenced to imprisonment and has been ordered deported and who has been transferred as an alien addict to a hospital of the United States Public Health Service provided for in the Public Health Service Act, as amended (58 Stat. 696; 42 U. S. C. 201 et seq.), shall be taken into custody upon his discharge from such narcotic farm and deported without requiring his return to the penal institution from which he came to such narcotic farm.

§ 243.14 *Notice to transportation line.* If an alien's deportation is to be effected by vessel or aircraft, notice of the proposed deportation shall be given to the transportation line concerned, together with a brief description of the alien and any other appropriate data, including the cause of deportation, the alien's physical and mental condition, and the place to which the alien is to be taken by such line. Any request from such line to defer the delivery of the alien for deportation shall be accompanied by a written agreement from the line that it will be responsible for all detention expenses resulting from such deferment.

§ 243.15 *Deportation to foreign contiguous territory.* Aliens ordered deported to foreign contiguous territory shall be returned across the border at the nearest port unless humanitarian or other reasons make it advisable to effect deportation through some other port. Deportation to a seaport in such foreign territory shall be authorized whenever that appears advisable or more economical than deportation across a land boundary.

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

244.1 Voluntary departure after issuance of warrant of arrest.
244.2 Suspension of deportation.
244.3 Use of confidential information.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

244.11 Voluntary departure after issuance of warrant of arrest and prior to commencement of hearing.
244.12 Application for voluntary departure subsequent to commencement of hearing; disposition.
244.13 Revocation of grant of voluntary departure.
244.14 Verification of departure; cancellation of delivery bond.

AUTHORITY: §§ 244.1 to 244.14 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 241, 242, 244, 66 Stat. 204, 208, 214.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 244.1 *Voluntary departure after issuance of warrant of arrest*—(a) *Prior to commencement of hearing.* Prior to the commencement of the hearing provided for in Part 242 of this chapter and subject to the provisions of this part, district directors and officers in charge may authorize voluntary departure in lieu of deportation in the case of an alien under deportation proceedings.

(b) *Subsequent to commencement of hearing.* Subject to the provisions of Part 242 of this chapter, a special inquiry officer may, subsequent to the commencement of the hearing provided for in that part, grant voluntary departure in lieu of deportation in the case of any alien who is the subject of deportation proceedings before such officer.

§ 244.2 *Suspension of deportation.* An application for suspension of deportation shall be submitted in accordance with, and subject to, the provisions of § 242.54 (d) of this chapter and shall be determined and disposed of in accordance with the provisions of this part and § 242.61 of this chapter.

§ 244.3 *Use of confidential information.* In the case of an alien qualified for voluntary departure or suspension of deportation under section 242 or 244 of the Immigration and Nationality Act the determination as to whether the application for voluntary departure or suspension of deportation shall be granted or denied (whether such determination is made initially or on appeal) may be predicated upon confidential information without the disclosure thereof to the applicant, if in the opinion of the officer or the Board making the determination the disclosure of such information would be prejudicial to the public interest, safety, or security.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 244.11 *Voluntary departure after issuance of warrant of arrest and prior to commencement of hearing*—(a) *Application.* The alien, if he believes that he is eligible for voluntary departure under section 244 (e) of the Immigration and Nationality Act, may, at any time subsequent to the issuance of a warrant of arrest and prior to the commencement of the hearing, apply therefor by filing an application with the district director or officer in charge having administrative jurisdiction over the office in which the deportation proceedings against such alien are pending.

(b) *Disposition of application.* The district director or officer in charge may cause such investigation to be conducted as he deems necessary to determine whether the relief requested should be granted. If such officer is satisfied that:

(1) The alien is subject to deportation upon any ground other than those set forth in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241 (a) of the Immigration and Nationality Act,

(2) The alien is willing and able to depart promptly from the United States,

(3) The alien will apparently be admitted to the country of his destination,

(4) The alien is and has been a person of good moral character for at least 5 years immediately preceding his application for voluntary departure, and

(5) That the application should be granted,

he shall grant the application and shall inform the alien of the time within which and under what conditions the departure shall be effected. If such officer is not so satisfied, or if it appears that applicant is or may be subject to deportation upon any ground set forth in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241 (a) of the Immigration and Nationality Act, the district director or officer in charge shall refer the application for voluntary departure with the case of the alien to a special inquiry officer for hearing and determination in accordance with § 242.61 and § 244.12 of this chapter.

§ 244.12 *Application for voluntary departure subsequent to commencement of hearing; disposition.* If the special inquiry officer is satisfied that:

(a) The alien is willing and able to depart promptly from the United States,

(b) The alien apparently will be admitted to the country of his destination,

(c) The alien, if deportable upon any ground set forth in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17) or (18) of section 241 (a) of the Immigration and Nationality Act, is within the classes of persons who are eligible for suspension of deportation under paragraphs (4) or (5) of section

244 (a) of the Immigration and Nationality Act,

(d) The alien is and has been a person of good moral character for at least 5 years immediately preceding his application for voluntary departure, and

(e) That the relief requested should be granted,

he shall enter an order as provided in § 242.61 (c).

§ 244.13 *Revocation of grant of voluntary departure.* If, subsequent to the granting of voluntary departure under this part by a district director or officer in charge and prior to the alien's actual departure from the United States it is ascertained that the alien should not be permitted to depart voluntarily, the grant of voluntary departure may be revoked by any district director or officer in charge without notice, and such further proceedings shall be taken under this chapter and the Immigration and Nationality Act as are warranted by the facts.

§ 244.14 *Verification of departure; cancellation of delivery bond.* An alien's voluntary departure from the United States in accordance with the provisions of this part, shall, if verified to the satisfaction of the district director or officer in charge having administrative jurisdiction over the office in which the application for voluntary departure was made, serve to terminate further proceedings in the case and to cancel any outstanding delivery bond.

PART 245—ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
245.1 Authority to adjust status.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

245.11 Who may apply.
245.12 Application.
245.13 Attorneys.
245.14 Procedure upon acceptance of application.
245.15 Evidence; burden of proof.
245.16 Examination and investigation.
245.17 Disposition of case.

AUTHORITY: §§ 245.1 to 245.17 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 4, 43 Stat. 155, as amended, secs. 101, 234, 245, 247, 66 Stat. 167, 168, 198, 217, 218; 8 U. S. C. 204.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 245.1 *Authority to adjust status.* Subject to the provisions of this part, district directors may, pursuant to section 245 of the Immigration and Nationality Act, adjust the status of a nonimmigrant to that of a person admitted for permanent residence.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 245.11 *Who may apply.* Any alien (including one admitted as a student under section 4 (e) of the Immigration Act of 1924) who entered the United States in good faith as a nonimmigrant, and who believes that he meets the eligibility requirements set forth in section 245 of the Immigration and Nationality Act, may apply for an adjustment of status: *Provided,* That no alien who (a) has a nonimmigrant status under paragraph (15) (A), (15 (E), or (15) (G) of section 101 (a) of the Immigration and Nationality Act, or (b) has an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under any of such paragraphs of section 101 (a) of the Immigration and Nationality Act, shall be eligible to apply for adjustment of status without first executing and submitting with his application the written waiver required by section 247 (b) of the Immigration and Nationality Act and Part 247 of this chapter.

§ 245.12 *Application.* Application for adjustment of status under this part shall be made on Form I–507, in duplicate. The application shall be completed in accordance with the instructions appearing thereon and shall be accompanied by (a) two photographs as described in Part 10 of this chapter, (b) the Form 257a, Form I–94C or other document issued to the applicant at the time of his entry as, or adjustment of status to, a nonimmigrant or as a student under section 4 (e) of the Immigration Act of 1924, and (c) documentary evidence establishing that the applicant meets the eligibility requirements set forth in section 245 of the Immigration and Nationality Act and § 245.11. Such documents shall include but shall not be limited to (1) any available official document showing the alien's police record, (2) any available official document showing the alien's prison record and military record in the United States or abroad, (3) record of the alien's birth, (4) a statement from the United States Department of State showing that a visa would be available to the alien on the date of his application for adjustment under this part, (5) if the alien is claiming nonquota status or preference quota status by reason of relationship to a United States citizen or alien lawfully admitted for permanent residence, official certifications establishing such relationship, including records of marriage, birth, and citizenship of the person with whom such relationship is claimed, (6) if claiming preference quota status under section 203 (a) (1) (A) of the Immigration and Nationality Act, a signed statement from the person, institution, firm, organization, or governmental agency for whom the alien is to perform the work, labor, or services, containing the information and accompanied by the documents required by Form I–129 and paragraph (a) of § 204.4 of this chapter, (7) a statement of the alien's net worth together with any employment records, bank records, copies of income tax returns or other evidence satisfactorily establishing that the alien is not likely to become a public charge, (8) statements from any institutions in which the alien may have been treated for a mental disease or disorder at any time, showing the nature and duration of such disorder and the result of the treatment, (9) documentary evidence, such as school records, employment records, business records, and the like, showing that the alien has continued to maintain his nonimmigrant status. The applicant may submit photographic or typewritten copies of such documents, if such copies are by law permitted to be made, but in such case the original documents, if available, must be presented at the examination provided for in § 245.16.

§ 245.13 *Attorneys.* Attorneys or other persons authorized to practice before the Service who represent applicants shall be permitted to be present during the examination of the alien and the witnesses, to submit briefs and to review the record, either before it is forwarded to the district director, or thereafter, and prior to final decision.

§ 245.14 *Procedure upon acceptance of application.* Upon acceptance of an application, the applicant shall be requested to submit to an examination by a medical officer of the United States Public Health Service, whose report setting forth the findings of the mental and physical condition of the applicant shall be incorporated into the record. If an examination before such officer is impracticable and compliance therewith would cause the applicant undue hardship, a certificate from a civil surgeon having not less than four years' professional experience, and preferably one designated by the United States Public Health Service or Veterans' Administration, may, in the discretion of the district director, be accepted. Any applicant certified as insane or mentally defective may appeal to the Board of Medical Officers of the United States Public Health Service as provided in section 234 of the Immigration and Nationality Act. The applicant shall be given timely notice of the date and place of the examination provided for in § 245.16, and the case shall be assigned to an immigration officer for the purpose of conducting such examination.

§ 245.15 *Evidence; burden of proof.* All evidence adduced during an examination under this part may be used at any other proceeding, and the alien shall be duly informed of this fact. The burden of proof shall be upon the applicant. In presenting his proof he shall be entitled to the benefit of any disclosable records concerning him which are in the custody of the Service.

§ 245.16 *Examination and investigation*—(a) *Examination of applicant and witnesses.* The immigration officer shall orally review the application with the applicant, or, in the case of a child under 14 years of age, with his parent or guardian. Any necessary changes in the application shall be consecutively numbered on the application form by such officer and acknowledged in writing by the applicant, or, in the case of a child, by his parent or guardian. The applicant shall at that time produce the available original documents, copies of which were submitted, or which he desires to be considered, in support of his application. Such copies or excerpts therefrom as are found to be pertinent shall be verified by the immigration officer from the originals, shall be appropriately marked and numbered for identification and made a part of the application. When no longer required

the original documents shall be returned to the applicant. The immigration officer shall then administer the oath or affirmation contained in Form I–507 and obtain the applicant's signature in the appropriate place on that Form. In cases in which the examining officer deems it necessary he shall conduct a further examination of the applicant or his parent or guardian by interrogation, under oath or affirmation. If the application, supporting documentary evidence, records of the Service, and the testimony adduced, established the applicant's eligibility for adjustment of status, no other witnesses shall be required, otherwise, such number of credible witnesses preferably citizens of the United States, as may be deemed necessary, shall be questioned under oath or affirmation by the officer concerning the applicant's eligibility for adjustment of status. If such witnesses cannot appear because of remoteness, physical disability, or any other cause which the officer deems satisfactory, their affidavits may be accepted in lieu of their personal appearance. The oral testimony given by the applicant, the parent or guardian, or the witnesses, shall not be reduced to writing in verbatim form or stenographically or mechanically recorded, but a résumé thereof shall be prepared and certified as true and correct by the immigration officer and made a part of the record. A verbatim record may be made of such testimony in any case in which the examining officer deems it advisable. If such verbatim record is made stenographically or mechanically recorded, it shall not be transcribed unless the district director denies the application.

(b) *Investigations.* Necessary investigations in other districts may, when feasible, be conducted by correspondence. If deemed necessary by the immigration officer, further investigations may be conducted by interview or by correspondence. The replies to such correspondence, and the reports of the investigation may be made a part of the record by the immigration officer.

§ 245.17 *Disposition of case*—(a) *Record, recommendation, and review.* The immigration officer shall, upon completion of the examination, prepare a report of his findings as to each of the essential facts prescribed by section 245 of the Immigration and Nationality Act and § 245.11 together with his recommendation. If the officer is satisfied that the application should be granted, he shall so recommend. If the immigration officer is not satisfied that the application should be granted he shall recommend denial of the application. In any case he shall make a brief summary of the evidence and shall include in his report a statement as to the grounds and reasons for the recommendation. The application, record, supporting documents, photographs, and the report of the immigration officer shall then be transmitted to the district director having administrative jurisdiction over the office in which the examination was conducted. The district director shall approve or disapprove the recommendation of the immigration officer. If the district director disapproves the recommendation, he shall state in writing his reasons for such disapproval.

(b) *Application denied.* If the district director denies the application, the applicant shall be notified in writing of such decision and of the reasons therefor and, at the same time, shall be advised of his right to appeal to the Assistant Commissioner, Inspections and Examinations Division, by filing a notice of appeal on Form I–290B. The notice of appeal shall be filed at the office of such district director within 10 days from the receipt of notification of such decision as provided in Part 7 of this chapter. The applicant may waive his right to appeal within the 10-day period. If an appeal is taken, the record shall be forwarded to the Assistant Commissioner, Inspections and Examinations Division for review and decision in accordance with Part 7 of this chapter. If appeal is waived or no appeal is taken within the time permitted, the decision of the district director shall thereupon become final.

(c) *Decision by Assistant Commissioner, Inspections and Examinations Division.* On appeal, the Assistant Commissioner, Inspections and Examinations Division may grant or deny the application for adjustment. The case shall then be returned to the office of origin. If the application has been denied, the district director shall so inform the applicant in writing. No appeal shall lie from the decision of the Assistant Commissioner, Inspections and Examinations Division.

(d) *Application granted; delivery of alien registration receipt card.* In any case in which the application for adjustment of status is granted, an alien registration receipt card, Form I–151, showing that the applicant has acquired the status of an alien lawfully admitted for permanent residence, shall be issued to the applicant. If the alien is in possession of any other documents evidencing compliance with the Alien Registration Act, 1940, or Chapter 7 of Title II of the Immigration and Nationality Act, he shall be required to surrender it.

(e) *Application denied; further action.* If no appeal is taken from the decision of the district director denying the application, or if the Assistant Commissioner on appeal denies the application, the district director shall take such action as is necessary under existing law and regulations to effect the alien's departure from the United States.

PART 246—RESCISSION OF ADJUSTMENT OF STATUS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
246.1 Rescission of adjustment of status.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

246.11 Investigation and report.
246.12 Notice.
246.13 Disposition of case.
246.14 Decision by Assistant Commissioner, Inspections and Examinations Division.
246.15 Surrender of Form I–151.

AUTHORITY: §§ 246.1 to 246.15 issued under section 103, 66 Stat. 173. Interpret or apply sec. 19, 39 Stat. 889, as amended, secs. 244, 246, 66 Stat. 214, 217; 8 U. S. C. 155.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 246.1 *Rescission of adjustment of status.* Subject to the limitations provided in this part, the authority contained in section 246 (a) of the Immigration and Nationality Act may be exercised by district directors.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 246.11 *Investigation and report.* If, at any time within five years after the status of a person has been adjusted under any provision of law to that of an alien lawfully admitted for permanent residence, evidence becomes available that such person was not eligible for such adjustment, a complete report shall be submitted to the district director having administrative jurisdiction over such person's last known place of residence in the United States.

§ 246.12 *Notice.* If on the basis of the evidence presented the district director receiving the report is satisfied that a prima-facie showing has been made that the person was not in fact eligible for the adjustment of status made in his case, he shall cause a notice to be served on such person informing him that it is intended to rescind the adjustment of status, and of the grounds upon which it is intended to base such rescission. The notice shall also inform the person to whom it is addressed that he may submit, within 30 days from the date of service of the notice, an answer in writing under oath, setting forth reasons why such rescission should not be made. The notice shall also advise the person to whom it is addressed that he may, within such period and upon his request have an opportunity to appear in person, in support or in lieu of his written answer, before such immigration officer as may be designated for that purpose. The person to whom the notice is addressed shall further be advised therein that he may have the assistance of counsel, without expense to the government of the United States, in the preparation of his answer or in connection with such personal appearance, and shall have opportunity to examine, at the appropriate office of the Service, the evidence upon which it is proposed to base such rescission.

§ 246.13 *Disposition of case*—(a) *Allegations admitted or no answer filed.* If the answer admits the allegations in the notice, or if no answer is filed within the 30-day period, and the status of permanent resident was acquired through suspension of deportation under section 19 (c) of the Immigration Act of February 5, 1917 or under section 244 of the Immigration and Nationality Act, the district director shall forward the file and all of the papers to the Assistant Commissioner, Inspections and Examinations Division, for further action in accordance with section 246 of the Immigration and Nationality Act. If the answer admits the allegations in the notice, or if no answer is filed within the 30-day period, and the status of permanent resident was acquired through

adjustment of status other than through suspension of deportation, the district director shall rescind the adjustment of status previously granted and no appeal shall lie from such decision.

(b) *Answer filed; personal appearance not requested.* Upon receipt of an answer asserting defense to the allegations in the notice, without request for an interview the case shall be assigned to an immigration officer for consideration. The immigration officer shall prepare a report of his findings and make a recommendation as to whether the adjustment of status should be rescinded. The record in the case, including the report and recommendation of the immigration officer, shall be forwarded to the district director who caused the notice to be served. The district director shall note on the report of the immigration officer whether he approves or disapproves the recommendation of the immigration officer. If the decision of the district director is that the matter be terminated, the party affected shall be informed of such decision. If the decision of the district director is that the adjustment of status should be rescinded, the following action shall be taken:

(1) If the status of permanent resident was acquired through suspension of deportation under section 19 (c) of the Immigration Act of 1917 or under section 244 of the Immigration and Nationality Act, the district director shall forward the party's file and all of the papers in the matter to the Assistant Commissioner, Inspections and Examinations Division, for further action in accordance with section 246 of the Immigration and Nationality Act.

(2) If the status of permanent resident was acquired through adjustment of status other than through suspension of deportation, the district director shall enter a decision rescinding the adjustment of status previously granted. The party affected shall be informed in writing of the decision of the district director and of the reasons for such decision. From the decision of the district director an appeal may be taken to the Assistant Commissioner, Inspections and Examinations Division, within 10 days from the receipt of notification of the decision, as provided in Part 7 of this chapter. The party affected may waive an appeal. If no appeal is taken, or if the appeal is waived, the decision of the district director shall be final.

(c) *Answer filed; personal appearance requested or directed.* If the party requests a personal appearance, or if at any time the district director or the Assistant Commissioner, Inspections and Examinations Division, so directs, the party shall be given an opportunity to be interviewed by an immigration officer. The party may be represented at the interview by counsel of his own choice at no expense to the government. All evidence pertinent to the case, including the testimony of any witnesses, shall be incorporated into the record of the interview. At the conclusion of the interview the immigration officer shall prepare a report setting forth a summary of the evidence and findings of fact and conclusions of law based on such evidence. The report shall conclude with a recommendation which shall be either (i) that the adjustment of status be rescinded, or (ii) that the matter be terminated. The complete record, including the report and recommendation of the immigration officer shall be forwarded to the district director. The district director shall note on the report of the immigration officer whether he approves or disapproves the recommendation of the immigration officer. If the decision of the district director is that the matter be terminated, the party affected shall be informed of such decision. If the decision of the district director is that the adjustment of status should be rescinded, the following action shall be taken:

(1) If the status of permanent resident was acquired through suspension of deportation under section 19 (c) of the Immigration Act of 1917 or under section 244 of the Immigration and Nationality Act, the district director shall forward the party's file and all of the papers in the matter to the Assistant Commissioner, Inspections and Examinations Division, for further action in accordance with section 246 of the Immigration and Nationality Act.

(2) If the status of permanent resident was acquired through adjustment of status other than through suspension of deportation, the district director shall enter a decision rescinding the adjustment of status previously granted. The party affected shall be informed in writing of the decision of the district director and of the reasons for such decision. From the decision of the district director an appeal may be taken to the Assistant Commissioner, Inspections and Examinations Division, within 10 days from the receipt of notification of the decision, as provided in Part 7 of this chapter. The party affected may waive an appeal. If no appeal is taken, or if the appeal is waived, the decision of the district director shall be final.

§ 246.14 *Decision by Assistant Commissioner, Inspections and Examinations Division.* If the decision of the Assistant Commissioner, Inspections and Examinations Division, is that the adjustment of status be rescinded and such status was acquired through suspension of deportation, he shall cause further action to be taken as provided in section 246 of the Immigration and Nationality Act to present the case to the Congress. In any other case, the file and all of the papers in the matter shall be returned to the district director who shall inform the party affected of the decision. No appeal shall lie from the decision of the Assistant Commissioner, Inspections and Examinations Division.

§ 246.15 *Surrender of Form I–151.* An alien whose status as a permanent resident has been rescinded or withdrawn in accordance with section 246 of the Immigration and Nationality Act and this part, shall, upon demand, promptly surrender to the district director having administrative jurisdiction over the office in which the action under this part was taken the Form I–151 issued to him at the time of the grant of permanent resident status.

PART 247—ADJUSTMENT OF STATUS OF CERTAIN RESIDENT ALIENS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
247.1 Adjustment of status of resident aliens to nonimmigrant status; authority.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

247.11 Investigation and report.
247.12 Notice.
247.13 Disposition of case.
247.14 Decision by Assistant Commissioner, Inspections and Examinations Division.

AUTHORITY: §§ 247.1 to 247.14 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 247, 66 Stat. 167, 218.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 247.1 *Adjustment of status of resident aliens to nonimmigrant status; authority.* Subject to the limitations provided in this part, the authority contained in section 247 of the Immigration and Nationality Act to adjust the status of certain resident aliens to nonimmigrant status may be exercised by district directors.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 247.11 *Investigation and report.* If at any time evidence becomes available that an alien who was lawfully admitted for permanent residence has an occupational status which, if he were seeking admission to the United States, would entitle him to a nonimmigrant status under paragraph 15 (A), 15 (E), or 15 (G), of section 101 (a) of the Immigration and Nationality Act, a complete report shall be submitted to the district director having administrative jurisdiction over such alien's place of residence.

§ 247.12 *Notice.* If on the basis of the evidence presented, the district director receiving the report is satisfied that a prima-facie showing has been made that the alien has an occupational status described in § 247.11 he shall cause a notice to be served on such alien informing him that it is proposed to adjust his status, unless (a) the alien requests that he be permitted to retain his status as a resident alien and executes and files with such district director a Form I–508 in duplicate (Waiver of all Rights, Privileges, Exemptions and Immunities) within 10 days from receipt of the notice; or (b) the alien, within such 10 day period, files with the district director a written answer under oath setting forth reasons why his status should not be adjusted. The notice shall also advise the person to whom it is addressed that he may, within such period and upon his request have an opportunity to appear in person, in support or in lieu of his written answer, before such immigration officer as may be designated for that purpose. The person to whom the notice is addressed shall further be advised therein that he may have the assistance of counsel, without expense to the government of the United States, in the preparation of his answer or in connection with such personal appearance, and shall have opportunity to examine, at the appropriate

office of the Service, the evidence upon which it is proposed to base such adjustment.

§ 247.13 *Disposition of case*—(a) *Allegations admitted or no answer filed.* If Form I–508 is not filed by the alien within the time prescribed, and (1) the answer admits the allegations in the notice, or (2) no answer is filed, the district director shall place a notation on the notice describing the alien's adjusted nonimmigrant status and shall cause a set of Forms I–94 to be prepared evidencing the nonimmigrant classification to which the alien has been adjusted. The Form I–94C shall be delivered to the alien and shall constitute notice to him of such adjustment. The alien's nonimmigrant status shall be for such time, under such conditions, and subject to such regulations as are applicable to the particular nonimmigrant status granted and shall be subject to such other terms and conditions, including the exaction of bond, as the district director may deem appropriate.

(b) *Answer filed; personal appearance not requested.* Upon receipt of an answer asserting a defense to the allegations made in the notice, without request for a personal appearance, the matter shall be assigned to an immigration officer for consideration. The immigration officer shall prepare a report of his findings and make a recommendation as to whether the status should be adjusted. The record and the report and recommendation of the immigration officer shall be forwarded to the district director who caused the notice to be served. The district director shall note on the report of the immigration officer whether he approves or disapproves the recommendation of the immigration officer. If the decision of the district director is that the matter be terminated, the party affected shall be informed of such decision. If the district director determines that the status of the alien should be adjusted to that of a nonimmigrant, his decision shall provide that unless the alien, within 10 days of receipt of notification of such decision, requests permission to retain his status as an immigrant and files with the district director Form I–508 in duplicate, the alien's immigrant status be adjusted to that of a nonimmigrant. The alien shall be informed of such decision, the reasons therefor, and that he has 10 days from the receipt of notification of such decision within which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with Part 7 of this chapter. The party affected may waive an appeal. If the appeal is waived or if no appeal is taken within the time allowed, the decision of the district director shall be final. If the alien does not request that he be permitted to retain status and file the Form I–508 within the period provided therefor, the district director, without further notice to the alien, shall cause a set of Forms I–94 to be prepared evidencing the nonimmigrant classification to which the alien has been adjusted. The Form I–94C shall be delivered to the alien. The alien's nonimmigrant status shall be for such time, under such conditions, and subject to such regulations as are applicable to the particular nonimmigrant status created and shall be subject to such other terms and conditions, including the exaction of bond, as the district director may deem appropriate.

(c) *Answer filed; personal appearance requested or directed.* If the party affected has filed an answer asserting a defense to the allegations in the notice and containing a request for a personal appearance, or if at any time the district director or the Assistant Commissioner, Inspections and Examinations Division, so directs, the party shall be given an opportunity to be interviewed by an immigration officer for the purpose of presenting evidence as to whether his status shall be adjusted to that of an immigrant. The party may be represented at the interview by counsel of his own choice at no expense to the Government. All evidence pertinent to the matter, including the testimony of any witnesses, shall be incorporated into the record. At the conclusion of the interview the immigration officer shall prepare a report setting forth a summary of the evidence and findings of fact and conclusion of law based on such evidence. The report shall conclude with a recommendation which shall be either (1) that the status be adjusted, or (2) that the matter be terminated. The complete record, including the report and recommendation of the immigration officer, shall be forwarded to the district director. The district director shall note on the report of the immigration officer whether he approves or disapproves the recommendation of the immigration officer. If the decision of the district director is that the matter be terminated, the party affected shall be informed of such decision. If the district director determines that the status of the alien should be adjusted to that of a nonimmigrant, his decision shall provide that unless the alien, within 10 days of receipt of notification of such decision, requests permission to retain his status as an immigrant and files with the district director Form I–508 in duplicate, the alien's immigrant status be adjusted to that of a nonimmigrant. The alien shall be informed of such decision, the reasons therefor, and that he has 10 days from the receipt of notification of such decision within which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with Part 7 of this chapter. The party affected may waive an appeal. If the appeal is waived or if no appeal is taken within the time allowed, the decision of the district director shall be final. If the alien does not request that he be permitted to retain status and file the Form I–508 within the period provided therefor, the district director shall, without further notice to the alien, cause a set of Forms I–94 to be prepared evidencing the nonimmigrant classification to which the alien has been adjusted. The Form I–94C shall be delivered to the alien. The alien's nonimmigrant status shall be for such time, under such conditions, and subject to such regulations as are applicable to the particular nonimmigrant status created and shall be subject to such other terms and conditions, including the exaction of bond, as the district director may deem appropriate.

§ 247.14 *Decision by Assistant Commissioner, Inspections and Examinations Division.* The Assistant Commissioner's decision shall be transmitted to the district director who shall advise the party affected of the decision. No appeal shall lie from the decision of the Assistant Commissioner, Inspections and Examinations Division. If the Assistant Commissioner determines that the status of the alien should be adjusted to that of a nonimmigrant, his decision shall provide that unless the alien, within 10 days of receipt of notification of such decision, requests permission to retain his status as an immigrant and files with the district director Form I–508 in duplicate, the alien's immigrant status be adjusted to that of a nonimmigrant. If the alien does not request that he be permitted to retain status and file the Form I–508 within the period provided therefor, the district director, without further notice to the alien, shall cause a set of Forms I–94 to be prepared evidencing the nonimmigrant classification to which the alien has been adjusted. The Form I–94C shall be delivered to the alien. The alien's nonimmigrant status shall be for such time, under such conditions, and subject to such regulations as are applicable to the particular nonimmigrant status created and shall be subject to such other terms and conditions, including the exaction of bond, as the district director may deem appropriate.

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
248.1 Change of nonimmigrant classification.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

248.11 Application.
248.12 Attorneys.
248.13 Procedure upon acceptance of application.
248.14 Evidence; burden of proof.
248.15 Examination and investigation.
248.16 Disposition of case.

AUTHORITY: §§ 248.1 to 248.16 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 238, 247, 248, 66 Stat. 167, 168, 203, 218.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 248.1 *Change of nonimmigrant classification*—(a) *Authority.* Subject to the limitations provided in this part, the authority contained in section 248 of the Immigration and Nationality Act to authorize a change in nonimmigrant classification may be exercised by district directors.

(b) *Eligibility for change of nonimmigrant classification.* Except as otherwise provided in this section, any alien lawfully admitted to the United States as a nonimmigrant (including an alien who acquired such status pursuant to section 247 of the Immigration and Nationality Act) who is continuing to maintain his nonimmigrant status, may apply to have

his nonimmigrant classification changed to any other nonimmigrant classification for which he may be qualified. This section shall not apply to an alien classified as a nonimmigrant under section 101 (a) (15) (D) of the Immigration and Nationality Act, or to an alien classified as a nonimmigrant under section 101 (a) (15) (C) who is within the purview of section 238 (d) of that act. Any eligible alien classified as a nonimmigrant under section 101 (a) (15) (C) may apply only for a change to a classification under paragraph (15) (A) or (15) (G) of section 101 (a) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 248.11 *Application*—(a) *General requirements.* Application for change of nonimmigrant classification shall be made on Form I–506 (Application for Change of Nonimmigrant Status). There shall be submitted with the application the Form 257, I–94 or other document issued to the applicant at the time of his admission as, or adjustment of status to, a nonimmigrant, and documentary evidence establishing that the applicant is maintaining his nonimmigrant classification and is eligible for the reclassification requested. If the applicant desires, he may submit photographic or typewritten copies of documents, if such copies are permitted to be made by law, but in such event the original documents must be presented at the examination provided for in § 248.15.

(b) *Change of nonimmigrant classification to that under section 101 (a) (15) (H) of the Immigration and Nationality Act; additional requirements.* Notwithstanding any other provisions of this part, an application for a change of an alien's nonimmigrant classification to that described in section 101 (a) (15) (H) of the Immigration and Nationality Act shall be accompanied by an application executed under oath in duplicate on Form I–129B made by the alien's prospective employer or trainer. There shall be attached thereto the supporting evidence required by the Form I–129B.

§ 248.12 *Attorneys.* Attorneys or other persons authorized to practice before the Service, who represent applicants, shall be permitted to be present during the examination of the alien and witnesses, to submit briefs and to review the record, either before it is forwarded to the district director, or thereafter, and prior to final decision.

§ 248.13 *Procedure upon acceptance of application.* Upon acceptance of an application, the applicant shall be given timely notice of the date and place of the examination provided for in § 248.15, and the case shall be assigned to an immigration officer for the purpose of conducting such examination.

§ 248.14 *Evidence; burden of proof.* All evidence adduced at an examination under this part may be used in any other proceeding, and the alien shall be duly informed of this fact. The burden of proof shall be upon the applicant. In presenting his proof he shall be entitled to the benefit of any disclosable records concerning him which are in the custody of the Service.

§ 248.15 *Examination and investigation*—(a) *Examination of applicant and witnesses.* The immigration officer shall orally review the application with the applicant, or, in the case of a child under 14 years of age, with the parent or guardian. Any necessary changes shall be consecutively numbered by such officer and acknowledged in writing by the applicant, or, in the case of a child, by the parent or guardian, on the application form. The applicant shall at that time produce the available original documents, copies of which were submitted, or which he desires to be considered, in support of his application. Such copies or excerpts therefrom as are found to be pertinent shall be verified by the immigration officer from the originals, shall be appropriately marked and numbered for identification, and made a part of the application. When no longer required, the original documents shall be returned to the applicant. The immigration officer shall then administer the oath or affirmation contained in Form I–506 and obtain the applicant's signature in the appropriate place on that form. In cases in which the examining officer deems it necessary he shall conduct a further examination of the applicant, or the parent or guardian, by interrogation under oath or affirmation. If the application, supporting documentary evidence, records of the Service, and the testimony adduced, establish the applicant's eligibility for a change of his nonimmigrant classification, no other witnesses shall be required. Otherwise, such number of credible witnesses preferably citizens of the United States, as may be deemed necessary, shall be questioned under oath or affirmation by the officer concerning the facts of the applicant's eligibility for reclassification. If such witnesses cannot appear because of remoteness, physical disability, or any other cause which the officer deems satisfactory, their affidavits may be accepted in lieu of their personal appearance. The oral testimony given by the applicant, the parent or guardian, or the witnesses, shall not be reduced to writing in verbatim form or stenographically or mechanically recorded, but a résumé thereof shall be prepared and certified as true and correct by the immigration officer and made a part of the record. A verbatim record may be made of such testimony in any case in which the examining officer deems it advisable. If such verbatim record is made stenographically or mechanically recorded, it shall not be transcribed unless the district director denies the application.

(b) *Investigations.* Necessary investigations in other districts may, when feasible, be conducted by correspondence. If deemed necessary by the immigration officer, further investigations may be conducted by interview or by correspondence. The replies to such correspondence, and the reports of the investigation, may be made a part of the record by the immigration officer.

§ 248.16 *Disposition of case*—(a) *Record, recommendation and review.* Upon completion of the examination the immigration officer shall prepare a report of his findings as to each of the essential facts prescribed by section 248 of the Immigration and Nationality Act and § 245.1 of this chapter, together with his recommendation. If the officer is satisfied that the application should be granted he shall so recommend. If the immigration officer is not satisfied that the application should be granted he shall recommend denial of the application. In any case he shall make a brief summary of the evidence and shall include a statement as to the grounds and reasons for the recommendation. The application, record, supporting documents, and the report of the immigration officer shall then be transmitted to the district director having administrative jurisdiction over the office in which the examination was conducted. The district director shall approve or disapprove the recommendation of the immigration officer. If he disapproves the recommendation, the district director shall state his reasons in writing. Notwithstanding any other provisions of this section, the Assistant Commissioner, Inspections and Examinations Division, may direct the district director to transmit to the Assistant Commisisoner any case or class of cases arising under this part for initial decision. If the Assistant Commissioner's decision is that the application shall be denied, the district director shall inform the applicant in writing of such decision and of the reasons therefor. No appeal shall lie from the decision of the Assistant Commissioner, Inspections and Examinations Division.

(b) *Application denied by district director.* If the district director denies the application, the applicant shall be notified in writing of such decision and of the reasons therefor, and, at the same time shall be advised of his right to appeal to the Assistant Commissioner, Inspections and Examinations Division, by filing a notice of appeal Form I–290B. The notice of appeal shall be filed at the office of such district director within 10 days from the receipt of notification of such decision, in accordance with Part 7 of this chapter. The applicant may waive an appeal. If an appeal is taken, the record shall be forwarded to the Assistant Commissioner, Inspections and Examinations Division, for review and decision in accordance with Part 7 of this chapter. If appeal is waived or no appeal is taken within the time permitted, the decision of the district director shall become final.

(c) *Decision on appeal by Assistant Commissioner, Inspections and Examinations Division.* On appeal, the Assistant Commissioner, Inspections and Examinations Division may grant or deny the application for reclassification. The case shall then be returned to the office of origin. If the application has been denied, the district director shall so inform the applicant in writing. No appeal shall lie from the decision of the Assistant Commissioner, Inspections and Examinations Division.

(d) *Application granted.* In any case in which the application for change of nonimmigrant classification is granted,

the alien's nonimmigrant status under such reclassification shall be subject to the terms and conditions applicable generally to such classification and to such other additional terms and conditions, including the exaction of bond, which the district director deems appropriate to the case. The district director shall cause a new set of Forms I–94 to be prepared and the Form I–94C shall be delivered to the applicant.

PART 249—CREATION OF RECORD OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
249.1 Creation of record of lawful admission for permanent residence.

SUBPART B—PRECEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

249.11 Application.
249.12 Attorneys.
249.13 Procedure upon acceptance of application.
249.14 Evidence; burden of proof.
249.15 Examination and investigation.
249.16 Disposition of case.

AUTHORITY: §§ 249.1 to 249.16 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 249, 66 Stat. 219.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 249.1 *Creation of record of lawful admission for permanent residence*—(a) *Authority.* Subject to the provisions of this part, the authority contained in section 249 of the Immigration and Nationality Act to create a record of lawful admission for permanent residence may be exercised by district directors.

(b) *Eligibility to make application; scope of part.* Any alien who believes that he meets the eligibility requirements enumerated in section 249 (a) of the Immigration and Nationality Act may apply for the creation of a record of lawful admission for permanent residence. No such record shall be created in behalf of any alien who entered the United States prior to July 1, 1924 and as to whom a record of admission for permanent residence as an alien prior to that date does not exist, except in accordance with the provisions of section 249 of the Immigration and Nationality Act, this part, or other statutory authority.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 249.11 *Application.* An application under this part shall be made on Form N–105 (Application to Create Record of Admission for Permanent Residence). The application shall be accompanied by 2 photographs as described in Part 10 of this chapter. There shall also be submitted with the application such documentary evidence, or pertinent excerpts therefrom (if the documents are lengthy or bulky), as the applicant may have showing his continuous residence in the United States since prior to July 1, 1924, and his good moral character. If the applicant desires, he may submit photographic or typewritten copies of such documents, if such copies are permitted to be made by law, but in such case the original documents must be presented at the examination as provided for in § 249.15.

§ 249.12 *Attorneys.* Attorneys or other persons authorized to practice before the Service, who represent applicants, shall be permitted to be present during the examination of the alien and the witnesses, to submit briefs and to review the record, either before it is forwarded to the district director or thereafter, and prior to final decision.

§ 249.13 *Procedure upon acceptance of application.* Upon acceptance of an application the applicant shall be given timely notice of the date and place of the examination provided for in § 249.15, and the case shall be assigned to an immigration officer for the purpose of conducting such examination.

§ 249.14 *Evidence; burden of proof.* All evidence adduced during an examination under this part may be used at any other proceeding and the alien shall be duly informed of this fact. The burden of proof shall be upon the applicant. In presenting his proof he shall be entitled to the benefit of any disclosable records concerning him which are in the custody of the Service. The applicant shall submit the affidavits of such number of credible witnesses, preferably citizens of the United States, concerning the moral character, continuity of residence of the applicant, and any other matter bearing on the applicant's eligibility for the benefits of section 249 of the Immigration and Nationality Act. Where practicable such affidavits shall be made on Form N–120 (Affidavit of Witness in Proceeding to Create Record of Admission for Permanent Residence). Documentary evidence such as bank books, leases, deeds, licenses, receipts, letters, and birth, marriage, church, school, employment and police records, or similar evidence shall, so far as possible, be used in establishing the essential facts to which documentary evidence is relevant. Where by reason of conditions known or shown to exist it is reasonable to believe that such evidence is not obtainable, other relevant evidence may be considered.

§ 249.15 *Examination and investigation*—(a) *Examination of applicant and witnesses.* The immigration officer shall orally review the application with the applicant. Any necessary changes shall be consecutively numbered by such officer and acknowledged in writing by the applicant. The applicant shall at that time produce the original available documents, copies of which were submitted, or which he desires to be considered in support of his application. Such copies or excerpts therefrom as are found to be pertinent shall be certified by the immigration officer from the originals, shall be appropriately marked and numbered for identification, and made a part of the application. When no longer required the original documents shall be returned to the applicant. The immigration officer shall then administer the oath or affirmation contained in Form N–105 and obtain the applicant's signature in the appropriate place on that form. In cases in which the examining officer deems it necessary he shall conduct a further examination of the applicant under oath or affirmation. Witnesses shall be examined orally under oath or affirmation in accordance with the interrogatories of Form N–120. Should additional statements be deemed necessary, the witnesses shall be interrogated under oath or affirmation. Witnesses located within a reasonable distance of the place of examination shall be required to appear in person to execute Form N–120, and for oral examination. If witnesses cannot appear because of remoteness, physical disability, or any other cause the officer deems satisfactory, the affidavits may be accepted in lieu of their personal appearance. The oral testimony given by the applicant and the witnesses shall not be reduced to writing in verbatim form or stenographically or mechanically recorded, but a résumé thereof shall be prepared and certified as true and correct by the immigration officer and made a part of the record. A verbatim record may be made of such testimony in any case in which the examining officer deems it advisable. If such verbatim record is made stenographically or mechanically recorded, it shall not be transcribed unless the district director denies the application.

(b) *Investigations.* Necessary investigations in other districts may, when feasible, be conducted by correspondence. If deemed necessary by the immigration officer, further investigations may be conducted by interview or by correspondence. The replies to such correspondence, and the reports of the investigation may be made a part of the record by the immigration officer.

§ 249.16 *Disposition of case*—(a) *Record, recommendation and review.* Upon completion of the examination the immigration officer shall prepare a report of his findings as to each of the essential facts prescribed by section 249 of the Immigration and Nationality Act and § 249.11, together with his recommendation. If the officer is satisfied that the application should be granted he shall so recommend. If the immigration officer is not satisfied that the application should be granted he shall recommend denial of the application. In any case he shall make a brief summary of the evidence and shall include a statement as to the grounds and reasons for the recommendation. The application, record, supporting documents, photographs and the report of the immigration officer shall then be transmitted to the district director having administrative jurisdiction over the office in which the examination was conducted. The district director shall approve or disapprove the recommendation of the immigration officer and shall note Form N–130 in accordance with his decision. If he disapproves the recommendation, the district director shall state his reasons in writing.

(b) *Application denied.* If the district director denies the application, the applicant shall be notified in writing of such decision and of the reasons therefor and, at the same time, shall be advised of his right to appeal to the Assistant Commissioner, Inspections and

Examinations Division, by filing a notice of appeal Form I–290B (Appeal to Central Office). The notice of appeal shall be filed at the office of such district director within 10 days from the receipt of notification of such decision in accordance with Part 7 of this chapter. The applicant may waive an appeal. If an appeal is taken the record shall be forwarded to the Assistant Commissioner, Inspections and Examinations Division, for review and decision in accordance with Part 7 of this chapter. If appeal is waived or no appeal is taken within the time permitted, the decision of the district director shall become final.

(c) *Decision by Assistant Commissioner, Inspections and Examinations Division.* On appeal, the Assistant Commissioner, Inspections and Examinations Division, may grant or deny the application. The case shall then be returned to the office of origin. If the application has been denied, the district director shall so inform the applicant in writing. No appeal shall lie from the decision of the Assistant Commissioner, Inspections and Examinations Division.

(d) *Application granted; delivery of alien registration receipt card.* In any case in which the application is granted, an alien registration receipt card Form I–151, showing that the applicant has acquired the status of an alien lawfully admitted for permanent residence, shall be issued to the applicant. If the alien is in possession of any other documents evidencing compliance with the Alien Registration Act, 1940, or Chapter 7 of Title II of the Immigration and Nationality Act, he shall be required to surrender it.

PART 250—REMOVAL OF ALIENS WHO HAVE FALLEN INTO DISTRESS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

250.1 Removal of aliens who have fallen into distress; authority.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

250.11 Why may apply.
250.12 Application.
250.13 Procedure upon acceptance of application.
250.14 Evidence; burden of proof.
250.15 Examination and investigation.
250.16 Disposition of case.
250.17 Action subsequent to granting of application.

AUTHORITY: §§ 250.1 to 250.17 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 250, 66 Stat. 219.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 250.1 *Removal of aliens who have fallen into distress; authority.* Subject to the limitations provided in this part, the authority contained in section 250 of the Immigration and Nationality Act to remove from the United States any alien who falls into distress or who needs public aid from causes arising subsequent to entry may be exercised by district directors.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 250.11 *Who may apply.* Any alien who meets the eligibility requirements contained in section 250 of the Immigration and Nationality Act and who desires to be removed from the United States may apply for the benefits of that section of the Act.

§ 250.12 *Application.* Application for removal shall be made in duplicate on Form I–243 (Application for Removal). The application of a child under 14 years of age may be included in the application of a parent. The application in the case of a child under the age of 14 years shall be signed by his parent or guardian. If the applicant has received aid from a public or charitable institution or association, the application shall be accompanied by a certificate by an accredited representative of such association or institution indicating the nature and extent of the aid furnished to the alien. In the case of an alien who has not received public aid, the application shall show the causes and conditions by reason of which the alien claims to need public aid. The application shall be accompanied also by any document which was issued to the alien at the time of his admission to the United States.

§ 250.13 *Procedure upon acceptance of application.* Upon acceptance of an application, the applicant shall be given timely notice of the date and place of the examination provided for in § 250.15, and the case shall be assigned to an immigration officer for the purpose of conducting such an examination.

§ 250.14 *Evidence; burden of proof.* All evidence adduced at an examination under this part may be used in any other proceeding, and the alien shall be duly informed of this fact. The burden of proof shall be upon the applicant. In presenting his proof he shall be entitled to the benefit of any disclosable records concerning him which are in the custody of the Service.

§ 250.15 *Examination and investigation*—(a) *Examination of applicant and witnesses.* The immigration officer shall orally review the application with the applicant, or, in the case of a child under 14 years of age, with the parent or guardian. Any necessary changes shall be consecutively numbered by such officer and acknowledged in writing by the applicant or, in the case of a child, by the parent or guardian, on the application form. The applicant shall at that time produce the original documents, copies of which were submitted or which he desires to be considered, in support of his application. Such copies or excerpts therefrom as are found to be pertinent shall be verified by the immigration officer from the originals, shall be appropriately marked and numbered for identification, and made a part of the application. When no longer required, the original documents shall be returned to the applicant. The immigration officer shall then administer the oath or affirmation contained in Form I–243 and obtain the applicant's signature in the appropriate place on that form. During the examination the applicant shall be informed that if he is removed from the United States he will be ineligible to apply for or receive a visa or other documentation for readmission, or to apply for admission to the United States except with the prior approval of the Attorney General. The application form shall be noted to show that such advice was given to the applicant by the examining officer and the applicant's response thereto. If the applicant has a mental or serious physical disability, a medical certificate shall be obtained showing whether the applicant is in condition to be removed from the United States without danger to life or health and whether alien will require special care and attention in case of removal. If accessible, near relatives of the applicant shall be interviewed to determine whether they are financially able and willing or legally obligated to support or assist the applicant. In cases in which the examining officer deems it necessary he shall conduct a further examination of the applicant, or the parent or guardian, by interrogation under oath or affirmation. If the application, supporting documentary evidence, records of the Service, and the testimony adduced, establish the applicant's eligibility for removal, no other witnesses shall be required. Otherwise, such number of credible witnesses preferably citizens of the United States, as may be deemed necessary, shall be questioned under oath or affirmation by the officer concerning the facts of the applicant's eligibility for removal. If such witnesses cannot appear because of remoteness, physical disability, or any other cause which the officer deems satisfactory, their affidavits may be accepted in lieu of their personal appearance. The oral testimony given by the applicant, the parent or guardian, or the witnesses, shall not be reduced to writing in verbatim form or stenographically or mechanically recorded, but a résumé thereof shall be prepared and certified as true and correct by the immigration officer and made a part of the record. A verbatim record may be made of such testimony in any case in which the examining officer deems it advisable. If such verbatim record is made stenographically or mechanically recorded, it shall not be transcribed unless the district director denies the application.

(b) *Investigations.* Necessary investigations in other districts may, when feasible, be conducted by correspondence. If deemed necessary by the immigration officer, further investigations may be conducted by interview or by correspondence. The replies to such correspondence, and the reports of the investigation may be made a part of the record by the immigration officer.

§ 250.16 *Disposition of case.* Upon completion of the examination the immigration officer shall prepare a report of his findings as to the essential facts prescribed by section 250 of the Immigration and Nationality Act and § 250.11, together with his recommendation. If the officer is satisfied that the application should be granted he shall so recommend. If the immigration officer is not satisfied that the application should be granted he shall recommend denial of the application. In any case he shall make a brief summary of the evidence and shall include a statement as to the grounds and reasons for the recommen-

dation. The application, record, supporting documents, and the report of the immigration officer shall then be transmitted to the district director having administrative jurisdiction over the office in which the examination was conducted. The district director shall approve or disapprove the recommendation of the immigration officer. The applicant shall be notified in writing of the decision of the district director and, if the decision is that the application be denied, of the reasons therefor. No appeal shall lie from the decision of the district director.

§ 250.17 *Action subsequent to granting of application.* If the district director grants the application he shall issue authorization on Form I–202 for the alien's removal. Upon issuance of the authorization for removal, or as soon thereafter as practicable, the alien may be removed from the United States at government expense.

PART 251—CREWMEN: LISTS OF; REPORTS OF ILLEGAL LANDINGS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
251.1 Definitions.
251.2 Imposition of penalty.
251.3 Listing of crewmen who are nationals of the United States.
251.4 Report of crewmen on board certain vessels or aircraft.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

251.31 Arrival crew lists for vessels other than Great Lakes vessels.
251.32 Arrival crew lists for Great Lakes vessels.
251.33 Arrival crew lists for aircraft.
251.34 Arrival crew list for certain aircraft not required.
251.35 Illegal landing of alien crewman; notice.
251.36 Listing of change in crew of vessel or aircraft.

AUTHORITY: §§ 251.1 to 251.36 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 212, 231, 251, 252, 280, 66 Stat. 195, 219, 220, 230.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 251.1 *Definitions.* As used in chapter 6 of the Immigration and Nationality Act and this part, the term—

(a) "Great Lakes vessel" means a vessel, including a designated international ferry, of United States, Canadian, or British registry, enrollment, or license engaged solely in traffic between the United States and Canada and travelling solely over one or more of the following waterways: Great Lakes, waterways connecting the Great Lakes, St. Lawrence River, St. Croix River, Passamaquoddy Bay, Lake Memphremagog, Lake Champlain, Rainy Lake, Rainy River, Lake of the Woods, Bay of Fundy (from, but not including, Yarmouth, N. S.).

(b) "International ferry" means a Great Lakes vessel which has been designated as such by the district director of the St. Albans, Buffalo, Detroit or Chicago districts of the Service.

(c) "Master" means the captain or other person in charge of a vessel.

(d) "Full time immigration officer" means a regular employee of the Service duly appointed or designated as an immigration officer.

(e) "Immigration officer (excepted)" means a person other than a full time immigration officer who has been designated to perform the duties of an immigration officer in accordance with the provisions of this chapter.

§ 251.2 *Imposition of penalty.* The provisions of Part 280 of this chapter shall govern the imposition of penalties provided for in section 251 (d) of the Immigration and Nationality Act.

§ 251.3 *Listing of crewmen who are nationals of the United States.* In every case in which a crew list is required to be delivered upon arrival, crewmen of vessels or aircraft who are nationals of the United States shall be listed on the same form and the same information noted thereon as in the cases of alien crewmen.

§ 251.4 *Report of crewman on board certain vessels or aircraft.* The master, commanding officer or agent of a vessel or aircraft which arrives at a port in the continental United States or at a port in any other place under the jurisdiction of the United States without touching at a foreign port, on a voyage originating in Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, shall submit in writing to the United States immigration officer at the port of arrival the surname, given name, middle initial and nationality of each crewman on board such vessel or aircraft, and in addition, in the case of vessels, the residence of each such crewman.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 251.31 *Arrival crew lists for vessels other than Great Lakes vessels.* The lists required by section 251 (a) of the Immigration and Nationality Act and § 251.3 for vessels other than Great Lakes vessels shall be submitted on Form I–480 and shall be delivered to the United States immigration officer boarding the vessel at the first port of arrival in the United States, who, in the event the vessel has to call at any other port in the United States, shall give the master of the vessel a receipt therefor. Except as otherwise provided in this section for a vessel making voyages to and from the same port in the United States at regular or periodic intervals and returning resident alien crewman, the persons responsible for the delivery of the alien crew list and as a part thereof shall prepare a set of Forms I–95 for each arrival in the United States of an alien crewman on board a vessel and shall deliver them to such crewman for presentation by him, with any Foreign Service Forms 256, 257 or Immigration Forms I–132 or I–151 in his possession, to the United States immigration officer at the first port of arrival in the United States. If the crewman for whom a set of Forms I–95 is prepared has an immigrant or nonimmigrant visa the visa number shall be noted on all copies of the Form I–95 in the box entitled "Visa or Alien Registration number". If he is a returning resident alien crewman his alien registration receipt number shall be noted on all copies of Form I–95 in the box entitled "Visa or Alien Registration number". In the case of a vessel making voyages to and from the same port in the United States at regular or periodic intervals, Forms I–95 shall be prepared for each alien crewman upon his first arrival in the United States on board such vessel after December 23, 1952. Within one year of such arrival, another set of Forms I–95 shall not be prepared for the same crewman provided he is serving aboard the same vessel, is arriving at the same port in the United States, and is in possession of the Form I–95A issued to him at the time of his first landing. In the case of a returning resident alien crewman, a set of Forms I–95 shall be prepared upon his first arrival in the United States after December 23, 1952. Within one year of such arrival, another set of Forms I–95 shall not be prepared for the same crewman provided he is in possession of the Form I–95A issued to him at the time of such first arrival.

§ 251.32 *Arrival crew lists for Great Lakes vessels*—(a) *International ferries.* On the first arrival of an international ferry in the United States after the opening of the navigation season, or, if operating year-round, on the first arrival after January 1, each year, the list required by section 251 (a) of the Immigration and Nationality Act and § 251.3 shall be submitted on Form I–481 and shall be delivered to the immigration officer boarding the vessel at the first port of arrival in the United States. Thereafter during the same calendar year a crew list shall not be required unless there is a change in the crew of the vessel, either by increase, decrease or substitution. If any such change occurs, there shall be submitted on its first arrival after the change occurs a supplemental crew list on Form I–481 containing only information relative to crewmen who have left the crew or who were engaged since the crew list was furnished. The provisions of this section are in addition to and not in substitution for the requirements of § 251.36. Except as otherwise specifically provided in this part all other provisions of the Immigration and Nationality Act and of this chapter applicable to vessels and crewmen generally shall apply to Great Lakes vessels and crewmen serving thereon.

(b) *Great Lakes vessels other than international ferries.* On every arrival in the United States of a Great Lakes vessel other than an international ferry, a crew list on Form I–481 shall be delivered to the immigration officer boarding the vessel at its first port of arrival in the United States.

(c) *Preparation of Forms I–95.* On the first arrival of a Great Lakes vessel in the United States after December 23, 1952, the persons responsible for the delivery of the alien crew list, and as a part thereof, shall prepare a set of immigration Forms I–95 for each alien crewman on board the vessel and shall deliver them to such crewman for presentation by him, with any Foreign Service Forms 256 or 257 or immigration Forms I–132 or I–151 in his possession, to the United States immigration officer a

the first port of arrival in the United States. If the crewman for whom a set of Forms I–95 is prepared has an immigrant or nonimmigrant visa, the visa number shall be noted on all copies of the Forms I–95 in the box entitled "Visa or Alien Registration number". If he is a returning resident alien crewman, his alien registration receipt number shall be noted on all copies of the Forms I–95 in the box entitled "Visa or Alien Registration number". Within one year of such arrival, another set of Forms I–95 shall not be prepared for the same crewman so long as he continues to be a crewman of a Great Lakes vessel and is in possession of the Form I–95A issued to him at the time of his first landing.

(d) *Notification of arrivals.* The master of Great Lakes vessels shall immediately notify the officer in charge of the office having administrative jurisdiction over the port of arrival in the United States of every arrival of his vessel at such port except where such arrival is pursuant to a published schedule.

(e) *Designation of international ferries.* The district director of each of the districts of the Service having jurisdiction over ports of entry located on the bodies of water listed in § 251.1 (a) may in his discretion designate a Great Lakes vessel as an international ferry in his district. The district director may revoke the designation of international ferry with respect to vessels so designated by him. The district director shall notify the company or master by letter of such designation and of any revocation thereof. Request for designation as an international ferry shall be made by letter addressed to the district director having administrative jurisdiction over the port or ports at which the vessel is to arrive in the United States. Designation as an international ferry may be granted for such time and under such conditions as the district director deems appropriate.

§ 251.33 *Arrival crew lists for aircraft.* The lists required by section 251 (a) of the Immigration and Nationality Act and § 251.3 shall be submitted on Customs Form 7507 in the space provided for the listing of the crew, shall contain the information indicated on the form and shall be delivered to the immigration officer inspecting the aircraft at the international airport or other place of first landing in the United States. Except as otherwise provided in this section for aircraft making voyages to and from the United States at regular or periodic intervals and returning resident alien crewman, the persons responsible for the delivery of the alien crew list and as a part thereof shall prepare a set of Forms I–95 for each arrival in the United States of an alien crewman on board the aircraft and shall deliver them to such crewman for presentation by him, with any Foreign Service Forms 256, 257 or immigration Forms I–132 or I–151 in his possession, to the United States immigration officer at the first airport of arrival in the United States. If the crewman for whom a set of Forms I–95 is prepared has an immigrant or nonimmigrant visa the visa number shall be noted on all copies of the Form I–95 in the box entitled "Visa or Alien Registration number". If he is a returning resident alien crewman his alien registration receipt number shall be noted on all copies of Form I–95 in the box entitled "Visa or Alien Registration number". In the case of an aircraft making flights to and from the United States at regular or periodic intervals, Forms I–95 shall be prepared for each alien crewman upon his first arrival in the United States on board such aircraft after December 23, 1952. Within one year of such arrival, another set of Forms I–95 shall not be prepared for the same crewman provided he is serving as a crewman aboard the same aricraft or an aircraft of the same transportation line and is in possession of the Form I–95A issued to him at the time of his first landing. In the case of a returning resident alien crewman, a set of Forms I–95 shall be prepared upon his first arrival in the United States after December 23, 1952. Within one year of such arrival, another set of Forms I–95 shall not be prepared for the same crewman provided he is in possession of the Form I–95A issued to him at the time of such first arrival.

§ 251.34 *Arrival crew list for certain aircraft not required.* Aircraft coming directly to the continental United States or Alaska on a trip which originated in Canada or the French islands of St. Pierre or Miquelon shall not be regarded as arriving in the United States from any place outside the United States for the purposes of section 251 (a) of the Immigration and Nationality Act and § 251.3, and the provisions of those sections and of § 251.33 shall not apply to such aircraft. Nothing in this section shall be regarded as exempting any crewman from any of the applicable documentary requirements of the Immigration and Nationality Act or of this chapter. Upon the first arrival in the United States after December 23, 1952, of an aircraft within the scope of this section, the commanding officer or agent of such aircraft shall prepare a set of Forms I–95 for each alien crewman serving on board such aircraft. Within one year of such arrival, another set of Forms I–95 shall not be prepared for the same alien crewman provided he is in possession of the Form I–95A issued to him at the time of such first landing and he continues to be employed as an alien crewman by the same transportation line.

§ 251.35 *Illegal landing of alien crewman; notice.* The notice required by section 251 (b) of the Immigration and Nationality Act to be furnished regarding any alien crewman who may have landed illegally in the United States from a vessel or aircraft shall be in writing, shall contain the information required by that section of the Immigration and Nationality Act, and shall be delivered promptly by mail or in person to the officer in charge of the port where the illegal landing occurred. The notice shall also contain the alien's name, number of any document issued to him, nationality, description, and any photograph or other available documents which might aid in locating and apprehending such crewman.

§ 251.36 *Listing of change in crew of vessel or aircraft.* The list required by section 251 (c) of the Immigration and Nationality Act shall be submitted on Form I–489. Except with respect to international ferries, if no change in crew occurs that fact shall be noted on Form I–489. For the purposes of section 251 (c) of the Immigration and Nationality Act and this section, aircraft shall not be regarded as departing from a port in the United States if such aircraft departs from the continental United States or Alaska and is destined directly to Canada or the French islands of St. Pierre or Miquelon. The persons responsible for the delivery of Form I–489 shall attach to and make a part of the Form I–489 all Forms 257a and I–95A surrendered to the master or commanding officer by departing members of the crew, as provided in § 252.11 of this chapter, after recording thereon the name or identification marks of the vessel or aircraft, respectively, and the date and port of its departure from the United States.

PART 252—LANDING OF ALIEN CREWMEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
252.1 Conditional permit to land.
252.2 Arrest and deportation of certain crewmen landed under section 252 (a) (1) of the Immigration and Nationality Act.
252.3 Arrest and deportation of crewmen not within the purview of § 252.2.
252.4 Request for change of period of landing.
252.5 Crewmen seeking admission other than in pursuit of calling.
252.6 Special provisions applicable to Great Lakes crewmen.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

252.11 Disposition of entry documents of aliens departing as crewmen.
252.21 Procedure for arrest and deportation of certain crewmen landed under section 252 (a) (1) of the Immigration and Nationality Act.
252.41 Change in period of landing; procedure by immigration officer.

AUTHORITY: §§ 252.1 to 252.41 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 221, 241, 242, 251, 252, 66 Stat. 166, 191, 204, 208, 219, 220.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 252.1 *Conditional permit to land—*(a) *Conditions.* An immigration officer in his discretion may grant an alien crewman a conditional permit to land temporarily in the United States whenever such officer determines in accordance with section 252 of the Immigration and Nationality Act and this part that the crewman is eligible for such a permit. Such a permit shall be granted subject to the following conditions:

(1) The crewman agrees that while in the United States he will not pursue any employment or engage in any activity inconsistent with his temporary landing as a crewman or not related to the purpose for which he was permitted to land; and

(2) The crewman agrees to leave the United States within the period for which he was permitted to land; and

(3) If admitted under section 252 (a) (1) of the Immigration and Nationality Act, the crewman agrees to leave the United States and each port of the United States at which permitted to land on board the vessel or aircraft which brought him to the United States.

(b) *Period of time allowed.* The period of time for which an immigration officer may permit the temporary landing of a crewman who is qualified therefor under the provisions of paragraph (a) of this section is the applicable period provided in section 252 (a) (1) or in section 252 (a) (2) of the Immigration and Nationality Act.

(c) *Landing under section 252 of the Immigration and Nationality Act.* The immigration officer authorizing an alien crewman's landing under section 252 of the Immigration and Nationality Act shall note the crewman's set of immigration Forms I–95 to show the date and port of landing, the name or identification marks of the vessel or aircraft on which the crewman arrived and whether landing was authorized under clause (a) (1) or clause (a) (2) of section 252 of that Act. The Form I–95A shall be placed in the crewman's passport and shall constitute his conditional permit to land. Any Foreign Service Form 257a presented by the alien crewman and which bears a valid nonimmigrant visa issued to the alien as a crewman pursuant to section 101 (a) (15) (D) of the Immigration and Nationality Act shall be appropriately noted and returned to the crewman for presentation on subsequent arrivals in the United States.

§ 252.2 *Arrest and deportation of certain crewmen landed under section 252 (a) (1) of the Immigration and Nationality Act*—(a) *Violation of landing privilege.* An alien permitted to land conditionally as a crewman under section 252 (a) (1) of the Immigration and Nationality Act shall, within the period for which he was permitted to land, be taken into custody by an immigration officer without a warrant of arrest and made the subject of further proceedings under the provisions of section 252 (b) of the Immigration and Nationality Act and § 252.21 if:

(1) It is determined that such alien crewman is not a bona fide crewman; or

(2) Such alien crewman does not intend to depart on the vessel or aircraft which brought him to the United States.

(b) *When not considered a bona fide crewman.* For the purposes of this section, an alien crewman shall be considered not to be a bona fide crewman if:

(1) He violates or fails to fulfill any of the conditions of his admission imposed at the time of his landing; or

(2) He evidences in any way an intention to violate or fail to fulfill any of the conditions of his admission imposed at the time of his landing; or

(3) He engages in any activity inconsistent with the status of a crewman; or

(4) He was not entitled under the Immigration and Nationality Act to land as a crewman at the time of such landing.

(c) *When deemed not to intend to depart.* For the purposes of this section an alien crewman shall be deemed not to intend to depart on the vessel or aircraft which brought him to the United States if:

(1) He evidences orally, by writing, or by conduct an intention not to depart on the vessel or aircraft on which he arrived; or

(2) He is found at such a distance from the port of landing that it is not possible for him to return to the vessel or aircraft prior to its departure from such port; or

(3) By reason of his own conduct it is or will be impossible for him to depart on the vessel or aircraft on which he arrived.

(d) *Other grounds for deportation.* Nothing in this section shall be construed as setting forth the sole grounds on which it may be determined that an alien crewman is not a bona fide alien crewman or that an alien crewman does not intend to depart on the vessel or aircraft which brought him to the United States or to depart on a vessel or aircraft within the period for which he was permitted to land temporarily, or as setting forth the sole grounds of deportation.

§ 252.3 *Arrest and deportation of crewmen not within the purview of § 252.2*—(a) *Violation of status; determination of deportability.* The question of the deportability of an alien crewman not within the purview of § 252.2 who is believed to be subject to deportation shall be determined in accordance with the procedure set forth in section 242 of the Immigration and Nationality Act and Part 242 of this chapter. Such an alien crewman shall, within the meaning of section 241 (a) (9) of the Immigration and Nationality Act, be deemed to have failed to maintain his nonimmigrant status under sections 101 (a) (15) (D) and 252 of the Immigration and Nationality Act and under this part if:

(1) It is determined that he is not a bona fide crewman; or

(2) He does not intend to depart on a vessel or aircraft within the period for which he was permitted to land.

(b) *When not considered bona fide.* For the purposes of this section, an alien crewman shall be considered not to be a bona fide crewman under any of the circumstances listed and described in § 252.2 (b).

(c) *When deemed not to intend to depart.* For the purposes of this section, an alien crewman shall be deemed not to intend to depart on a vessel or aircraft within the period for which he was permitted to land temporarily if:

(1) He evidences orally, by writing, or by conduct an intention not to depart on a vessel or aircraft within the period of time for which he was permitted to land temporarily; or

(2) By reason of his own conduct it is or will be impossible for him to depart on a vessel or aircraft within the period for which he was permitted to land; or

(3) He remains in the United States after the expiration of the time for which he was permitted to land.

(d) *Other grounds for deportation.* Nothing in this section shall be construed as setting forth the sole grounds on which it may be determined that an alien crewman is not a bona fide alien crewman, or that an alien crewman does not intend to depart on the vessel or aircraft which brought him to the United States or to depart on a vessel or aircraft within the period for which he was permitted to land temporarily, or as setting forth the sole grounds of deportation.

§ 252.4 *Request for change of period of landing.* An alien crewman permitted to land for the period set forth in section 252 (a) (1) of the Immigration and Nationality Act who is maintaining his status but who desires to depart as a member of the crew of a vessel or aircraft other than the one on which he arrived, may, within the period for which permitted to land, apply in person to an immigration officer to have his landing changed to that authorized under section 252 (a) (2) of the Immigration and Nationality Act.

§ 252.5 *Crewmen seeking admission other than in pursuit of calling.* An alien crewman applying for admission to the United States in a status other than that described in section 101 (a) (15) (D) of the Immigration and Nationality Act shall be required to comply with all of the provisions of the immigration laws to the same extent as though he were a passenger. Nothing in this section shall be deemed to exempt the transportation line on whose vessel or aircraft such alien crewman arrived in the United States from any of the responsibilities or liabilities imposed upon it by the immigration laws with respect to alien crewmen.

§ 252.6 *Special provisions applicable to crewman of Great Lakes vessels*—(a) *Definitions.* The definitions of the terms contained in § 251.1 of this chapter shall apply to this section.

(b) *Crew inspection: first trip of vessel of year or season*—(1) *By whom conducted.* A full time immigration officer shall conduct the immigration examination of the crew of every Great Lakes vessel on the occasion of its first arrival each year or season in the United States. In addition to the notation required by § 252.1 (c), the immigration officer authorizing the landing of a crewman of a Great Lakes vessel shall note the words "Great Lakes" on all copies of the Form I–95.

(2) *Extent of immigration examination.* A crewman aboard a Great Lakes vessel shall be examined in accordance with the provisions of the immigration laws applicable to crewmen generally upon the vessel's first arrival of year or season.

(3) *Medical examination.* At the time of the immigration examination of the crew of a Great Lakes vessel arriving for the first time during a year or season, the medical examination required by the Immigration and Nationality Act shall be given each member of the crew. The examining immigration officer shall not permit the crewman to land until and unless he has been medically examined and passed. The medical officer shall place on all copies of the Form I–95 an appropriate dated notation stating that

the alien has been medically examined and passed, if that is the case.

(c) *Crew inspection; subsequent arrival of vessel during year or season—(1) By whom conducted.* Whenever an international ferry operating year-round makes its second or later arrival after January 1 each year, or whenever any other Great Lakes vessel operating seasonally makes its second or later arrival after the season's opening, the examination of the crew shall be conducted by a full-time immigration officer if one can conveniently be assigned; otherwise the examination of the crew shall be conducted by an immigration officer (excepted). An immigration officer (excepted) shall have authority to permit a crewman of a Great Lakes vessel to land for the period set forth in section 252 of the Immigration and Nationality Act only if such crewman presents the Form I–95A previously issued to him at the time of his first arrival during the year or season provided he has no reason to believe that such crewman is inadmissible to the United States. A crewman making his first arrival of the year or season in the United States aboard a Great Lakes vessel which is making its second or later arrival shall not be permitted to land until he is examined by a full time immigration officer. The provisions of paragraph (b) shall be applicable to such a crewman.

(2) *Extent of subsequent immigration examination.* A crewman of a Great Lakes vessel shall be examined as provided in the Immigration and Nationality Act and this section each time he arrives from Canada, except that in the case of international ferries the crew examination after the initial trip of the year or season shall consist only of whatever inquiry is necessary to determine that there has been no unreported change in the crew and that all members of the crew have been properly documented for landing. A crewman of a Great Lakes vessel shall meet whatever documentary requirements apply to his case each time he applies for permission to land in the United States.

(3) *Medical examination.* A crewman of a Great Lakes vessel who has been given a medical examination during the navigation season, or during the calendar year if employed on an international ferry operating year-round, and whose Form I–95A bears the medical notation stating that the alien has been medically examined and passed, shall not be subject to medical reexamination during the same year or season unless the examining immigration officer believes that such reexamination might disclose grounds for exclusion or the denial of landing privilege. If any medical reexamination results in certification which renders the alien inadmissible, the medical officer shall invalidate any favorable medical endorsement previously noted on the Form I–95A.

(4) *Revocation of Form I–95A.* If a crewman of a Great Lakes vessel in possession of a Form I–95A previously issued to him is subsequently found to be inadmissible to the United States, an immigration officer shall take up such Form I–95A.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 252.11 *Disposition of entry documents of aliens departing as crewmen.* Except in those cases in which Forms 257a, I–94C, I–95A, or I–100a are not required to be surrendered by aliens departing from the United States as provided in §§ 221.2 (b), and 221.3 (d) of this chapter and this section, an alien departing from the United States as a crewman aboard a vessel or aircraft shall surrender to the master or commanding officer any Form 257a, I–94C, I–95A, or I–100a issued to him at the time of his arrival in the United States. For each alien crewman who departs with the vessel or aircraft, who is required, but fails, to surrender any of the forms enumerated in this paragraph, the master or commanding officer shall prepare a Form I–424. The master or commanding officer shall attach the Forms 257a, I–94C, I–95A, I–100a or I–424 to the Form I–489 or, if a Form I–489 is not required to be submitted, shall surrender such forms to the United States immigration officer at the port of departure from the United States. Form 257a need not be surrendered if it bears a valid nonimmigrant visa issued pursuant to section 101 (a) (15) (D) of the Immigration and Nationality Act with enough of the period of validity remaining to enable the alien to use the visa for an additional voyage or voyages to the United States as a crewman. Form I–95A need not be surrendered until one year from the date in which it was issued in any of the following cases and shall, provided the crewman is found otherwise admissible under the immigration laws and such form is noted by the examining immigration officer on each subsequent arrival, constitute the crewman's conditional permit to land upon subsequent arrivals during such year:

(1) A crewman of a vessel making voyages to and from the same port in the United States at regular or periodic intervals provided he departs as a crewman within the period for which he was permitted to land aboard the same vessel and on the same voyage on which he arrived.

(2) A resident alien crewman.

(3) A crewman of an aircraft making flights to and from the United States at regular or periodic intervals, for such time as he continues to be employed as a crewman by the same transportation line, provided he departs as a crewman, within the period for which he was permitted to land, on the aircraft on which he arrived or on another aircraft of the same transportation line.

(4) A crewman who departs as a member of the crew of a Great Lakes vessel.

(5) A crewman of an aircraft described in § 251.34 of this chapter, for such time as he continues to be employed as a crewman by the same transportation line, provided he departs as a crewman within the period for which he was permitted to land, on the aircraft on which he arrived or another aircraft of the same transportation line.

§ 252.21 *Procedure for arrest and deportation of certain crewmen landed under section 252 (a) (1) of the Immigration and Nationality Act.* If, after investigation, an immigration officer determines that under § 252.2 (a) an alien crewman should be arrested and deported, he shall, if the alien is not confined in a penal or mental institution, and without obtaining a warrant of arrest, take such alien into custody and shall then and there fully advise him of the cause of his apprehension. If the alien is confined in a penal or mental institution he shall not be taken into physical custody until released from confinement, whether on parole or otherwise, but in such case the institution shall be advised of the interest of the Service in the case so that the Service may be informed prior to any release of the alien. Immediately upon taking the alien into custody the immigration officer shall satisfy himself as to (a) the identity, (b) alienage, and (c) deportability of the alien as a member of any of the classes enumerated in § 252.2 (a). If the immigration officer determines that the person apprehended is an alien crewman within one of the classes enumerated in § 252.2 (a), he shall revoke the crewman's conditional permit to land by writing thereon the word "Revoked" and the date of revocation, and, if the conditional permit to land is a Form 257a or Form I–95A, such form shall be taken up by such officer. If prosecution under section 252 (c) of the Immigration and Nationality Act is not contemplated, the alien crewman shall be returned immediately to the vessel or aircraft on which he came to the United States and deported thereon. If prosecution is contemplated, or, if the crewman is confined in a penal or mental institution, the crewman shall not be so returned for deportation until after trial, imprisonment (if sentenced thereto), or until release from the penal or mental institution, respectively. If it is not practicable to deport a crewman on the vessel or aircraft on which he came to the United States, he shall be deported on another vessel or aircraft of the same transportation line. If that is not practicable, the crewman shall be deported in any other manner at the expense of the transportation line which brought him to the United States. A notice to detain and deport on Form I–259 shall be served on the master or commanding officer of the vessel or aircraft on which the alien crewman is to be deported. The procedure prescribed by section 242 of the Immigration and Nationality Act and Part 242 of this chapter shall not apply to an alien crewman who is within the purview of § 252.2. No appeal by an alien crewman shall lie from the revocation of his conditional permit to land and his deportation under this part.

§ 252.41 *Change in period of landing; procedure by immigration officer.* If the immigration officer to whom an alien crewman applies for change of his landing is satisfied that the alien will depart as a member of the crew of a vessel or aircraft other than the one on which he arrived, he may, in his discretion, grant the alien crewman's request and permit him to remain in the United States for

such period as the immigration officer shall determine, not to exceed twenty-nine days from the date of the crewman's arrival in the United States. The immigration officer shall endorse the Form I-95A issued to the crewman as his conditional permit to land at the time of arrival to show the date to which the crewman has been granted permission to land, sign his name thereto, and return the form to the crewman as his conditional permit to land.

PART 252a—SEAMEN OR AIRMEN: SPECIAL CLASSES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
252a.1 Seamen or airmen returned by American consuls.
252a.2 Shipwrecked or castaway seamen or airmen.
252a.3 Aliens returned pursuant to terms of contract of voyage.
252a.4 Disabled crewmen; condition for passing in transit.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

252a.11 Seamen or airmen returned by American consuls.
252a.21 Shipwrecked or castaway seamen or airmen.
252a.31 Aliens returned pursuant to terms of contract of voyage.

AUTHORITY: §§ 252a.1 to 252a.31 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 212, 251, 252, 255, 66 Stat. 166, 182, 219, 220, 222.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 252a.1 *Seamen or airmen returned by American consuls.* Whenever a vessel or aircraft arrives in the United States from any place outside the United States having on board an alien seaman or airman returned by a United States consular official in accordance with the navigation laws and American consular regulations, the master, commanding officer, purser, or other responsible officer of the vessel or aircraft, or such alien, shall present to the examining immigration officer documentary or other satisfactory evidence indicating that such alien is being returned under such laws and regulations. Such alien shall be subject to the provisions of § 252a.11.

§ 252a.2 *Shipwrecked or castaway seamen or airmen.* A shipwrecked or castaway alien seaman or airman who is rescued by or transferred at sea to a vessel or aircraft destined directly for the United States, and who is brought to the United States on such vessel or aircraft shall be subject to the provisions of § 252a.21.

§ 252a.3 *Aliens returned pursuant to terms of contract of voyage.* An alien seaman or airman who was a member of the crew of an American vessel or aircraft which has been sold or delivered abroad, who returns to the United States in accordance with the terms of the contract of employment of the outbound voyage or under the laws of the United States, shall be subject to the provisions of § 252a.31.

§ 252a.4 *Disabled crewmen; condition for passing in transit.* A disabled alien crewman, who does not intend to relinquish his calling, but whom the master or commanding officer of the vessel or aircraft is obliged, under the laws of the country under which the vessel or aircraft is registered, licensed, documented, or enrolled, to return to the country where he embarked, may, under such terms and conditions as the district director or the officer in charge having administrative jurisdiction over the port of arrival deems necessary (including the depositing by the master or commanding officer of a satisfactory bond or other undertaking guaranteeing the departure of such crewman, if deemed appropriate by such district director or officer in charge) be paroled into the United States solely to pass through the United States in transit to the country where such alien crewman embarked by the most expeditious and direct route. Whenever such an alien is afflicted with any of the disabilities or diseases specified in section 255 of the Immigration and Nationality Act or in such physical or mental condition as to make him a person likely to become a public charge, such alien may not be paroled into the United States until the master or commanding officer has made arrangements for the alien's proper care while in transit and has furnished a sum of money sufficient to defray the expenses of such care.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 252a.11 *Seamen or airmen returned by American consuls*—(a) *Admission.* The case of an alien returned to the United States by a United States consular official who arrives as a member of a crew, shall be disposed of in the same manner as that of any other arriving alien crewman, except as provided in paragraphs (b) and (c) of this section. An alien so returned whose occupational status as a seaman or airman is found by the examining immigration officer to be bona fide, and who seeks to enter the United States solely in pursuit of his calling as a seaman or airman but who arrives other than a member of a crew, may be admitted, if found to be otherwise admissible, as a nonimmigrant visitor for business for a period not to exceed 29 days and under the conditions enumerated in § 252.1 (a) (1) and (2) of this chapter. An alien so returned who applies for admission other than in pursuit of his calling as a seaman or airman shall comply with all of the provisions of the Immigration and Nationality Act applicable to passengers generally.

(b) *Procedure when seaman or airman is afflicted.* Whenever any such returned alien, regardless of the manner of his arrival, is found to be afflicted with any of the disabilities or diseases specified in section 255 of the Immigration and Nationality Act, the master, commanding officer, or other responsible officer, shall deliver the alien to authorities of the United States Public Health Service for medical treatment in a United States Public Health Service hospital at the expense of the appropriation for the maintenance of such hospitals. The immigration examination of any such hospitalized alien shall be deferred until his discharge from the hospital at which time his admissibility to the United States shall be determined in accordance with the provisions of paragraph (a) of this section.

(c) *Carriers' exemption from liability; immigration appropriation not available for hospital treatment.* Vessels and aircraft transporting an alien returned to the United States by a United States consular official shall be exempt from the payment of hospital and maintenance expenses and liability for the penalties prescribed by the immigration laws with respect to such returned alien, if the transportation line furnishes satisfactory proof that the alien was accepted on board and transported at the request of a United States consular official. Under no circumstances shall hospital bills incurred on account of such a returned alien be paid from the appropriation for the enforcement of the immigration laws. Maintenance expenses incurred pending final determination of the status of such alien may be paid from said appropriation.

§ 252a.21 *Shipwrecked or castaway seamen or airmen*—(a) *Admission.* An alien whose occupational status as a seaman or airman is found by the examining immigration officer to be bona fide, who is brought to the United States under the circumstances described in § 252a.2, and who arrives as a member of the crew, shall be examined in the same manner as any other arriving crewman. An alien so brought to the United States whose occupational status as a seaman or airman is found by the examining immigration officer to be bona fide, who seeks to enter the United States solely in pursuit of his calling as a seaman or airman, but who arrives other than as a member of the crew, may be admitted, if found to be otherwise admissible, as a nonimmigrant visitor for business for a period not to exceed 29 days and under the conditions enumerated in § 252.1 (a) (1) and (2) of this chapter. An alien so brought who applies for admission other than in pursuit of his calling as a seaman or airman, shall be required to comply with all of the provisions of the Immigration and Nationality Act applicable to passengers generally.

(b) *Payment of expenses.* If expenses are incurred in connection with the detention and deportation of a seaman or airman described in § 252a.2, such expenses shall be collected from the appropriate foreign consul or from the owners, agents, or consignees, of the wrecked vessel or aircraft, if practicable, otherwise such expenses shall be paid from the appropriation for the enforcement of the immigration laws.

(c) *Procedure when seaman or airman is afflicted.* Whenever an alien seaman or airman brought to the United States under the circumstances described in § 252a.2, regardless of the manner of his arrival, is found to be afflicted with any of the disabilities or diseases specified in section 255 of the Immigration and Nationality Act, and is found to be entitled to treatment in a United States Public Health Service hospital at the expense of the appropriation for the maintenance of such hospitals, the mas-

ter, commanding officer, or other responsible officer shall deliver the alien to authorities of the United States Public Health Service for medical treatment in a United States Public Health Service hospital at the expense of the appropriation for the maintenance of such hospitals. Any such afflicted alien who is found not to be entitled to treatment at such expense may be given treatment at the expense of the wrecked vessel or aircraft if the appropriate foreign consul or other responsible person satisfactorily guarantees payment of the expense thereof to the satisfaction of the district director or the officer in charge having administrative jurisdiction over the port of arrival, otherwise, the alien may be hospitalized at the expense of the appropriation for the enforcement of the immigration laws only if his condition is such as to require emergency treatment. The immigration examination of any such hospitalized alien shall be deferred until his discharge from the hospital at which time his admissibility to the United States shall be determined in accordance with the provisions of paragraph (a) of this section.

§ 252a.31 *Aliens returned pursuant to terms of contract of voyage*—(a) *Admission.* An alien seaman or airman, who returns to the United States as a member of the crew of a vessel or aircraft under the circumstances described in § 252a.3, shall be treated in the same manner as any other arriving alien crewman. Such an alien seaman or airman who returns other than as a member of the crew of a vessel or aircraft whose occupational status as a seaman or airman is found to be bona fide by the examining immigration officer, and who seeks to enter the United States solely in pursuit of his calling as a seaman or airman, may be admitted, if found to be otherwise admissible, as a nonimmigrant visitor for business for a period not to exceed 29 days and under the conditions enumerated in § 252.1 (a) (1) and (2) of this chapter. Any such alien who applies for admission other than in pursuit of his calling as a seaman or airman shall comply with all of the provisions of the Immigration and Nationality Act applicable to passengers generally.

(b) *Procedure when seaman or airman is afflicted.* Whenever an alien seaman or airman returns to the United States under the circumstances described in § 252a.3, regardless of the manner of his arrival, and is found to be afflicted with any of the disabilities or diseases specified in section 255 of the Immigration and Nationality Act and such alien seaman or airman is found to be entitled to treatment in a United States Public Health Service hospital at the expense of the appropriation for the maintenance of such hospitals, the master, commanding officer, or other responsible officer shall deliver such alien to authorities of the United States Public Health Service for medical treatment in a United States Public Health Service hospital at the expense of the appropriation for the maintenance of such hospitals. Any such afflicted alien who is found not to be entitled to treatment at such expense may be given hospital treatment if the payment of the expenses thereof are guaranteed to the satisfaction of the district director or the officer in charge having administrative jurisdiction over the port of arrival. The immigration examination of any such hospitalized alien shall be deferred until his discharge from the hospital at which time his admissibility to the United States shall be determined in accordance with the provisions of paragraph (a) of this section.

PART 253—HOSPITAL TREATMENT OF AFFLICTED CREWMEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
253.1 Afflicted crewmen.
253.2 Crewmen suspected of being afflicted.
253.3 Clearance withheld; procedure.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

253.11 Notice to remove.
253.12 Afflicted crewmen; procedure.
253.21 Crewmen suspected of being afflicted; procedure.

AUTHORITY: §§ 253.1 to 253.21 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 252, 253, 254, 255, 66 Stat. 220, 221, 222.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 253.1 *Afflicted crewmen.* An alien crewman afflicted with any of the disabilities or diseases enumerated in section 255 of the Immigration and Nationality Act and in whose case a cure reasonably can be expected within 30 days, shall be ordered by the examining immigration officer immediately removed for hospital treatment to a designated hospital at the expense of the persons enumerated in section 253 of the Immigration and Nationality Act: *Provided,* That in the event appropriate facilities for treatment are not available, removal from the vessel or, in the case of an aircraft, from the specified place of detention, shall not be ordered (except in emergent cases so certified by a Public Health Surgeon) and the district director or the officer in charge having administrative jurisdiction of the port of arrival shall notify the district director or the officer in charge having administrative jurisdiction of the first port of call possessing such facilities (if the vessel or aircraft is proceeding to other ports of call in the United States) of the presence of said alien on such vessel or aircraft. The latter officer shall proceed in the manner hereinbefore provided upon the arrival of the vessel or aircraft at such port of call to have the alien removed for hospital treatment. If the vessel or aircraft having such afflicted alien on board arrives at a port at which there are no proper facilities for hospitalization, if no arrangements elsewhere therefor are practicable and the vessel or aircraft is not proceeding to another port of call in the United States possessing such facilities or is proceeding directly to a foreign port, or if the disability or disease is one in which a cure cannot reasonably be expected within 30 days, an order to deport shall be served as provided in Part 254 of this chapter.

§ 253.2 *Crewmen suspected of being afflicted.* An alien crewman suspected of being afflicted with any of the disabilities or diseases mentioned in section 255 of the Immigration and Nationality Act shall be ordered by the examining immigration officer immediately removed for observation to an immigration station or other appropriate place at the expense of the persons enumerated in section 253 of the Immigration and Nationality Act: *Provided,* That in the event appropriate facilities for observation are not available, removal from the vessel or, in the case of an aircraft, from the specified place of detention, shall not be ordered (except in emergent cases so certified by a Public Health Surgeon) and the district director or the officer in charge having administrative jurisdiction of the port of arrival shall notify the district director or the officer in charge having administrative jurisdiction of first port of call possessing such facilities (if the vessel or aircraft is proceeding to other ports of call in the United States) of the presence on said vessel or aircraft of said alien. The latter officer shall proceed in the manner hereinbefore provided upon the arrival of the vessel or aircraft at such port of call to have the alien removed for observation. If the vessel or aircraft having such alien suspected of being afflicted on board arrives at a port at which there are no proper facilities for observation, if no arrangements elsewhere therefor are practicable and the vessel or aircraft is not proceeding to another port in the United States possessing such facilities or is proceeding directly to a foreign port, an order to deport shall be served as provided in Part 254 of this chapter.

§ 253.3 *Clearance withheld; procedure.* The guaranty of payment of expenses provided for in section 253 of the Immigration and Nationality Act may be accepted by the district director or officer in charge having administrative jurisdiction of the port, if submitted by guarantors satisfactory to him, and shall be submitted on Form I–510. In the event the persons named in section 253 of the Immigration and Nationality Act fail to pay such expenses or fail to furnish such guaranty, such officer shall immediately request the collector of customs to withhold clearance of the vessel or aircraft. Such request, if made informally, shall be confirmed promptly in writing.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 253.11 *Notice to remove.* In any case in which an immigration officer in his discretion determines that an alien crewman shall be removed from the vessel or aircraft on which he arrived for hospital treatment or observation as provided in section 253 of the Immigration and Nationality Act and this part, such officer shall serve or cause to be served on any of the persons enumerated in section 253 of the Immigration and Nationality Act a notice to remove on Form I-259. Such notice shall specify the date when, and the place to which, the alien crewman shall be removed, and the reason for such removal.

§ 253.12 *Afflicted crewmen; procedure.* Prior to the expiration of 30 days

from date of hospitalization (or at any time thereafter if the crewman's hospitalization is continued at the request of any of the persons enumerated in section 253 of the Immigration and Nationality Act), the appropriate surgeon of the Public Health Service shall submit to the district director or the officer in charge having administrative jurisdiction over the place where the hospital is located a certification indicating whether or not the alien is cured, or if not cured, whether or not his mental and physical condition is such that he may resume his calling without danger to himself and others. If the alien is cured or if he may resume his calling as aforesaid, the district director or the officer in charge shall cause the alien to be discharged from the hospital, following which his admissibility shall be determined and his case disposed of in the same manner as that of arriving alien crewmen generally, as provided in section 252 of the Immigration and Nationality Act and Part 252 of this chapter. If the certification indicates that the alien is not cured and that his mental and physical condition is such that he cannot resume his calling without danger to himself or others, the district director or officer in charge shall cause the alien to be discharged from the hospital, if the alien's condition permits, and shall return the alien crewman to the vessel or aircraft on which he arrived: *Provided*, That said vessel or aircraft is promptly going to a foreign port and a certificate is issued by the Public Health surgeon that the alien can be placed on board and removed from the United States thereon without danger to his life. If for any reason it is impossible or impracticable to return the crewman to a foreign port on board such vessel or aircraft, then he shall be returned on board another vessel or aircraft of the same transportation line destined for a foreign port and which carries a ship's surgeon, or if that is impracticable, then such alien shall be returned as a passenger on any passenger vessel or aircraft carrying a ship's surgeon: *Provided*, That in every case in which such a crewman is returned, the transportation line on which he came shall furnish a guaranty satisfactory to such district director or officer in charge that the crewman will receive proper medical treatment and be segregated from members of the crew and passengers, and that every precaution will be employed to prevent the spread of contagion during the voyage and, if removal is effected by the vessel or aircraft which brought the alien, or by one of the same line, that the alien will not be returned to the United States by the vessel or aircraft on which he departs or on another one of the same line, unless and until he is cured: *Provided further*, That, if the vessel or aircraft on which an afflicted crewman arrived is not going to a foreign port at the time of the crewman's discharge from the hospital, said afflicted crewman may be permitted, upon written request of any of the persons named in section 253 of the Immigration and Nationality Act or other acceptable guarantor, and the promise of such persons to assume all expenses involved, to remain in the hospital until such vessel or aircraft departs for a foreign port.

§ 253.21 *Crewman suspected of being afflicted; procedure.* The case of an alien crewman removed for observation as provided in §§ 253.2 and 253.11 who, after such observation, is found to be afflicted with any of the disabilities or diseases enumerated in section 255 of the Immigration and Nationality Act, shall be disposed of in accordance with the provisions of §§ 253.1 and 253.12. The admissibility of an alien crewman removed for observation as provided in §§ 253.2 and 253.11 who, after such observation, is found not to be afflicted with any of the disabilities or diseases enumerated in section 255 of the Immigration and Nationality Act, shall be determined and his case disposed of in the same manner as that of arriving alien crewman generally, as provided in section 252 of the Immigration and Nationality Act and Part 252 of this chapter.

PART 254—CONTROL OF ALIEN CREWMEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

254.1 Deportation of alien crewman.
254.2 Order to detain and deport alien crewman.
254.3 Detained crewman; when removal permitted.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

254.21 Order to detain and deport alien crewman; form.

AUTHORITY. §§ 254.1 to 254.21 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 101, 212, 253, 66 Stat. 166, 182, 221.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 254.1 *Deportation of alien crewman.* Subject to the limitations hereinafter provided in this part, the district director having administrative jurisdiction over the place where the case is pending shall exercise the authority contained in section 254 (a) of the Immigration and Nationality Act to select the port from which and the vessel or aircraft on which an alien crewman's deportation is to be effected.

§ 254.2 *Order to detain and deport alien crewman.* In any case in which an alien crewman permitted to land under section 212 (d) (5), 252, or 253 of the Immigration and Nationality Act is subsequently placed aboard a vessel or aircraft for detention and deportation in accordance with the provisions of that Act and this chapter, the immigration officer delivering the alien crewman to the vessel or aircraft shall order the owner, agent, consignee, charterer, master, or commanding officer of the vessel or aircraft to detain and deport such crewman in the manner provided by law.

§ 254.3 *Detained crewman; when removal permitted.*—(a) *Vessels.* An alien crewman, employed on a vessel, who is required to be detained or who is ordered deported, shall not be removed to an immigration station or other place for safekeeping at the request of the transportation line except in case of emergency as determined by the district director or officer in charge having administrative jurisdiction over the place in the United States where the vessel is then located, and in such case, only when the owner, agent, consignee, charterer, master, or commanding officer, of the vessel involved shall give guarantee satisfactory to such district director or officer in charge that all costs of such removal, including maintenance charges, and damage done by such crewman to the place to which he is removed, including damage to equipment, shall be paid by such owner, agent, consignee, charterer, master, or commanding officer.

(b) *Aircraft.* An alien crewman, employed on an aircraft, who is required to be detained or who is ordered deported shall be detained at the expense of the airline at a place specified by the district director or the officer in charge having administrative jurisdiction over the place in the United States where the aircraft is then located.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 254.21 *Order to detain and deport alien crewman; form.* The order to detain and deport provided for by § 254.2 shall be on Form I–259. The order shall be addressed to any or all of the following persons named in section 254 (a) of the Immigration and Nationality Act: owner, agent, consignee, charterer, master, or commanding officer of the vessel or aircraft on which the crewman arrived. The order shall be served by mail or by personal service upon each of the persons to whom it is addressed or upon such other person as may be authorized to receive it. Every person upon whom the order is served shall be charged with the duty of detaining and deporting the alien or aliens named thereon. The names of more than one alien crewman may be included on the same order. An order shall not be issued in the case of an alien crewman who has been permitted by the Service to leave the vessel or aircraft until such alien crewman is returned to such vessel or aircraft or is offered for deportation by the Service to the person or persons to whom the order is addressed.

PART 256—PAY OFF OR DISCHARGE OF ALIEN CREWMEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

256.1 Consent to pay off or discharge alien crewmen.
256.2 Consent to pay off or discharge alien crewmen admitted under section 252 (a) (1) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 256.1 and 256.2 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 252, 256; 66 Stat. 220, 223.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 256.1 *Consent to pay off or discharge alien crewmen.* Except in the case of an alien crewman granted a conditional permit to land under section 252 (a) (1) of the Immigration and Nationality Act, the notation by an immigration officer on an alien crewman's Form 257a

or Form I-95A evidencing his admission as a nonimmigrant, shall constitute the consent to pay off or discharge such alien crewman required under section 256 of the Immigration and Nationality Act.

§ 256.2 *Consent to pay off or discharge alien crewman admitted under section 252 (a) (1) of the Immigration and Nationality Act.* An alien crewman landed temporarily under section 252 (a) (1) of the Immigration and Nationality Act shall not be paid off until consent to do so has first been obtained from the district director or officer in charge having administrative jurisdiction over the place where the vessel or aircraft is then located. Request for such consent shall be made by letter and the consent, if granted, shall be in writing addressed to the person making the request. An alien crewman landed under section 252 (a) (1) of the Immigration and Nationality Act shall not be discharged from the vessel or aircraft unless such alien's landing is subsequently changed under § 252.4 of this chapter to that authorized under section 252 (a) (2) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 262—REGISTRATION OF ALIENS IN THE UNITED STATES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
262.1 Scope.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 262.1 *Scope.* Persons otherwise subject to the provisions of Chapter 7 of Title II of the Immigration and Nationality Act and Parts 262 to 265, inclusive, of this chapter shall not be exempt from any of those provisions solely for the reason that they were admitted to the United States as:

(a) Alien members of the armed forces of the United States as provided in section 284 of the Immigration and Nationality Act; or

(b) American Indians born in Canada as provided in section 289 of the Immigration and Nationality Act; or

(c) Aliens lawfully admitted for permanent residence who reside in foreign contiguous territory and who, while continuing such residence, enter the United States to engage in any existing employment or to seek employment in this country.

(Sec. 103, 66 Stat. 173. Interpret or apply secs. 261-265, 284, 289, 66 Stat. 223-225, 232, 234)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 263—REGISTRATION OF ALIENS IN THE UNITED STATES: PROVISIONS GOVERNING SPECIAL GROUPS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
263.1 Foreign government officials, representatives to international organizations and similar classes.
263.2 Canadian citizen visitors.
263.3 Aliens confined in institutions within the United States.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 263.1 to 263.3 issued under sec. 103, 66 Stat. 173. Interpret or apply 54 Stat. 673 secs. 211, 221, 262, 263, 66 Stat. 181, 191, 224; 8 U. S. C. 451.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 263.1 *Foreign government officials, representatives to international organizations and similar classes—(a) Registration not required.* Any alien in the United States on the effective date of the Immigration and Nationality Act shall not be required to register under section 262 of the Immigration and Nationality Act if (1) on that date he was exempt from the requirements of the Alien Registration Act, 1940 under the regulations promulgated under that act (12 F. R. 5130), and (2) he were now outside the United States applying for a visa in the status and classification he presently is maintaining in the United States, he would be exempt from the registration requirements of section 262 of the Immigration and Nationality Act under the regulations promulgated by the Department of State in accordance with the authority contained in section 221 (b) of the Immigration and Nationality Act.

(b) *Registration required.* Any person exempt from the registration requirements of section 262 of the Immigration and Nationality Act who remains in the United States for 30 days or longer after having ceased to be within the classification which entitled him to the exemption, shall apply for registration in accordance with the provisions of the Immigration and Nationality Act before the expiration of 30 days following the date when he ceased to be entitled to such classification.

§ 263.2 *Canadian citizen visitors.* The duty imposed on aliens in the United States by section 262 of the Immigration and Nationality Act to apply for registration shall not be applicable to Canadian citizens admitted to the United States under the provisions of § 212.3 (b) of this chapter who depart from the United States within 6 months of admission. If his stay in the United States is to exceed 6 months, an application for registration in accordance with the provisions of section 262 of the Immigration and Nationality Act shall be made prior to the expiration of the 6 months period.

§ 263.3 *Aliens under deportation proceedings or confined in institutions within the United States—(a) Under deportation proceedings.* No alien pending the conclusion of deportation proceedings need be registered under section 262 of the Immigration and Nationality Act otherwise than by means of the fingerprints taken and the record made in such deportation proceeding and need not be issued an alien registration receipt card, so long as he continues in custody or is deported or departs from the United States immediately upon release from such custody.

(b) *Aliens confined in penal or other institutions or who are incapacitated.* The district director in his discretion shall make such special arrangements as he deems necessary for the registration of aliens confined in institutions within his district.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 264—REGISTRATION OF ALIENS IN THE UNITED STATES: FORMS AND PROCEDURE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
264.1 Alien registration receipt card.
264.2 Registration officers.
264.3 Place of registration.
264.4 Registration records confidential.
264.5 Replacement of alien registration receipt cards; aliens lawfully admitted for permanent residence.
264.6 Reregistration; aliens other than those lawfully admitted for permanent residence whose alien registration receipt cards have been lost, mutilated or destroyed.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

264.11 Form of registration.
264.12 Manner of registration.
264.51 Replacement of alien registration receipt cards; procedure.

AUTHORITY: §§ 264.1 to 264.51 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 30, 54 Stat. 673, secs. 221, 261-265, 66 Stat. 191, 223-225.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 264.1 *Alien registration receipt card—(a) Receipt cards or other evidence of alien registration issued prior to the effective date of the Immigration and Nationality Act.* Every receipt card, certificate, or other document or paper which was issued to any registered alien prior to the effective date of the Immigration and Nationality Act and which, under any regulation in effect immediately prior to the effective date of the Immigration and Nationality Act was or constituted evidence of alien registration under any of the provisions of Title III of the Alien Registration Act, 1940, is hereby declared to be issued and is hereby issued as an alien registration receipt card pursuant to section 264 (d) of the Immigration and Nationality Act with the same force and effect as though issued on or after the effective date of the Immigration and Nationality Act. Such evidence of alien registration includes:

Form AR 103: "Alien Registration Receipt Card."
Form AR-3: "Alien Registration Receipt Card."
Form I-151: "Alien Registration Receipt Card."
Form AR-103 S: "Alien Registration Receipt Card" (Seamen Form).
Form I-151 (Rev. 1-3-50): (Certifying to Alien Registration.)
Foreign Service Form 257a: Showing Alien Registration.
Form I-200: (Noted to show alien registration.)
Form I-94C: (Noted to show alien registration.)
Form I-100a: Alien Laborer's Permit and Identification Card.

(b) *Aliens registered prior to effective date of the Immigration and Nationality Act who have not received evidence of registration.* Except as otherwise pro-

vided in this part, any alien in the United States who was registered under Title III of the Alien Registration Act, 1940, who for any reason has not been issued an alien registration receipt card or in whose case such card remains undelivered, shall be furnished with an alien registration receipt card on the appropriate form prescribed in this part as soon as practicable. If the identity of any such alien or the mailing address is unknown, such action shall be initiated upon the receipt of that information from any source.

(c) *Forms constituting alien registration receipt cards under the Immigration and Nationality Act.* In addition to any form specifically stated elsewhere in this chapter to be an alien registration receipt card issued pursuant to section 264 (d) of the Immigration and Nationality Act, the forms listed in this paragraph shall, under the conditions specified, also constitute alien registration receipt cards.

(1) *Form I–151.* When an alien with an unexpired immigrant visa is lawfully admitted to the United States as an immigrant for permanent residence he shall be issued Form I–151 as an alien registration receipt card and as evidence of such immigration status. Any alien who in any manner becomes a lawful permanent resident of the United States and who is registered in the United States also shall be furnished such Form I–151. An alien lawfully admitted for permanent residence who re-registers in the United States within 30 days after attaining his 14th birthday shall be entitled to and shall be issued a new Form I–151 bearing his photograph if the Form I–151 originally issued to him was without such photograph.

(2) *Form 257a.* In the case of an alien who, in connection with his visa application, has been registered under section 261 of the Immigration and Nationality Act or section 30 of the Alien Registration Act, 1940, any Form 257a returned to him and endorsed by the admitting officer, pursuant to § 221.2 of this chapter, to show the data as to admission shall constitute an alien registration receipt card.

(3) *Form I–94C.* Except as otherwise provided in this part, an alien registered on Forms I–94, I–94–AR and (when applicable) AR–4 as provided in § 264.11 shall be given Form I–94C endorsed to show such registration and that form shall then be the alien's registration receipt card.

(d) *Prohibition against issuance of more than one alien registration receipt card; requirement of surrender of receipt card.* An alien registration receipt card shall not be issued to any person who previously has obtained one unless he surrenders such previously issued card which is in his possession. No person shall use an alien registration receipt card relating to any other person except in behalf of his minor child or ward. If an alien is naturalized, dies, permanently departs, or is deported from the United States, or an alien registration receipt card is found by a person other than the one to whom it was issued, the person in possession of the card shall surrender it to an immigration officer or it shall be lifted by an immigration officer, and such officer shall forward the card to the office of the Service maintaining the file of the alien to whom the card was issued. If doubt arises as to the location of the alien's file, the alien registration receipt card shall be forwarded to the Central Office for appropriate disposition.

(e) *Carrying and possession of proof of alien registration.* The provisions of section 264 (e) of the Immigration and Nationality Act shall be applicable to every receipt card, certificate, or other document or paper referred to in § 264.1 as constituting evidence of alien registration.

(f) *Limited effect of issuance of alien registration receipt card.* The issuance of an alien registration receipt card or its equivalent shall not relieve the alien, or his parent or guardian, from full compliance with any and all laws and regulations of the United States now existing or hereafter made concerning aliens; nor shall it be construed to confer upon the alien or his parent or guardian immunity from any liability, penalty or punishment incurred by the alien or his parent or guardian for violation of any law of the United States occurring either before or after the issuance of such card.

§ 264.2 *Registration officers.* Immigration officers and any officer or employee of the United States selected by the Commissioner are designated registration officers and authorized to register aliens under Chapter 7 of Title II of the Immigration and Nationality Act. Any registration officer may prepare any registration form required to be executed by an alien upon the basis of information furnished by such alien.

§ 264.3 *Place of registration.* Any alien in the United States who is required to apply for registration under the provisions of section 262 of the Immigration and Nationality Act shall do so at any office in which any person designated in § 264.2 as a registration officer is serving as such, except as otherwise indicated in § 263.3 of this chapter, and except that the district director may make such special arrangements as he deems necessary for the registration of aliens in his district who are aged, infirm, or incapacitated.

§ 264.4 *Registration records confidential.* All registration and fingerprint records made under the provisions of Title III of the Alien Registration Act, 1940, or under Chapter 7 of Title II of the Immigration and Nationality Act shall be confidential. Information from such records shall be made available only to such persons or agencies as may be designated by the Commissioner. Persons or agencies designated to receive such information prior to the effective date of the Act whose designation was outstanding and unrevoked upon that date are hereby designated to continue to receive such information under the authority contained in section 264 (b) of the Immigration and Nationality Act.

§ 264.5 *Replacement of alien registration receipt cards; aliens lawfully admitted for permanent residence.* Any alien lawfully admitted to the United States for permanent residence whose alien registration receipt card has been lost, mutilated, or destroyed, shall immediately apply for a new alien registration receipt card, and upon approval of his application shall be issued a new alien registration receipt card. Any alien lawfully admitted to the United States for permanent residence whose name has been changed after registration by order of court or marriage, or who is in possession of an alien registration receipt card that does not constitute prima facie evidence of his lawful admission for permanent residence (such as Forms AR–3 and AR–103) may apply for a new alien registration receipt card. In either case, the application shall be made and disposed of as provided in § 264.51.

§ 264.6 *Reregistration; aliens other than those lawfully admitted for permanent residence whose alien registration receipt cards have been lost, mutilated or destroyed.* Any alien other than one within the provisions of § 264.5 whose alien registration receipt card has been lost, mutilated, or destroyed immediately shall apply to the nearest office of the Service for a new alien registration receipt card. If it is determined that the alien will remain in the United States more than 29 days after the loss, destruction, or mutilation of the card came to his attention, the alien shall be re-registered as if he were being initially registered under the provisions of this part and a new alien registration receipt card shall be issued to him as provided in § 264.1 (c) (3).

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 264.11 *Form of registration.* Any alien required to be registered in the United States shall except as otherwise provided in this chapter be registered on Forms I–94 and I–94–AR except that an alien who is a lawful permanent resident shall be registered on Form AR–2 and in an appropriate case on Form AR–2a [supplemental information to be made a part of Form AR–2]. Except as provided in § 263.3 (a) of this chapter, in either instance, the alien shall be fingerprinted on Form AR–4 and when the alien is registered on Form AR–2, the registration officer shall take an imprint of the alien's right index finger in the space provided therefor on Form AR–2.

§ 264.12 *Manner of registration*—(a) *Duties of registration officers.* The registration officer shall complete the registration forms prescribed by this part in the English language from information furnished by the alien and all fingerprints shall be taken by such officer. When an alien is registered on Forms I–94 and I–94–AR, the registration officer shall endorse the Form I–94C to show that the alien has registered under the Immigration and Nationality Act.

(b) *Information required for registration.* The information which the alien or his parent or legal guardian must furnish under oath shall be such as is required by the forms prescribed in this part or as may be required hereafter under the authority of the Immigration and Nationality Act. Name or names

shall be given in the English alphabet and the date of birth shall be stated by giving the month, day and year in that sequence.

(c) *Persons who believe themselves not subject to registration.* If any person indicates to the registration officer that he does not believe himself subject to registration under the Immigration and Nationality Act but is registering for his own protection, the registration officer shall make the following notation on the margin of the registration form at the conclusion of the registration: "Applicant doubts need for registration."

(d) *Registration in behalf of insane or incompetent aliens.* Any alien who is insane or otherwise incompetent or of unsound mind may be registered by his legal guardian, trustee, or committee or by such other person as may be charged by law with his care and custody. Any person registering in behalf of an alien herein described, shall answer to the best of his knowledge and ability the questions required to be put to the registering alien and shall swear or affirm to the best of his knowledge and belief that such alien is incompetent. Such alien, if 14 years of age or older, shall be fingerprinted if possible.

(e) *Signing of registration forms.* Except as otherwise provided in this part the registration forms provided for herein must be signed and sworn to before a registration officer by the alien in person or by his parent or legal guardian. The alien being registered or his parent or guardian or the person furnishing the information in behalf of an incompetent alien, if unable to write, shall make his mark in the signature space on the registration forms and his mark shall be witnessed by a witness other than the registration officer. The witness shall sign his name and address on the registration forms near the mark made and the words "witnessed by" shall precede the witness' signature.

§ 264.51 *Replacement of alien registration receipt cards; procedure*—(a) *Form of application.* Application for a new alien registration receipt card shall be made on Form I–90 under oath or affirmation. If the alien is under 14 years of age, the application shall be made by his parent or legal guardian. If a parent or legal guardian is not available the matter should be reported to the district director of the district in which the alien resides who shall take such steps as he deems necessary with regard to the issuance of a new card.

(b) *Disposition of application.* An application for a new alien registration receipt card shall be submitted to the officer in charge of the office of the Service having administrative jurisdiction over the applicant's place of residence. The application shall be accompanied by two photographs of the alien as described in Part 10 of this chapter and by a fee of $5.00 and, if the application is for the issuance of a new receipt card in a changed name, by appropriate documentary evidence of such change including any court order effecting such change. If the applicant is in possession of an immigration identification card, a mutilated receipt card, a Form AR–3 or AR–103 receipt card, or any other alien registration receipt card, such card must be surrendered before a new receipt card may be issued to him. The officer in charge receiving an application shall cause such investigation and inquiry to be conducted as he deems necessary to determine whether the application should be granted. Such officer in charge shall submit the application and the accompanying documents to the district director together with a report in writing and his recommendation as to whether the application should be granted or denied. If after consideration of the application and the record the district director is satisfied that the applicant was lawfully admitted for permanent residence and that the original receipt card has been lost, mutilated, or destroyed he shall issue a new receipt card on Form I–151. If after such consideration he is satisfied that the applicant was so admitted and that (1) the applicant's name has been changed after registration by order of court or by marriage, or that (2) the applicant's original receipt card is not prima facie evidence of his lawful admission for permanent residence (such as Form AR–3 or AR–103), the district director may issue a new receipt card on Form I–151. The new card shall bear the alien's registration number, the alien's photograph and notation that it is a replacement of a prior receipt card. The new receipt card Form I–151 shall be mailed directly to the alien or if the alien is less than 14 years of age, to his parent or legal guardian. If the district director is not satisfied that the application should be granted, he shall deny the application and take whatever action he deems appropriate to the case. Upon the denial of any application, the fee accompanying the application shall be refunded to the applicant. No appeal may be taken from the decision of the district director.

PART 265—REGISTRATION OF ALIENS IN THE UNITED STATES: NOTICES OF ADDRESS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
265.1 Notices of address.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
265.11 Form of notification.
265.12 Notification in behalf of insane or incompetent aliens.

AUTHORITY: §§ 265.1 to 265.12 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 265, 66 Stat. 225.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 265.1 *Notices of address.* The notices of address, change of address, and new address required by the Immigration and Nationality Act shall be furnished to the Commissioner on, and in accordance with, the forms prescribed in this part, which shall be made available without cost at post offices and at offices of the Service in the United States.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 265.11 *Form of notification.* The notification of current address required by section 265 of the Immigration and Nationality Act shall be furnished on Form I–53 and shall include the alien's name, residence in the United States, alien registration number, name under which registered, immigration status in the United States, country and date of birth, sex, place and date of entry to the United States, and country of which a subject or citizen. The entry on the form shall be typewritten or printed in ink or with an indelible pencil except that the signature shall be in writing in ink or with an indelible pencil. The card shall not be bent, folded, creased, torn, or mutilated in any manner. The card shall be signed by the alien or his parent or guardian and upon completion, handed to a postal clerk at any United States post office who will forward it to the Commissioner. The notification of change of address and new address which is required to be made by section 265 of the Immigration and Nationality Act shall be made by filling out and mailing post card Form AR–11. Form AR–11 shall also be used by an alien residing in the United States pursuant to a lawful temporary admission when reporting his address at the expiration of each three-month period as required by section 265 of the Immigration and Nationality Act.

§ 265.12 *Notification in behalf of insane or incompetent aliens.* The notification of address of an alien who is insane or otherwise incompetent or of unsound mind may be furnished by his legal guardian, trustee, or committee, or by any person who is charged by law with his care and custody.

PART 280—IMPOSITION AND COLLECTION OF FINES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
280.1 Notice of intention to fine; administrative proceedings not exclusive.
280.2 Special provisions relating to aircraft.
280.3 Departure of vessel or aircraft prior to denial of clearance.
280.4 Data concerning cost of transportation.
280.5 Mitigation or remission of fines.
280.6 Bond to obtain clearance; form.
280.7 Approval of bonds or acceptance of cash deposit to obtain clearance.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

280.11 Notice of intention to fine; procedure.
280.12 Answer and request or order for interview.
280.13 Disposition of case.
280.14 Record.
280.15 Notice of final decision to collector of customs.
280.21 Seizure of aircraft.
280.51 Application for mitigation or remission.

AUTHORITY: §§ 280.1 to 280.51 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 231, 233, 237, 239, 243, 251, 253, 254, 255, 256, 272, 273, 280, 66 Stat. 195, 197, 201, 203, 212, 219, 221, 222, 223, 226, 227, 230.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 280.1 *Notice of intention to fine; administrative proceedings not exclusive.* Whenever a district director or officer in charge has reason to believe that any person has violated any of the provisions of the Immigration and Na-

tionality Act and has thereby become liable to the imposition of an administrative fine under the Immigration and Nationality Act, he shall cause a Notice of Intention to Fine, Form I–79, to be served as provided in this part. Nothing in this subchapter shall affect, restrict, or prevent the institution of a civil suit, in the discretion of the Attorney General, under the authority contained in section 280 of the Immigration and Nationality Act.

§ 280.2 *Special provisions relating to aircraft.* In any case in which the imposition of a fine is predicated upon an alleged violation of a regulation promulgated under authority of section 239 of the Immigration and Nationality Act, the procedure prescribed in this part shall be followed, and the aircraft involved shall not be granted clearance pending determination of the question of liability to the payment of any fine, or while the fine remains unpaid; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs. If the alleged violation was by the owner or person in command of the aircraft, the penalty provided for shall be a lien against the aircraft, which, except as provided in § 280.21, shall be seized by the district director or officer in charge, or by an immigration officer designated by the district director or officer in charge, and placed in the custody of the customs officer who is in charge of the port of entry or customs station nearest the place of seizure. If the owner or owners of the airport at which such aircraft is located are the owners of the seized aircraft, the aircraft shall be removed to another suitable place for storage if practicable. Bonds deposited to obtain the release of seized aircraft, as provided in section 239 of the Immigration and Nationality Act, shall be filed on Form I–315 and shall be subject to the approval of and acceptance by the collector of customs.

§ 280.3 *Departure of vessel or aircraft prior to denial of clearance.* If any vessel or aircraft which is subject to the imposition of a fine shall have departed from the United States prior to the denial of clearance by the collector of customs and such vessel or aircraft is subsequently found in the United States, a Notice of Intention to Fine, Form I–79, shall be served as provided in this part, if such form has not been previously served for the same violation. Clearance of such vessel or aircraft shall be withheld by the collector of customs, and the procedure prescribed in this part shall be followed to the same extent and in the same manner as though the vessel or aircraft had not departed from the United States. Aircraft subject to the provisions of § 280.2, which shall have departed from the United States prior to the time seizure could be effected, shall be subject to all of the provisions of this part, if susequently found in the United States, to the same extent as though it had not departed from the United States.

§ 280.4 *Data concerning cost of transportation.* Within 5 days after request therefor, transportation companies shall furnish to the district director or officer in charge the original transportation contract of all rejected aliens whose cases are within the purview of any of the provisions of the Immigration and Nationality Act relating to refund of passage monies, and shall indicate the exact amounts paid for transportation from the initial point of departure (which point shall be stated) to the foreign port of embarkation, from the latter to the port of arrival in the United States and from the port of arrival to the inland point of destination, respectively, and also the amount paid for headtax, if any.

§ 280.5 *Mitigation or remission of fines.* In any case in which mitigation or remission of a fine is authorized by the Immigration and Nationality Act, the party served with Notice of Intention to Fine may apply in writing to the district director for such mitigation or remission.

§ 280.6 *Bond to obtain clearance; form.* A bond to obtain clearance of a vessel or aircraft under sections 231, 233, 237, 243, 251, 253, 254, 255, 256, 272 or 273 of the Immigration and Nationality Act shall be filed on Form I–310.

§ 280.7 *Approval of bonds or acceptance of cash deposit to obtain clearance.* The collector of customs is authorized to approve the bond, or accept the sum of money which is being offered for deposit under any provision of the Immigration and Nationality Act or by this chapter for the purpose of obtaining clearance of a vessel or aircraft.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 280.11 *Notice of intention to fine; procedure.*—Notice of Intention to Fine, Form I–79, shall be prepared in triplicate, with one additional copy for each additional person on whom the service of such Notice is contemplated. The Notice shall be addressed to any or all of the available persons subject to fine. A copy of the Notice shall be served on each such person by (a) delivering it to him in person, or (b) leaving it at his office, or (c) mailing it to him at his office whenever the district director or officer in charge ascertains that the other two methods of service are inconvenient or impossible. If the Notice is served personally, the person upon whom it is served shall be requested to acknowledge such service by signing his name to the duplicate and triplicate copies. The officer effecting such service shall attest to the service by signing his name thereon and shall indicate thereon the date and place of service. If the person so served refuses to acknowledge service, or if service is made by leaving it at an office or mailing it, the person making such service shall indicate the method and date on the duplicate and triplicate copies of Form I–79, and shall sign his name upon such copies. The duplicate copy shall be retained by the district director or officer in charge and the triplicate copy shall be delivered directly to the collector of customs for the district in which the vessel or aircraft is located, and the collector shall withhold clearance until deposit is made or bond furnished as provided in the Immigration and Nationality Act. If the vessel or aircraft is located in a customs district which is outside the jurisdiction of the office of the Service having jurisdiction over the matter, the triplicate copy shall be forwarded to the office of the Service nearest such customs district for delivery to the collector of customs.

§ 280.12 *Answer and request or order for interview.* Within 30 days following the service of the Notice of Intention to Fine (which period the district director or officer in charge may extend for an additional period of 30 days upon good cause being shown), any person upon whom a notice under this part has been served may file with the district director or officer in charge a written defense, in duplicate, under oath setting forth the reasons why a fine should not be imposed, or if imposed, why it should be mitigated or remitted if permitted by the Immigration and Nationality Act, and stating whether a personal appearance is desired. Documentary evidence shall be submitted in support of such defense and a brief may be submitted in support of any argument made. If a personal interview is requested, the evidence in opposition to the imposition of the fine and in support of the request for mitigation or remission may be presented at such interview. An interview shall be conducted if requested by the party as provided hereinabove or, if directed at any time by the Board, the Commissioner, or the district director.

§ 280.13 *Disposition of case*—(a) *Allegations admitted or no answer filed.* If a request for personal appearance is not filed and (a) the answer admits the allegations in the Notice, or (b) no answer is filed, the district director shall enter such order in the case as he deems appropriate and no appeal from his decision may be taken.

(b) *Answer filed; personal appearance not requested.* Upon receipt of an answer asserting a defense to the allegations in the Notice without request for a personal appearance, the case shall be assigned to an immigration officer for consideration. The immigration officer shall prepare a report of his findings and make a recommendation as to whether a fine has been incurred and if so, what mitigation or remission, if any, should be granted if an application therefor has been made. The record in the case and the report and recommendation of the immigration officer shall be forwarded to the district director. The district director shall endorse the report indicating whether he approves or disapproves the recommendation of the immigration officer. The party affected shall be informed in writing of the decision of the district director and, if his decision is that a fine shall be imposed or that the requested mitigation or remission shall not be granted, of the reasons for such decision. From the decision of the district director an appeal may be taken to the Board within 10 days of the receipt of notification

of the decision, as provided in Part 6 of this chapter. If no appeal is taken the decision shall be final and the fine imposed shall be collected.

(c) *Interview requested or directed.* If the party affected requests a personal appearance, or if at any time the district director, the Commissioner, or the Board so directs, the party shall be given an opportunity to be interviewed by an immigration officer for the purpose of presenting evidence concerning the alleged violation and, where the particular section of law provides for mitigation or remission of the penalty, evidence of any mitigating circumstances. The party may be represented by counsel at the interview. All evidence pertinent to the case, including the testimony of any witnesses, shall be incorporated into the record. At the conclusion of the interview the immigration officer shall prepare a report setting forth a summary of the evidence adduced as to imposition of fine, mitigation or remission, and findings of fact and conclusions of law based on such evidence. The decision shall conclude with a recommendation which shall be either (1) that a fine in a specified amount be imposed, or (2) that the proceedings be terminated. If the recommendation is that a fine be imposed there shall be a further recommendation with respect to any application for remission or mitigation which shall be either (1) that the application be denied, or (2) that it be granted. If the recommendation is that the application be granted, the immigration officer shall also recommend the amount of the fine to be remitted or mitigated, and the amount of the remaining fine to be collected. The complete record, including the recommendation of the immigration officer shall be forwarded to the district director. The district director shall note his decision on the report of the immigration officer which shall be (1) that a fine in a specified amount be imposed, or (2) that the proceedings be dismissed, and, if an application for remission or mitigation has been made (1) that the application be denied or (2) that it be granted. If the decision is that the application be granted, the district director shall also include in his decision a statement as to the amount of the fine to be remitted or mitigated, and the amount of the remaining fine to be collected. The party affected shall be informed in writing of the decision of the district director and, if his decision is adverse to the party affected, of the reasons for such decision. From the decision of the district director an appeal may be taken to the Board within 10 days of receipt of notification of the decision as provided in Part 6 of this chapter. If an appeal is not taken, the decision shall be final and the fine imposed shall be collected.

§ 280.14 *Record.* The record made under § 280.13 shall include the request for the interview or a reference to the order directing the interview; the medical certificate, if any; a copy of any record of hearing before a Board of Special Inquiry, Hearing Examiner, Hearing Officer, or Special Inquiry Officer which is relevant to the fine proceedings; the duplicate copy of the Notice of Intention to Fine; the evidence upon which such Notice was based; the duplicate of any notices to detain, deport, deliver, or remove aliens; notice to pay expenses; evidence as to whether any deposit was made or bond furnished in accordance with the Immigration and Nationality Act; reports of investigations conducted; documentary evidence and testimony adduced at the interview; the original of any affidavit or brief filed in opposition to the imposition of fine; the application for mitigation or remission; and any other relevant matter.

§ 280.15 *Notice of final decision to collector of customs.* At such time as the decision under this part is final, the collector of customs who was furnished with a copy of the Notice of Intention to Fine shall be informed by the district director of the final decision made in the case. Such information need not be furnished in any case in which the district director has been previously furnished with a notice of collection of the amount of the penalty by the collector of customs.

§ 280.21 *Seizure of aircraft.* Seizure of an aircraft under the authority of section 239 of the Immigration and Nationality Act, and § 280.2 will not be made if such aircraft is damaged to an extent that its value is less than the amount of the fine which may be imposed. Immediately upon the seizure of an aircraft, or prior thereto, if circumstances permit, a full report of the facts in the case shall be submitted by the district director to the United States Attorney for the district in which the seizure was made. The report shall include the cost incurred in seizing and guarding the aircraft and an estimate of the further additional cost likely to be incurred.

§ 280.51 *Application for mitigation or remission*—(a) *When application may be made.* An application for mitigation or remission shall be filed (a) within 30 days after the service of the Notice of Intention to Fine and, if an answer is filed as provided in § 280.12, with such answer, for consideration in the event a fine is found to have been incurred, or (b) within 30 days after receipt of the final decision with respect to the fine.

(b) *Form and contents of application.* An application for mitigation or remission shall be filed in duplicate under oath and shall include information, supported by documentary evidence, as to the basis of the claim to mitigation or remission, and as to the action, if any, which may have been taken by the applicant, or as to the circumstances present in the case which, in the opinion of the applicant, justified the granting of his application.

(c) *Disposition of application.* The application, if filed with the answer, shall be disposed of as provided in § 280.13. In any other case, the application shall be considered and decided by the district director from whose decision an appeal may be taken to the Board within 10 days from receipt of notification of such decision, as provided in Part 6 of this chapter.

PART 282—PRINTING OF REENTRY PERMITS; FORMS FOR SALE TO PUBLIC

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
282.1 Reentry permits; quality of paper.
282.2 Forms printed by the Public Printer.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 282.1 to 282.2 issued under sec. 103 (a), 66 Stat. 173. Interpret or apply secs. 223, 282, 66 Stat. 194, 231.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 282.1 *Reentry permits; quality of paper.* Form I–132, Permit to Reenter the United States, shall be printed on distinctive safety paper. Such permits to enter the United States shall be prepared and issued in accordance with section 223 of the Immigration and Nationality Act and Part 223 of this chapter.

§ 282.2 *Forms printed by the Public Printer.* The Public Printer is authorized to print for sale to the public by the Superintendent of Documents the following forms prescribed by subchapter D of this chapter: I–94, I–95, I–129, I–129A, I–129B, I–131, I–131A, I–133, I–133A, I–134, I–415, I–416, I–419, I–424, I–434, I–435, I–466, I–480, I–489 and I–539.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 287—FIELD OFFICERS; POWERS AND DUTIES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
287.1 Definitions.
287.2 Criminal violations; investigation and action.
287.3 Disposition of cases of aliens arrested without warrant.
287.4 Subpena.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 287.1 to 287.4 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 235, 236, 242, 287, 66 Stat. 198, 200, 208, 233.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 287.1 *Definitions*—(a) *Reasonable distance from the United States.* The phrase "within a reasonable distance from any external boundary of the United States" as used in section 287 of the Immigration and Nationality Act means within a distance of not exceeding 100 air miles from any external boundary of the United States or any shorter distance which may be fixed by the district director, or, so far as the power to board and search aircraft is concerned, any distance fixed pursuant to paragraph (b) of this section.

(b) *Reasonable distance; fixing by district directors.* In fixing reasonable distances of less than 100 air miles pursuant to paragraph (a) of this section, district directors shall take into consideration topography, confluence of arteries of transportation leading from external boundaries, density of population, possible inconvenience to the traveling public, types of conveyances used, and reliable information as to movements of persons effecting illegal

entry into the United States: *Provided*, That whenever in the opinion of a district director a distance in his district of more than 100 air miles from any external boundary of the United States would because of unusual circumstances be reasonable, such district director shall forward a complete report with respect to the matter to the Commissioner of Immigration and Naturalization, who may, if he determines that such action is justified, declare such distance to be reasonable.

(c) *Powers of immigration officers.* The term "officer or employee of the Service" as used in section 287 of the Immigration and Nationality Act means an immigration officer.

(d) *Patrolling the border.* The phrase "patrolling the border to prevent the illegal entry of aliens into the United States" as used in section 287 of the Immigration and Nationality Act means conducting the customary activities reasonable and necessary to prevent the illegal entry of aliens into the United States.

§ 287.2 *Criminal violations; investigation and action.* Whenever a district director or an officer in charge has reason to believe that there has been a violation punishable under any criminal provision of the laws administered or enforced by the Service, he shall cause an investigation to be made immediately of all the pertinent facts and circumstances and shall take or cause to be taken such further action as the results of such investigation warrant.

§ 287.3 *Disposition of cases of aliens arrested without warrant.* An alien arrested without a warrant of arrest under the authority contained in section 287 (a) (2) of the Immigration and Nationality Act shall be examined as therein provided by an officer other than the arresting officer, unless no other qualified officer is readily available and the taking of the alien before another officer would entail unnecessary delay, in which event the arresting officer, if the conduct of such examination is a part of the duties assigned to him, may examine the alien. If such examining officer is satisfied that there is prima facie evidence establishing that the arrested alien was entering or attempting to enter the United States in violation of the immigration laws, he shall refer the case to a special inquiry officer for further inquiry in accordance with Parts 235 and 236 of this chapter or take whatever other action may be appropriate or required under the laws or other regulations applicable to the particular case. If the examining officer is satisfied that there is prima facie evidence establishing that the arrested alien is in the United States in violation of the immigration laws, further action in the case shall be taken as provided in Part 242 of this chapter.

§ 287.4 *Subpena*—(a) *Who may issue.* Except as provided in § 335.11 of this chapter, subpenas requiring the attendance of witnesses or the production of documentary evidence, or both, may be issued upon his own volition by a district director, officer in charge, or special inquiry officer in any proceeding pending before him, or upon application of an officer of the Service, or upon written application of the alien or other party affected. If an alien or other party affected by a proceeding before the Service requests that a witness be subpenaed to testify or to produce books, papers or documents in such proceeding before the Service, he shall be required as a condition precedent to the issuance of the subpena to state in writing what he expects to prove by such witness or the books, papers, or documents and to show affirmatively that the proposed evidence is relevant and material and that he has made diligent efforts without success to produce the same. Upon determining that a witness whose evidence is desired either by the Service officer or the alien or other party affected will not appear and testify or produce documentary evidence unless commanded to do so and that the testimony and evidence of such witness is essential, the district director, officer in charge, or a special inquiry officer in any proceeding pending before him, shall issue a subpena. If the witness is at a distance of more than 100 miles from the place of hearing, the subpena shall provide for the witness' appearance at the field office nearest to him to respond to oral or written interrogatories, unless the Service indicates that there is no objection to bringing the witness the distance required to enable him to testify in person at the hearing.

(b) *Form.* Every subpena issued under the provisions of this section shall state the title of the proceeding and shall command the person to whom it is directed to attend and give testimony at a time and place therein specified. A subpena may also command the person to whom it is directed to produce the books, papers or documents designated therein. A subpena may also direct the making of a deposition before an officer of the Service. Subpenas shall be issued on Form I–138.

(c) *Service.* A subpena issued under this section may be served by any person over 18 years of age not a party to the case designated to make such service by the district director or officer in charge having administrative jurisdiction over the office in which the subpena is issued. Service of the subpena shall be made by delivering a copy thereof to the person named therein and by tendering to him the fee for one day's attendance and the mileage allowed by law by the United States District Court for the district in which the testimony is to be taken. When the subpena is issued on behalf of the Service, fee and mileage need not be tendered at the time of service. A record of such service shall be made and attached to the original copy of the subpena.

(d) *Invoking aid of court.* If a witness neglects or refuses to appear and testify as directed by the subpena served upon him in accordance with the provisions of this section, the district director issuing the subpena shall request the United States Attorney for the proper district to report such neglect or refusal to the appropriate United States District Court and to request such court to issue an order requiring the witness to appear and testify and to produce the books, papers or documents designated in the subpena. If the subpena was issued by an officer in charge or a special inquiry officer, the officer issuing the subpena shall request the district director having administrative jurisdiction over such officer to take the action referred to in the previous sentence in the event the witness neglects or refuses to appear and testify as directed by the subpena served upon him.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 292—ENROLLMENT AND DISBARMENT OF ATTORNEYS AND REPRESENTATIVES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
292.1 Admission to practice required.
292.2 Qualifications for admission to practice.
292.3 Applications for admission to practice; decision.
292.4 Roster of attorneys.
292.5 Appearances; availability of records.
292.6 Suspension and disbarment.
292.7 Admission to practice prior to December 24, 1952.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

292.11 Service upon and action by attorney, representative, or alien.
292.12 Service of decision and other papers.
292.61 Procedure for suspension or disbarment; effect.

AUTHORITY: §§ 292.1 to 292.61 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 292, 66 Stat. 235.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 292.1 *Admission to practice required.* (a) No person shall be permitted to practice before the Service or the Board until he has been admitted to practice by the Board in accordance with § 292.3.

(b) Notwithstanding paragraph (a) of this section:

(1) A district director, an officer in charge, the Commissioner, any other officer of the Central Office authorized by the Commissioner to do so, or the Board may permit an attorney or representative to file an appearance in behalf of a party in any case prior to the approval of his application for admission if such attorney or representative files the application concurrently with filing his appearance in the case. If the application is subsequently denied, such attorney or representative shall not thereafter be permitted to practice, in that or any other case, unless and until his admission to practice has been authorized by the Board and subject to such conditions as the Board shall direct.

(2) In any case in which, under the Immigration and Nationality Act, a party is entitled to be represented by counsel, he may be represented by any reputable individual of good moral character, whether or not admitted to practice in accordance with § 292.3, if such individual is appearing without monetary or other material remuneration and files a written declaration to that effect, and if such representation is permitted by the Special Inquiry Officer having the case under consideration, the district director or the officer in charge

having administrative jurisdiction over the office in which the case is pending, the Commissioner, or the Board.

(3) Any alien may be represented by an accredited official, in the United States, of the government to which the alien owes allegiance, if such official appears solely in his official capacity, and with the consent of the alien.

(4) An attorney, other than one described in § 1.1 (a) (3) of this chapter, residing outside the United States and licensed to practice law and in good standing in a court or courts of the country in which he resides and who is engaged in such practice may be permitted by any district director or officer in charge, the Commissioner, or any officer of the Central Office designated by him, or the Board, to file his appearance and be heard in any individual case. The district director shall have authority to withhold granting permission to such attorney to appear before an officer under his jurisdiction, and may refer the application for permission to appear to the Board for its decision.

(5) No person who is a party to a case shall be denied the privilege of presenting oral argument in his own behalf before the Board if it has his case under consideration.

(6) Any person desiring to be heard as amicus curiae shall apply therefor to the Board; and the Board may grant such application if it deems it to be in the public interest.

(c) No person previously in the employ of the Department of Justice may be permitted to practice in a case in which he participated during the period of such employment.

§ 292.2 *Qualifications for admission to practice.* (a) Admission to practice shall be limited to persons who are citizens of the United States, who are of good moral character, and who are attorneys in good standing in the court or courts in which they are licensed to practice, or who are representatives of organizations of the character described in § 1.1 (a) (12) of this chapter.

(b) No person within any category set forth in § 292.6 may be admitted to practice.

§ 292.3 *Applications for admission to practice; decision.* (a) Applications for admission to practice may be filed with a district director, the Commissioner, or the Chairman of the Board, at the option of the applicant. Such application shall be made in triplicate upon Form G–27. An application by an attorney shall be supported by a current certificate from a judge or clerk of the court in which the applicant is licensed to practice, or by a written statement of the district director or officer in charge of the local office of the Service certifying that upon inquiry he has ascertained and has personal knowledge that the applicant is so licensed. An application by the representative of an organization shall be supported by a statement of the appropriate officer or officers thereof, certifying that the applicant is its accredited representative and authorized to appear in its behalf in any case.

(b) The original application shall be transmitted to the Board by the district director or the Commissioner, if filed with them, and shall be permanently retained in the files of the Board. The duplicate shall be retained in the files of the Commissioner, and the triplicate in the files of the district director having jurisdiction over the applicant's place of residence.

(c) As soon as practicable after receipt of the application the Board shall give consideration thereto. If the application is approved, written notation to that effect shall be made on the application and a certificate of admission to practice shall be issued to the licensee. If the conclusion is that the application shall be denied, the Board shall prepare a proposed order of denial, in which shall be stated the reasons for denying the application. The Board shall serve the proposed order on the applicant, either personally or by registered mail and obtain a return receipt therefor. The applicant shall be allowed a reasonable time, not less than ten days, in which to file exceptions to the proposed order and to submit a brief if desired. After receipt of the exceptions, or if none are received within three days after expiration of the period specified for filing of exceptions, the Board shall make such order as it may then determine appppropriate, including authorizing a hearing for presentation of evidence or oral argument. If no exceptions are filed, the order of the Board shall be final, subject to review by the Attorney General under any of the circumstances described in § 6.1 (h) of this chapter. If exceptions have been filed and the order of the Board is that the application shall be denied, the Board shall refer the record to the Attorney General for review of its order. The order of the Attorney General shall be the final determination of the application.

(d) Admission of a representative shall terminate upon discontinuance of his authority to represent the organization named in his application.

§ 292.4 *Roster of attorneys.* The Board shall maintain an alphabetical roster of attorneys and of representatives of organizations. A copy of the roster shall be supplied to the Commissioner, and he shall be advised from time to time of changes therein.

§ 292.5 *Appearances; availability of records.* (a) An appearance shall be filed in writing on Form G–28 by attorneys or representatives appearing in each individual case. When an appropriate appearance has been filed in a case, substitution of attorneys or representatives may be permitted upon the written withdrawal of the attorneys or representatives of record or upon notice by the party to the case of his designation of new attorneys or representatives. If any attorney or representative of record authorizes another attorney or representative to act for him as an associate in a case, the latter will be heard if satisfactory evidence of his authorization is presented and if he has been admitted to practice under this part.

(b) During the time a case is pending, the attorney or representative of record, or his associate, shall be permitted to review the record and, upon request, be lent a copy of the testimony adduced. The attorney or representative shall give his receipt for such copy and pledge that no copy thereof will be made, that he will retain it in his possession and under his control, and that it will be surrendered upon final disposition of the case, or upon demand by the Service or the Board.

§ 292.6 *Suspension and disbarment.* With the approval of the Attorney General, the Board may suspend or bar from further practice an attorney or representative, if it shall find that suspension or disbarment is in the public interest. The suspension or disbarment of an attorney or representative who is within one or more of the following categories shall be deemed to be in the public interest, for the purpose of this part, but the enumeration of such categories herein shall not be construed as establishing the exclusive grounds for suspension or disbarment in the public interest:

(a) Who charges or receives, either directly or indirectly, any fee or compensation for services which may be deemed to be grossly excessive in relation to the services performed by him in the case;

(b) Who, with intent to defraud or deceive, bribes, attempts to bribe, coerces, or attempts to coerce, by any means whatsoever, any person, including a party to a case, or an officer or employee of the Service or Board, to commit an act or to refrain from performing an act in connection with any case;

(c) Who wilfully misleads, misinforms, or deceives an officer or employee of the Department of Justice concerning any material and relevant fact in connection with a case;

(d) Who wilfully deceives, misleads, or threatens any party to a case concerning any matter relating to the case;

(e) Who solicits practice in any unethical or unprofessional manner, including, but not limited to, the use of runners, or advertising his availability to handle immigration, naturalization, or nationality matters;

(f) Who represents, as an associate, an attorney who, known to him, solicits practice in any unethical or unprofessional manner, including, but not limited to, the use of runners, or advertising his availability to handle immigration, naturalization, or nationality matters;

(g) Who has been temporarily suspended, and such suspension is still in effect, or permanently disbarred from practice in any court, Federal, State (including the District of Columbia), territorial, or insular;

(h) Who is temporarily suspended, and such suspension is still in effect, or permanently disbarred from practice in a representative capacity before any executive department, board, commission, or other governmental unit, Federal, State (including the District of Columbia), territorial, or insular;

(i) Who, by use of his name, personal appearance, or any device, aids and abets an attorney to practice during the period of his suspension or disbarment, such suspension or disbarment being known to him;

(j) Who wilfully made false and material statements in his application for admission to practice or in his appearance in any case;

(k) Who engages in contumelious or otherwise unprofessional conduct with respect to a case in which such attorney acts in a representative capacity, which in the opinion of the Board, would constitute cause for suspension or disbarment were the case pending before a court, or which, in such a judicial proceeding, would constitute a contempt of court;

(l) Who, having been furnished with a copy or copies of any portion of the record in any case, wilfully fails to surrender such copy or copies upon final disposition of the case or upon demand, or wilfully and without authorization makes and retains a copy or copies of the material furnished;

(m) Who has been convicted of a felony, or, having been convicted of any crime is sentenced to imprisonment for a term of more than one year;

(n) Who no longer possesses the qualifications required by § 292.2 for admission to practice;

(o) Who is the representative of an organization which is no longer recognized by the Board as being of the character described in § 1.1 (a) (12) of this chapter.

§ 292.7 *Admission to practice prior to December 24, 1952.* Any person who immediately prior to the effective date of the regulations in this chapter and of the Immigration and Nationality Act was authorized to practice before the Service and the Board may continue to practice before the Service and the Board without making a new application for admission in accordance with the provisions of this part. Any such person shall be subject to the provisions of this part regulating the practice of attorneys and representatives.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 292.11 *Service upon and action by attorney, representative, or alien.* Except where specific provision is otherwise made in this chapter, whenever a person is required by any of the provisions of this chapter (a) to give or be given notice; (b) to serve or be served with any paper other than a warrant of arrest or a subpoena; (c) to make a motion; (d) to file or submit an application or other document; or (e) to perform or waive the performance of any act, such notice, service, motion, filing, submission, performance, or waiver shall be given by or to, served by or upon, made by, requested of (1) the attorney or representative who has filed an appearance in the case as provided in § 292.5, or (2) the person himself, if there is no attorney or representative in the case.

§ 292.12 *Service of decision and other papers.* Except where specific provision is otherwise made in this chapter, whenever a decision, notice or other paper is required to be given or served, it shall be done by personal service or registered mail upon the person designated in § 292.11.

§ 292.61 *Procedure for suspension or disbarment; effect.* (a) The Commissioner may cause to be investigated any complaint or circumstance which establishes a prima facie case for the suspension or disbarment of any enrolled attorney or representative. If such investigation establishes to the satisfaction of the Commissioner that suspension or disbarment proceedings should be instituted, he shall cause written charges to be preferred. A copy of such charges shall be served upon the respondent, either personally or by registered mail, with notice to show cause within a specified time, not less than 30 days, why he should not be suspended or disbarred from further practice. Such notice shall also advise the respondent that after answer has been made and the matter is at issue, if he so requests he will be given opportunity for a hearing before a representative of the Commissioner. If hearing is requested, the Commissioner will specify the time and place therefor and specially designate the officer who shall preside and the officer who shall present the evidence in support of the charges. The nonreceipt of answer within three days after expiration of the period prescribed to show cause shall be held a waiver of defense to the charges. If no hearing is requested in the answer, the Commissioner may conduct any further required investigation to complete the record, and without the necessity of any additional notice to the respondent, forward the completed record to the Board with his recommendation.

(b) The respondent, either with or without counsel, and the Commissioner, or any officer designated by him for the purpose, shall have the privilege of appearing before the Board for oral argument at a time specified by the Board.

(c) The Board shall consider the record as presented by the Commissioner as soon as practicable after its receipt and render its decision thereon. The order of the Board shall constitute the final disposition of the proceeding: *Provided, however,* That if the order would suspend or disbar the respondent, or if any one of the circumstances described in § 6.1 (h) of this chapter be present, the Board shall refer the record to the Attorney General for review of its decision and in such case the order of the Attorney General shall be the final determination of the proceeding.

(d) In case the final order against the respondent is for suspension or disbarment, the attorney or representative shall not thereafter be permitted to practice unless and until authorized so to do by the Board; and if disbarred, he shall surrender the certificate of his admission to the Board for cancellation.

Subchapter C—Nationality Regulations

NOTE: *Explanation of numbering system utilized in this subchapter.* Each part of this subchapter has been given the same number as the section of the Immigration and Nationality Act to which it relates. For example, Part 330 concerns only section 330 of the Immigration and Nationality Act. Each part of this subchapter is divided into two subparts: Subpart A—Substantive Provisions, and Subpart B—Procedural and Other Nonsubstantive Provisions. Each section of Subpart A bears a number consisting of the part number followed by a decimal point and by a single digit beginning with "1" and continuing to "9", using as many as required. For example, § 330.1 is the first substantive section of Part 330 and § 330.9 is the ninth substantive section of Part 330, assuming there existed nine substantive sections in Part 330. When a substantive section is required to be implemented by one or more procedural sections, the relating procedural section or sections bear the same number as the substantive section to which it relates plus one additional digit to the right of the decimal point beginning with "1" for the first procedural section and continuing to "9", if that many are required. For example, § 330.11 is the first procedural section implementing the first substantive section of Part 330 and § 330.87 is the seventh procedural section implementing the eighth substantive section of Part 330. If a substantive section does not require procedural sections, no procedural section numbers will appear for that particular substantive section.

PART 306—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: VIRGIN ISLANDERS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

306.1 Persons eligible.

306.2 United States citizenship; when acquired.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

306.11 Preliminary application form: filing: examination.

306.12 Renunciation forms; disposition.

AUTHORITY: §§ 306.1 to 306.12 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 1, 44 Stat. 1234, as amended, secs. 306, 332, 66 Stat. 237, 252; 8 U. S. C. 601 note.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 306.1 *Persons eligible.* Any Danish citizen who resided in the Virgin Islands of the United States on January 17, 1917, and in those Islands, Puerto Rico, or the United States on February 25, 1927, and who had preserved his Danish citizenship by making the declaration prescribed by Article VI of the treaty entered into between the United States and Denmark on August 4, 1916, and proclaimed January 25, 1917, may renounce his Danish citizenship before any court of record in the United States irrespective of his place of residence, in accordance with the provisions of this part.

§ 306.2 *United States citizenship; when acquired.* Immediately upon making the declaration of renunciation as described in § 306.12 the declarant shall be deemed to be a citizen of the United States. No certificate of naturalization or of citizenship shall be issued by the clerk of court to any person obtaining, or who has obtained citizenship solely under section 306 (a) (1) of the Immigration and Nationality Act or under section 1 of the act of February 25, 1927.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 306.11 *Preliminary application form; filing; examination.* A person of the class described in § 306.1 shall submit to the Service on Form N-350 preliminary application to renounce Danish

citizenship, in accordance with the instructions contained therein. The applicant shall be notified in writing when and where to appear before a representative of the Service for examination as to his eligibility to renounce Danish citizenship and for assistance in filing the renunciation.

§ 306.12 *Renunciation forms; disposition.* The renunciation shall be made and executed by the applicant under oath, in duplicate, on Form N–351 and filed in the office of the clerk of court. The usual procedural requirements of the Immigration and Nationality Act shall not aply to proceedings under this part. The fee shall be fixed by the court or the clerk thereof in accordance with the law and rules of the court, and no accounting therefor shall be required to be made to the Service. The clerk shall retain the original of Form N–351 as the court record and forward the duplicate to the district director exercising administrative naturalization jurisdiction over the area in which the court is located.

PART 310—REQUISITION OF FORMS BY CLERKS OF COURT

§ 310.11 *Application for official forms.* See §§ 332a.11 and 332a.12 of this chapter.

PART 312—EDUCATIONAL REQUIREMENTS FOR NATURALIZATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

312.1 Educational examination of petitioners for naturalization.

312.2 Ability to read, write, and speak English; exemption.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 312.1 and 312.2 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 312, 332, 66 Stat. 239, 252.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 312.1 *Educational examination of petitioners for naturalization.* A person applying for naturalization upon his own petition shall, before being naturalized, demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States. To this end the petitioner shall be questioned as to (a) the principal historical facts concerning the development of the United States as a republic, (b) the organization and principal functions of the Government of the United States, and of the States and local units of government, (c) his understanding of and attachment to the fundamental principles of the Constitution of the United States, and (d) the relation of the individual to the government—national, state, and local—the rights and privileges arising from that relationship, and the duties and responsibilities which result from it. The examination shall be conducted in simple language and shall avoid technical and extremely difficult questions.

§ 312.2 *Ability to read, write, and speak English; exemption.* A person who on December 24, 1952 was over fifty years of age and had been living in the United States for periods totaling at least twenty years, is exempt from demonstrating an understanding of the English language, as provided in section 312 (1) of the Immigration and Nationality Act, even though the periods totaling twenty years did not follow lawful admissions for permanent residence.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 316—GOOD MORAL CHARACTER

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

316.1 Good moral character; exceptions.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 316.1 *Good moral character; exceptions.* The requirement of section 316 of the Immigration and Nationality Act that no person shall be naturalized unless he is and has been during the periods referred to in that section a person of good moral character shall not apply to:

(a) Persons who acquire United States citizenship through the naturalization of a parent or parents under section 320 or 321 of the Immigration and Nationality Act.

(b) Danish citizens who make application to renounce their citizenship under section 306 (a) (1) of the Immigration and Nationality Act.

(c) Former United States citizens who make application to regain citizenship under section 324 (c) of the Immigration and Nationality Act or under Public Law 114, Eighty-second Congress, first session, as amended by section 402 (j) of the Immigration and Nationality Act.

(Sec. 103, 66 Stat. 173. Interprets or applies secs. 316, 320, 321, 324, 332, 335, 402, 66 Stat. 242, 245, 247, 252, 255, 278)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

316a.1 Absence for which benefits of section 307 (b) or 308 of the Nationality Act of 1940 have been granted; effect on continuous residence requirement.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

316a.21 Application for benefits with respect to absences; appeal.

AUTHORITY: §§ 316a.1 and 316a.21 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 307, 308, 54 Stat. 1142, 1143, secs. 316, 317, 332, 405, 66 Stat. 242, 243, 252, 280.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 316a.1 *Absence for which benefits of section 307 (b) or 308 of the Nationality Act of 1940 have been granted; effect on continuous residence requirement.* No absence from the United States which commenced prior to the effective date of the Immigration and Nationality Act, whether or not it continued beyond that date, in connection with which an application for exemption from the usual residence requirements under the naturalization laws was made under section 307 (b) or 308 of the Nationality Act of 1940 and acted upon favorably by the Attorney General, shall be regarded as having broken the continuity of residence required by section 316 (a) of the Immigration and Nationality Act, provided that satisfactory proof that the absence was for a purpose described in section 307 (b) or 308 of the Nationality Act of 1940, is presented to the court, and provided that the provisions of section 316 (a) of the Immigration and Nationality Act are otherwise complied with.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 316a.21 *Application for benefits with respect to absences; appeal.* (a) An application for the residence benefits of section 316 (b) of the Immigration and Nationality Act to cover an absence from the United States for a continuous period of one year or more shall be submitted to the Service on Form N–470 in accordance with the instructions contained therein. The application shall be filed before the applicant has been absent from the United States for a continuous period of one year or more, and prior to the period of employment abroad for which the benefits are requested. There shall be submitted with the application a fee of $10.

(b) An application for the residence and physical presence benefits of section 317 of the Immigration and Nationality Act to cover any absences from the United States, whether before or after December 24, 1952, shall be submitted to the Service on Form N–470 in accordance with the instructions contained therein, either before or after the absence from the United States, or the performance of the functions or the services described in that section. There shall be submitted with the application a fee of $10.00. The application shall be filed at any time after the applicant has been physically present and residing in the United States for an uninterrupted period of at least one year.

(c) If the district director is satisfied that favorable action should be taken, he shall grant the application. If he is not satisfied that the application should be granted, he shall deny it. The applicant shall be notified in writing of the denial, with the reasons therefor, and at the same time shall be advised that he has ten days from the date of receipt of notification in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter. The Assistant Commissioner's decision shall be transmitted to the district director, who shall advise the applicant in writing of the decision.

PART 317—TEMPORARY ABSENCE OF PERSONS PERFORMING RELIGIOUS DUTIES

§ 317.1 *Absence for which benefits of section 308 of the Nationality Act of 1940 have been granted.* See § 316a.1 of this chapter.

§ 317.21 *Application for benefits of section 317 of the Immigration and Nationality Act.* See § 316a.21 of this chapter.

PART 319—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SPOUSES OF UNITED STATES CITIZENS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
319.1 Person living in marital union with United States citizen spouse.
319.2 Person whose United States citizen spouse is employed abroad.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

319.11 Procedural requirements.

AUTHORITY: §§ 319.1 to 319.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 319, 332, 66 Stat. 244, 252.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 319.1 *Person living in marital union with United States citizen spouse.* A person of the class described in section 319 (a) of the Immigration and Nationality Act shall establish his good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition to the good order and happiness of the United States for the period of three years immediately preceding the date of filing the petition and from that date to the time of admission to citizenship.

§ 319.2 *Person whose United States citizen spouse is employed abroad.* A person of the class described in section 319 (b) of the Immigration and Nationality Act shall establish an intention in good faith, upon naturalization, to reside abroad with the United States citizen spouse and to take up residence in the United States immediately upon the termination of the employment abroad of such spouse. It shall be established that at the time of filing of the petition for naturalization such person was in the United States pursuant to a lawful admission for permanent residence, and that he is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States. In any case in which the United States citizen spouse is employed by an American institution of research, the Assistant Commissioner, Inspections and Examinations Division, shall determine whether the employer shall be recognized as an American institution of research.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 319.11 *Procedural requirements.* A person described in §§ 319.1 and 319.2 shall submit to the Service an application to file a petition for naturalization on Form N-400 in accordance with the instructions contained therein. The petition for naturalization of such person shall be filed on Form N-406, in duplicate.

PART 322—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN OF CITIZEN PARENT

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
322.11 Procedural requirements.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 322.11 *Procedural requirements.* An application to file a petition for naturalization in behalf of a child under section 322 or 323 of the Immigration and Nationality Act shall be submitted to the Service on Form N-402, in accordance with the instructions contained therein, by the United States citizen parent or parents or adoptive parent or parents. Such application shall be submitted in time to permit the naturalization of the child prior to its eighteenth birthday anniversary. The petition for naturalization shall be filed on Form N-407 in duplicate, in a naturalization court within whose jurisdiction the petitioning parent or parents and the child reside. There shall be included in the petition the affidavits of two credible witnesses, citizens of the United States, stating (a) the length of time the witnesses have known the petitioning parent or parents and the child, (b) that to the best of the witnesses' knowledge and belief the child is, and during the applicable period has been, a person of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States, (c) that the child is qualified in all respects to become a citizen of the United States, (d) that the child is permanently residing with the petitioning parent or parents in the United States and the period of such residence and (e) in the case of an adopted child, the period of time they have known the child to be in the legal custody of the petitioning parent or parents and to be physically present in the United States. At the hearing on the petition the qualifications described in sections 322 and 323 of the Immigration and Nationality Act shall be proven by the oral testimony of witnesses in the manner provided in Part 335b of this chapter. A child under this part is not required to establish any particular period of residence in a State.

(Sec. 103, 66 Stat. 173. Interprets or applies secs. 322, 323, 332, 335, 66 Stat. 246, 252, 255)

PART 323—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN ADOPTED BY UNITED STATES CITIZENS

§ 323.11 *Procedural requirements.* See Part 322 of this chapter.

PART 324—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: WOMEN WHO HAVE LOST UNITED STATES CITIZENSHIP BY MARRIAGE

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
324.11 Former citizen at birth or by naturalization; procedural requirements.
324.12 A woman, citizen of the United States at birth, who lost or is believed to have lost citizenship by marriage and whose marriage has terminated; procedural requirements.
324.13 Women restored to United States citizenship by the act of June 25, 1936, as amended by the act of July 2, 1940.

AUTHORITY: §§ 324.11 to 324.13 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 324, 332, 337, 405, 66 Stat. 246, 252, 258, 280.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 324.11 *Former citizen at birth or by naturalization; procedural requirements.* A former citizen of the United States of the class described in section 324 (a) of the Immigration and Nationality Act shall submit to the Service an application to file a petition for naturalization, on Form N-400 and Supplemental Form N-400A, in accordance with instructions contained therein. The petition for naturalization of such person shall be filed on Form N-405, in duplicate, in any naturalization court, regardless of the petitioner's residence, and need not aver that it is the intention of the petitioner to reside permanently in the United States. The petition shall be verified by at least two United States citizen witnesses as provided in § 334.21 of this chapter. At the hearing on the petition the qualifications described in sections 324 (a) and (b) of the Immigration and Nationality Act shall be proven in the manner provided in Part 335b of this chapter. The petition may be heard immediately, provided a certificate of examination on Form N-440, in duplicate, is attached thereto, as provided in § 332.12 of this chapter. If the final hearing on the petition is held within sixty days preceding the holding of a general election within the territorial jurisdiction of the naturalization court, the petitioner shall not be permitted to take the oath prescribed in Part 337 of this chapter prior to the tenth day next following such general election. There shall be inserted after averment 10 of Form N-405 at the time of the filing thereof an averment of the petitioner's loss of citizenship, as follows:

I was formerly a citizen of the United States by _____
_____
(Indicate whether by birth or naturalization)
on _____ and lost my citizen-
(Month day year)
ship by marriage on _____
(Month day year)

to ---------- a citizen or
(Name of husband)
subject of ----------. I have
(Name of foreign country)
not acquired any other nationality by an affirmative act other than by marriage.

§ 324.12 *A woman, citizen of the United States at birth, who lost or is believed to have lost citizenship by marriage and whose marriage has terminated; procedural requirements.* A woman, formerly a citizen of the United States at birth, who applies in the United States to regain her citizenship under section 324 (c) of the Immigration and Nationality Act, shall submit to the Service a preliminary application to take the oath of allegiance, on Form N-401, in accordance with the instructions contained therein. The oath may be taken before the judge or clerk of any naturalization court, regardless of the applicant's place of residence. The applicant shall establish that it is her intention, in good faith, to assume and discharge the obligations of the oath of allegiance and that her attitude toward the Constitution and laws of the United States renders her capable of fulfilling the obligations of such oath. The applicant shall not be naturalized if, within the period of ten years immediately preceding the filing of the application to take the oath of allegiance or after such filing and before taking such oath she is, or has been found to be within any of the classes of persons described in section 313 of the Immigration and Nationality Act. The eligibility of the applicant to take the oath shall be investigated by a member of the Service who shall make an appropriate recommendation to the naturalization court. The application to the court shall be made on Form N-408, in triplicate. The original shall be retained as a part of the court record and numbered consecutively in a separate series, and the duplicate forwarded to the appropriate district director with duplicates of other naturalization papers. After the applicant has taken the oath of allegiance, the clerk of court shall furnish the applicant, upon demand, the triplicate copy of Form N-408, properly certified, for which a fee not exceeding $5.00 may be charged. No charge shall be made by the clerk of court for the filing of Form N-408. In case the applicant does not demand the triplicate Form N-408, it shall be transmitted to the appropriate district director with the duplicate of said form. The oath of allegiance may be taken before any diplomatic or consular officer of the United States abroad, in accordance with such regulations as may be prescribed by the Secretary of State.

§ 324.13 *Women restored to United States citizenship by the act of June 25, 1936, as amended by the act of July 2, 1940.* A woman who was restored to citizenship by the act of June 25, 1936, as amended by the act of July 2, 1940, but who failed to take the oath of allegiance prescribed by the naturalization laws prior to December 24, 1952, may take the oath of allegiance prescribed by Part 337 before any naturalization court on or after December 24, 1952. Such woman shall comply with the procedural requirements of § 324.12 except that a fee not exceeding $1.00 may be charged if the woman demands the triplicate copy of Form N-408, properly certified.

PART 325—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: NATIONALS BUT NOT CITIZENS OF THE UNITED STATES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
325.1 Residence and physical presence in the United States.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 325.1 *Residence and physical presence in the United States.* A national of the United States who is not a citizen thereof and who is otherwise qualified for naturalization may, if he becomes a resident of any State, be naturalized upon compliance with the applicable provisions of the Immigration and Nationality Act. In the case of such a person, residence and physical presence within the United States or residence and physical presence within any of the outlying possessions of the United States for the period during which continuous residence and physical presence are required to be established under Chapter 2 of Title III of the Immigration and Nationality Act shall be regarded as residence and physical presence within the United States pursuant to lawful admission for permanent residence, within the meaning of section 316 (a) of the Immigration and Nationality Act. Such person shall, unless otherwise exempted therefrom, established six months' residence within the State in which the petition for naturalization is filed, as required by section 316 (a) of the Immigration and Nationality Act.

(Sec. 103, 66 Stat. 173. Interprets or applies secs. 316, 325, 332, 66 Stat. 242, 248, 252)

SUBPART B—PROCEDURAL AND OTHER NONSUBTANTIVE PROVISIONS [RESERVED]

PART 327—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WHO LOST UNITED STATES CITIZENSHIP THROUGH SERVICE IN ARMED FORCES OF FOREIGN COUNTRY DURING WORLD WAR II

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
327.1 Period of service in armed forces.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

327.11 Procedural requirements.

AUTHORITY: §§ 327.1 and 327.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 327, 332, 338, 344 (h), 66 Stat. 248, 252, 259, 265.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 327.1 *Period of service in armed forces.* A former citizen of the United States of the class described in section 327 of the Immigration and Nationality Act, who during World War II served in the armed forces of any country at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, may be naturalized under this part if such service was on or after September 1, 1939, and before September 2, 1945, even though the United States was not at war during the period of his service, provided that such country was not at war with the United States during any period of his service. Such person is not subject to the provisions of section 318 of the Immigration and Nationality Act barring from naturalization a person against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 327.11 *Procedural requirements.* A former citizen of the United States of the class described in section 327 of the Immigration and Nationality Act shall submit to the Service an application to file a petition for naturalization on Form N-400 and Supplemental Form N-400A, in accordance with the instructions contained therein. The petition for naturalization of such person shall be filed on Form N-405, in duplicate, with supplemental Form N-405A in triplicate, in any naturalization court. The original of Form N-405A shall be retained as part of the court record. After the oath of allegiance has been taken by the petitioner, the duplicate and triplicate copies of Form N-405A, bearing a copy of the oath duly attested and certified by the clerk, shall be forwarded by the clerk of court to the appropriate district director. The district director shall file the duplicate copy with the Service record and transmit the triplicate copy to the Department of State. The petitioner shall pay to the clerk of the court of the naturalization court at the time of filing the petition a fee of $10, unless exempted therefrom under section 344 (h) of the Immigration and Nationality Act.

PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH THREE YEARS SERVICE IN ARMED FORCES OF THE UNITED STATES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
328.1 Where service is continuous.
328.2 Whenever service is not continuous: petition filed while still in service or within six months after termination of service.
328.3 Whenever service terminates more than six months before petition is filed.
328.4 Proof of qualifications.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

328.11 Procedural requirements.

AUTHORITY: §§ 328.1 to 328.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 318, 328, 332, 334 and 335, 66 Stat. 244, 249, 252, 254, 255.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 328.1 *Whenever service is continuous*—(a) *Petition filed while still in service.* A person of the class described in section 328 (a) of the Immigration and Nationality Act, whose service in the armed forces of the United States aggregating three years has been continu-

ous may, if his petition for naturalization is filed while still in the service, be naturalized, subject to the provisions of this part, upon compliance with the provisions of Chapter 2 of Title III of the Immigration and Nationality Act, except that no particular period of residence or physical presence in the United States or any State or within the jurisdiction of the naturalization court shall be required, and except that such person shall not be subject to the provisions of section 318 of the Immigration and Nationality Act barring from naturalization a person against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest. Such person shall establish that he is in the United States pursuant to a lawful admission for permanent residence occurring prior to the filing of the petition for naturalization, whether or not it occurred before or after the service in the armed forces.

(b) *Petition filed within six months after termination of service.* A person of the class described in paragraph (a) of this section, who has been separated from the service described therein prior to filing his petition for naturalization but who files his petition within six months after the termination of such service may be naturalized under the conditions and with the exemptions set forth in paragraph (a) of this section, except that he shall establish his residence in the United States, good moral character, attachment to the principles of the Constitution, and favorable disposition to the good order and happiness of the United States, for the period from the date of his separation from such service to the date of the filing of his petition for naturalization and from the latter date to the date of his admission to citizenship, by affidavits and testimony of at least two United States citizen witnesses, in the manner provided in § 334.21 and Part 335b of this chapter.

§ 328.2 *Whenever service is not continuous; petition filed while still in service or within six months after termination of service.* A person of the class described in § 328.1 whose service aggregating three years was not continuous and who files a petition for naturalization while still in such service or within six months after the termination of such service may be naturalized under the conditions and with the exemptions set forth in paragraph (a) of § 328.1, except that he shall establish his residence in the United States and State, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition to the good order and happiness of the United States, during the period or periods within five years immediately preceding the date of filing the petition and to the date of admission to citizenship, when not serving in the armed forces, by the affidavits and testimony of at least two United States citizen witnesses, for each such period, in the manner provided in § 334.21 and Part 335b of this chapter.

§ 328.3 *Whenever service terminates more than six months before petition is filed.* A person of the class described in §§ 328.1 or 328.2, whose service aggregating three years terminated more than six months preceding the date of filing his petition for naturalization shall comply with the applicable provisions of Chapter 2 of Title III of the Immigration and Nationality Act except that service during the five years immediately preceding the date of filing the petition shall be considered as residence and physical presence within the United States.

§ 328.4 *Proof of qualifications.* A petitioner under this part shall establish his residence and physical presence in the United States and in the State in which his petition is filed, his good moral character, attachment to the principles of the Constitution, and favorable disposition to the good order and happiness of the United States during the periods of service referred to in §§ 328.1, 328.2, and 328.3 by the production of duly authenticated copies of the records of the executive departments having custody of the records of such service, which copies shall show the period or periods of such service, and that it was performed honorably or under honorable conditions. The petitioner shall also produce a certified statement from the appropriate executive department showing that he has never been discharged from the armed forces of the United States under other than honorable conditions. Such copies shall be accepted in lieu of the affidavits and testimony or depositions of witnesses for the period or periods of such service.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 328.11 *Procedural requirements.* A person of the class described in §§ 328.1, 328.2, or 328.3 shall submit to the Service an application to file a petition for naturalization on Form N-400, in accordance with the instructions contained therein. The duly authenticated copies of the records and the certified statements of the executive departments described in § 328.4 shall be requested by the applicant on Form N-426, in triplicate, and submitted to the Service with Form N-400. A person of the class described in §§ 328.1 or 328.2 may file his petition for naturalization in any naturalization court, regardless of his place of residence; a person described in § 328.3 shall file his petition in a court having jurisdiction over his place of residence. The petition for naturalization shall be filed on Form N-405 in duplicate. There shall be inserted after averment 10 of Form N-405, at the time of the filing thereof, a description of the petitioner's service, as follows:

I entered the _____
(Branch of service)
on _____ under Serial No. _____
(Month, day, year)
and am now serving honorably (was honorably discharged on _____).
(Month, day, year)

The petitioner may be naturalized immediately, if he is still in the armed services, and a certificate of such examination on Form N-440, in duplicate, is attached to his petition, in accordance with § 332.12 of this chapter. The petition shall be verified by at least two United States citizen witnesses, as provided in § 334.21 of this chapter.

PART 329—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: VETERANS OF THE UNITED STATES ARMED FORCES WHO SERVED DURING WORLD WAR I OR WORLD WAR II

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
329.1 World War I; definition.
329.2 Proof of character, attachment, and disposition.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

329.21 Procedural requirements.

AUTHORITY: §§ 329.1 to 329.21 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 329, 332, 334, 335, 402 (e), 66 Stat. 250, 252, 254, 255, 276.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 329.1 *World War I; definition.* For the purposes of section 329 of the Immigration and Nationality Act, World War I shall be deemed to have commenced on April 6, 1917, and to have ended on November 11, 1918.

§ 329.2 *Proof of character, attachment, and disposition.* A person of the class described in section 329 (a) or 402 (e) of the Immigration and Nationality Act, shall establish that he is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, in the manner provided by § 334.21 and Part 335b of this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 329.21 *Procedural requirements.* A person of the class described in section 329 or 402 (e) of the Immigration and Nationality Act shall submit to the Service an application to file a petition for naturalization on Form N-400 in accordance with the instructions contained therein. The certification required by section 329 (b) (4) of the Immigration and Nationality Act to prove service shall be requested by the applicant on Form N-426, in triplicate, and submitted to the Service with Form N-400. The petition for naturalization shall be filed on Form N-418, in duplicate, in any naturalization court, regardless of the residence of the petitioner. The petition shall be verified by at least two vided in § 334.21 of this chapter. The petitioner may be naturalized immediUnited States citizen witnesses as proately if a certificate of examination is filed with the petition in accordance with § 332.12 of this chapter.

PART 330—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SEAMEN

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
330.1 Service on vessels after lawful admission for permanent residence; when deemed residence and physical presence in the United States.
330.2 Service on vessels prior to September 23, 1950; when deemed residence and physical presence in the United States and State.
330.3 Proof of qualifications.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

330.11 Procedural requirements.

AUTHORITY: §§ 330.1 to 330.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 316, 330, 332, 334, 335, 66 Stat. 242, 251, 252, 254, 255.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 330.1 *Service on vessels after lawful admission for permanent residence; when deemed residence and physical presence in the United States.* Service at any time after lawful admission for permanent residence, whether before or after the effective date of the Immigration and Nationality Act, on board vessels of the classes described in section 330 (a) (1) of the Immigration and Nationality Act, shall under the conditions specified in that section be deemed residence and physical presence within the United States within the meaning of section 316 (a) of the Immigration and Nationality Act.

§ 330.2 *Service on vessels prior to September 23, 1950; when deemed residence and physical presence in the United States and State*—(a) *Service aggregating five years.* Service at any time prior to September 23, 1950, for periods aggregating five years, whether or not there has been a lawful admission for permanent residence, shall be deemed residence and physical presence within the United States and residence within the State during the five-year period next preceding the filing of the petition for naturalization, within the meaning of section 316 (a) of the Immigration and Nationality Act, if (1) such service was performed honorably or with good conduct, on board any vessel of the United States Government, other than in the United States Navy, Marine Corps or Coast Guard, or on board vessels of more than twenty-tons' burden, whether or not documented under the laws of the United States, and whether public or private, which are not foreign vessels and the home port of which is in the United States, and (2) a petition for naturalization is filed on or before December 24, 1953.

(b) *Service aggregating less than five years.* Service at any time prior to September 23, 1950, aggregating less than five years, shall be deemed residence and physical presence within the United States, equivalent to that of the period of service, during the earliest portion of the five-year period next preceding the filing of the petition for naturalization within the meaning of section 316 (a) of the Immigration and Nationality Act, if (1) such service was performed honorably or with good conduct, on board vessels of the classes described in paragraph (a) of this section, (2) the person was so serving on September 23, 1950, and is residing in the United States pursuant to a lawful admission for permanent residence occurring at any time prior to filing the petition for naturalization, and (3) the petition for naturalization is filed on or before September 23, 1955.

§ 330.3 *Proof of qualifications*—(a) *Residence and physical presence in the United States.* Except as otherwise provided in this part, a person having the service described in this part shall prove that he has complied with all the applicable provisions of Chapter 2, Title III of the Immigration and Nationality Act, except that proof of residence and physical presence within the United States for the periods of such service shall be made by duly authenticated copies of the records of the executive departments or agencies having custody of the records covering the person's service on vessels of the United States Government, or by certificates from the masters of the vessels if service was on other than vessels of the United States Government, which records or certificates shall describe the vessels and the periods of service, and shall attest that during those periods the person served honorably or with good conduct.

(b) *Character, attachment, and disposition; State residence.* (1) The records or certificates described in paragraph (a) of this section shall be accepted also as proof of good moral character, attachment to the principles of the Constitution, and favorable disposition to the good order and happiness of the United States for that portion of the service performed within the period of five years immediately preceding the date of the petition, and, in the cases of persons of the classes described in § 330.2 (a), as proof of residence within the State in which the petition is filed.

(2) A person claiming the benefits of § 330.2 (b) shall establish his good moral character, attachment to the principles of the Constitution and favorable disposition toward the good order and happiness of the United States during the five-year period next preceding the date of filing the petition, and from that date to the date of admission to citizenship, when not serving on such vessels, by the testimony or depositions of witnesses, in the manner described in Part 335b of this chapter. Such person shall establish also six months' State residence, as required by section 316 (a) of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 330.11 *Procedural requirements.* A person claiming the benefits of § 330.1 or § 330.2 shall submit to the Service an application to file a petition for naturalization, together with Supplemental Form N-400-B, in accordance with the instructions contained therein. The petition for naturalization shall be filed on Form N-405 in duplicate in a naturalization court having jurisdiction over the petitioner's place of residence. There shall be attached to, and made a part of the original and duplicate of, the petition for naturalization at the time of filing an affidavit of the petitioner sworn to before the clerk of court or an officer of the Service, on Form N-421, in duplicate, fully describing the vessel or vessels on which the petitioner has served and the periods of service. The petition shall be verified by at least two United States citizen witnesses, as provided in § 334.21 of this chapter.

PART 331—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: ALIEN ENEMIES

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
331.1 Alien enemy defined.
331.2 Termination of status of alien enemy.
331.3 Revocation of exception from classification of alien enemy.
331.4 Naturalization under special provisions of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

331.11 Petition for naturalization pending; notice of and objection to final hearing on petition.
331.12 Waiver of 90-day notice.
331.13 Exception from classification of alien enemy.

AUTHORITY: §§ 331.1 to 331.13 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 306, 324, 329, 331, 332, 342, 402, 66 Stat. 237, 247, 250, 252, 263, 278.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 331.1 *Alien enemy defined.* An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall be considered an alien enemy for the purposes of the naturalization laws. A native of such an enemy country, state, or sovereignty, who subsequent to birth has become stateless or who has become a citizen, subject or denizen of a nation with which the United States is not at war shall nevertheless be considered an alien enemy.

§ 331.2 *Termination of status of alien enemy.* An alien enemy as defined in § 331.1 shall cease to be an alien enemy within the meaning of this part upon the official determination in the manner prescribed by section 331 (d) of the Immigration and Nationality Act that hostilities between the United States and the enemy country, state, or sovereignty have ended.

§ 331.3 *Revocation of exception from classification of alien enemy.* If subsequent to the filing of a petition for naturalization, and prior to admission to citizenship, evidence becomes available to the Service that exception from the classification of alien enemy was illegally or fraudulently obtained from or was granted through illegality or by fraud practiced upon the district director or the Commissioner, or a Deputy Commissioner, or Assistant Commissioner, action to cancel the exception granted may be taken in accordance with the provisions of Part 5 of this chapter, in which case a motion shall be made to the court to defer final hearing until such proceedings have been concluded. If the exception is cancelled by the district director or the Commissioner, or a Deputy Commissioner, it shall be considered a nullity from the date of the granting thereof, and the petitioner shall be subject to all the provisions of this part to the same extent as though the exception had never been granted. Written notice of the cancellation shall be furnished by the district director to the clerk of the naturalization court for inclusion in the naturalization record.

§ 331.4 *Naturalization under special provisions of the Immigration and Nationality Act.* An alien enemy, as defined in § 331.1, who is applying for naturalization under the provisions of

section 306 (a) (1), 324 (c), 329, or 402 (j) of the Immigration and Nationality Act may be naturalized, if otherwise qualified, notwithstanding the provisions of this part.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 331.11 *Petition for naturalization pending; notice of and objection to final hearing on petition.* Subject to the conditions stated in this section, an alien enemy, as defined in § 331.1, whose petition for naturalization was pending at the beginning of the state of war, may, if otherwise eligible, be naturalized after his loyalty has been fully established upon investigation by the appropriate district director. The petition for naturalization shall not be called for a hearing or heard, except after ninety-days' notice by the clerk of court to the appropriate district director or officer in charge. Such notice shall be given on Form N–435, in duplicate, and the ninety-day period shall commence on the date of its receipt. The district director or officer in charge shall mail a receipted copy of Form N–435 to the clerk of court within two business days after receipt. The district director or officer in charge may, at any time prior to final hearing, object to such hearing. Such objection shall be made on Form N–434, in duplicate, and filed with the clerk of court. The filing of such objection shall cause the petition to be continued until such time as the objection is withdrawn. The clerk of court shall mail a receipted copy of Form N–434 to the district director or officer in charge within two business days after receipt.

§ 331.12 *Waiver of 90-day notice.* A petitioner for naturalization embraced within this part may request the district director or officer in charge, in writing, to waive the ninety-day notice referred to in § 331.11. Such waiver may be granted at any time after the petition has been filed and either before or after the clerk's notice has been given and the ninety-day period has commenced. The district director or officer in charge shall cause a full and complete investigation to be conducted and if such investigation satisfactorily establishes the petitioner's loyalty to the United States the district director or officer in charge may, in his discretion, grant the waiver. If the waiver is granted, notice thereof shall be given to the clerk of court by the district director or officer in charge on Form N–424, in duplicate, a copy of which shall be retained in the Service file.

§ 331.13 *Exception from classification of alien enemy.* An alien enemy, as defined in § 331.1, who did not have a petition for naturalization pending at the beginning of the state of war, shall not be eligible to file a petition for naturalization, unless and until the district director has excepted such alien from the classification of alien enemy. Application for such exception shall be made on Form N–436 and submitted to the Service with the application to file a petition for naturalization. The district director shall thereupon cause a full and complete investigation to be made of the loyalty of such applicant. If, after such investigation, the district director is satisfied as to the applicant's loyalty to the United States, he may, in his discretion, except the applicant from the classification of alien enemy by the execution of Form N–438, in duplicate, the original of which shall be filed with the clerk of the naturalization court at the time of or prior to the filing of the petition for naturalization, and the copy retained in the Service file. The exception so granted on Form N–438 shall not be effective for the purpose of filing a petition for naturalization unless and until such form is filed with the clerk of court. Form N–438 need not be filed with and made a part of the petition but shall be filed with the naturalization record by the clerk of court. If the district director is not satisfied as to the applicant's loyalty, he shall deny the application. The applicant shall be notified in writing of the denial of his application with the reasons therefor and, at the same time, shall be advised that he has ten days from the date of the notification in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7. If the Assistant Commissioner approves the application, the district director shall except the applicant from the classification of alien enemy, in the manner provided in this section. An applicant who has been excepted from the classification of alien enemy under this section shall be entitled to a hearing upon his petition for naturalization without regard to the provisions of § 331.11.

PART 332—PRELIMINARY INTERROGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
332.11 Interrogation preliminary to filing petition for naturalization.
332.12 Certificate by examiner whenever petitioner is entitled to immediate hearing.
332.13 Use of record of preliminary interrogation.
332.14 Notice of proposed recommendation of denial; findings, conclusion, and recommendation.

AUTHORITY: §§ 332.11 to 332.14 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 335, 66 Stat. 252, 255.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 332.11 *Interrogation preliminary to filing petition for naturalization*—(a) *Scope of interrogation.* Whenever practicable, each applicant for naturalization and his witnesses shall appear in person before an officer of the Service authorized to administer oaths, prior to the filing of a petition for naturalization, and give testimony under oath concerning the applicant's mental and moral qualifications for citizenship, attachment to the principles of the Constitution, and disposition to the good order and happiness of the United States, the qualifications of the witnesses, and the other qualifications to become a naturalized citizen as required by law. The interrogation shall be uniform throughout the United States.

(b) *Conduct of interrogation.* The Service officer, prior to the beginning of the interrogation, shall make known to the applicant and the witnesses the official capacity in which he is conducting the interrogation. The applicant and each witness shall be questioned under oath separately and apart from one another and apart from the public. The applicant shall be interrogated as to each assertion made by him in his application to file a petition and in any supplemental form. Whenever necessary, the written answers in the forms shall be corrected by the officer to conform to the oral statements made under oath. The examining officer, in his discretion, may have a stenographic transcript made, or prepare affidavits covering testimony of the applicant or witnesses. The questions to the applicant and the witnesses shall be repeated in different form and elaborated if necessary, until the officer conducting the interrogation is satisfied that the person being interrogated fully understands them. At the conclusion of the interrogation all corrections made on the application form and supplements thereto shall be consecutively numbered and recorded in the space provided therefor in the applicant's affidavit contained in the form. The affidavit shall then be subscribed and sworn to by the applicant and signed by the examining officer. The witnesses shall be questioned to develop their own credibility and competency as well as the extent of their personal knowledge of the applicant's qualifications to become a naturalized citizen. If the applicant is exempted from the requirement of reading and writing, and speaking English, the interrogation, including the examination of the applicant's knowledge and understanding of the Constitution, history, and form of Government of the United States, may be conducted through an interpreter.

§ 332.12 *Certificate by examiner whenever petitioner is entitled to immediate hearing.* The officer or employee conducting the preliminary interrogation shall execute a certificate of examination on Form N–440 in duplicate, for attachment to the original and duplicate petitions for naturalization, in any case in which the petitioner, under the provisions of the Immigration and Nationality Act applicable to his case, is entitled to an immediate hearing following examination by a representative of the Service.

§ 332.13 *Use of record of preliminary interrogation.* The record of the preliminary interrogation, including the executed and corrected application form and supplements thereto, affidavits, transcripts of testimony, documents and other evidence, and the reports of any investigations conducted, shall, in those cases in which a preliminary examination is to be held under Part 335 of this chapter, be submitted to the examiner

designated to conduct such examination, for his use in examining the petitioner and witnesses. In those cases in which no preliminary examination is held the recommendation to the naturalization court shall be based upon the record of the preliminary interrogation and such other evidence as may be available.

§ 332.14 *Notice of proposed recommendation of denial; findings, conclusion, and recommendation.* In those cases in which the recommendation to the court is for denial of the petition, and no preliminary examination under Part 335 of this chapter is held, an officer of the Service shall, as soon as practicable after the preliminary interrogation and investigations have been concluded, prepare a memorandum in behalf of the Service in the manner described in § 335.12, and subject to review by the Commissioner, for presentation to the court at the final hearing. The petitioner shall be given written notice on Form N-429 advising him of the recommendation which will be made to the court and the specific reasons therefor. The notice and a copy of the memorandum shall be sent the petitioner by registered mail, return receipt requested, after review of the recommendation by the Commissioner, if made, and at least thirty days prior to final hearing. The hearing before the court may be held less than thirty days after such notification, if the petitioner agrees thereto.

PART 332a—OFFICIAL FORMS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

332a.1 Official forms essential to exercise of jurisdiction.
332a.2 Official forms prescribed for use of clerks of naturalization courts.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

332a.11 Initial application for official forms.
332a.12 Subsequent application for official forms.
332a.13 Alteration of forms of petitions or applications for naturalization.

AUTHORITY: §§ 332a.1 to 332a.13 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 310, 332, 66 Stat. 239, 252.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 332a.1 *Official forms essential to exercise of jurisdiction.* Before exercising jurisdiction in naturalization proceedings, the naturalization court shall direct the clerk of such court upon written application to obtain from the Service, in accordance with section 310 (c) of the Immigration and Nationality Act, proper forms, records, books, and supplies required in naturalization proceedings. Such jurisdiction may not be exercised until such official forms, records, and books have been supplied to such court. Only such forms as are supplied shall be used in naturalization proceedings. Where sessions of the court are held at different places, the judge of such court may require the clerk to obtain a separate supply of official forms, records and books for each such place.

§ 332a.2 *Official forms prescribed for use of clerks of naturalization courts.* The following described forms only shall be used by clerks of courts having naturalization jurisdiction, in the exercise of such jurisdiction:

Form No.	*Title and description*
N-8	Requisition for Forms and Binders.
N-4	Monthly Report—Naturalization Papers forwarded.
N-5	Continuation Sheet of Monthly Report—Naturalization Papers forwarded.
N-6	Jacket for Naturalization Papers.
N-7	Quarterly Abstract of Collections of Naturalization Fees.
N-11	Penalty Envelope (addressed to the Central Office of Service).
N-12	Penalty Envelope (to be addressed to any office of Service).
N-13	Penalty Envelope (large—to be addressed to any office of Service).
N-50	Receipt for Duplicate Petitions.
N-300	Application to File Declaration of Intention.
N-315	Declaration of Intention.
N-350	Application to Renounce Danish Citizenship.
N-351	Renunciation of Danish Citizenship.
N-400	Application to File Petition for Naturalization.
N-400A	Supplement to Application to File Petition for Naturalization (under section 324 (a) or 327, Immigration and Nationality Act).
N-400B	Supplement to Application to File Petition for Naturalization (by a seaman, under section 330 of the Immigration and Nationality Act).
N-400C	Supplement to Application to File Petition for Naturalization (for use with editions prior to December 24, 1952).
N-401	Preliminary Form to take Oath of Allegiance (by a woman formerly a citizen, under section 324 (c) of the Immigration and Nationality Act, or the act of June 25, 1936, as amended).
N-402	Application to File Petition for Naturalization in Behalf of a Child (under sections 322 or 323, Immigration and Nationality Act).
N-403	Request to have Petition for Naturalization marked "Void".
N-404	Request for Withdrawal of Petition for Naturalization.
N-405	Petition for Naturalization (under general provisions of the Immigration and Nationality Act).
N-405A	Affidavit in Support of Petition for Naturalization (by a former citizen, under section 327 of the Immigration and Nationality Act).
N-406	Petition for Naturalization (of a married person, under section 319 (a) or (b), Immigration and Nationality Act).
N-407	Petition for Naturalization (in behalf of a child, under section 322 or 323, Immigration and Nationality Act).
N-408	Application to take Oath of Allegiance and Form of such Oath (by a woman formerly a citizen, under section 324 (c), Immigration and Nationality Act, or the Act of June 25, 1936, as amended).
N-410	Motion for Amendment of Petition (application).
N-414	Acknowledgment of Filing Petition for Naturalization.
N-418	Petition for Naturalization (active duty in the armed forces, under section 329 of the Immigration and Nationality Act).
N-421	Affidavit in Support of Petition for Naturalization (by a seaman, under section 330, Immigration and Nationality Act).
N-435	Notice of Final Hearing by Clerk of Court (alien enemies).
N-435-1	Continuation Sheet—Form N-435.
N-442	Preliminary Form to take Oath of Allegiance (by former citizen, under Public Law 114, 82nd Congress, as amended).
N-443	Application to take the Oath of Allegiance and Form of Such Oath (by former citizen, under Public Law 114, 82nd Congress, as amended).
N-450	Notice of Intention to Substitute Witnesses.
N-451	Affidavits of Witnesses (to Petition for Naturalization).
N-455	Application for Transfer of Petition for Naturalization.
N-458	Application to Correct Certificate of Naturalization.
N-480	Naturalization Petitions Recommended to be Granted.
N-480A	Order of Court (granting petitions).
N-481	Naturalization Petitions Recommended to be Granted (continuation sheet).
N-483	Naturalization Petitions Recommended to be Continued (and Order of Court).
N-484	Naturalization Petitions Recommended to be Denied.
N-484A	Order of Court (denying petitions).
N-485	Naturalization Petitions Recommended to be Granted (on behalf of children).
N-486	Naturalization Petitions Recommended to be Denied (on behalf of children).
N-489	Certification by Clerk of Court of the taking of Oath of Allegiance.
N-490	Order of Court Granting Petitions for Naturalization.
N-491	Order of Court Denying Petitions for Naturalization.
N-492	Commissioner's Recommendation that Petition be Granted (and Order of Court).
N-493	Commissioner's Recommendation that Petitions be Denied (and Order of Court).
N-550	Certificate of Naturalization.
N-580	Application for a Certificate of Naturalization or Repatriation (under section 343 (a) of the Immigration and Nationality Act or 12th subdivision, section 4, of Act of June 29, 1906).

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 332a.11 *Initial application for official forms.* Whenever the initial application for forms, records, books, and supplies is made by a State court of record, it shall be accompanied by a certificate of the Attorney General of the State, certifying that the said court is a court of record, having a seal, a clerk, and jurisdiction in actions at law or in equity, or at law and in equity, in

which the amount in controversy is unlimited.

§ 332a.12 *Subsequent application for official forms.* Included with the initial supply of official forms, records, and books furnished to the various courts by the Service shall be Form N-3 entitled "Requisition for Forms and Binders," and thereafter such forms shall be used by clerks of courts in making requisition for forms, records, books, and supplies for use in naturalization proceedings in their respective courts.

§ 332a.13 *Alteration of forms of petitions or applications for naturalization.* The official forms for petitions or applications for naturalization to the court shall be altered by the clerk of court as follows:

(a) *Deletion of inapplicable acts or sections of acts.* Whenever the petition form is designed for use under more than one act or more than one section of an act, by striking from the title of the form the reference to the inapplicable act or section.

(b) *Exemption from residence in United States and State.* Whenever residence in the United States and State residence for any specified period is not required, by striking out allegations 10 and 16 on Form N-406, allegations 12 and 13 on Form N-407, allegation 16 on Form N-405, and the statements in the affidavits of witnesses as to the period of United States and State residence on Forms N-405 and N-406.

(c) *Exemption from physical presence in the United States.* Whenever physical presence in the United States for any specified period is not required, by striking out allegation 14 on Form N-407, and allegation 16 on Form N-405.

(d) *Exemption from lawful admission for permanent residence.* Whenever lawful admission for permanent residence is not required, by striking out allegation 9 on Forms N-405 and N-418.

(e) *Exemption from intention to reside permanently in the United States.* Whenever intention to reside permanently in the United States is not required by striking out allegation 12 on Form N-405.

(f) *Supplemental affidavits filed with petition for naturalization.* Whenever a supplemental affidavit is filed with the petition by adding to allegation 18, on Form N-405 "and supplemental affidavit on Form No. _____."

(g) *Oath of allegiance.* Whenever a petitioner or applicant for naturalization is exempt from taking the oath of allegiance prescribed in Part 337 in its entirety, by striking from the oath of allegiance the inapplicable clauses.

PART 332b—INSTRUCTION AND TRAINING IN CITIZENSHIP RESPONSIBILITIES: TEXTBOOKS, SCHOOLS, ORGANIZATIONS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
332b.1 Public school instruction and training in citizenship responsibilities of applicants for naturalization.
332b.2 Sending names of candidates for naturalization to the public schools.
332b.3 Federal citizenship textbooks.
332b.4 Public school certificates as evidence of petitioner's educational progress.
332b.5 Cooperation with official National and State organizations.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 332b.1 to 332b.5 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332; 346, 66 Stat. 253, 266.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 332b.1 *Public school instruction and training in citizenship responsibilities of applicants for naturalization.* The Central Office and the field offices of the Service shall cooperate with appropriate authorities or organizations in the establishment and maintenance of classes within or under the supervision of the public schools for the preparation of naturalization applicants for their citizenship duties and responsibilities. Field officers shall visit such classes when practicable. Should applicants for naturalization who desire such preparation live in remote localities where the establishment of a class is impracticable, field officers shall communicate with the appropriate representative of the public schools for the purpose of making other suitable arrangements, if possible, for their instruction.

§ 332b.2 *Sending names of candidates for naturalization to the public schools.* Arrangements shall be made with the public schools by which the names and addresses of applicants for naturalization will be made available to such schools for the purpose of interesting applicants in attending public school classes in preparation for citizenship duties and responsibilities.

§ 332b.3 *Federal citizenship textbooks.* Citizenship textbooks, for the free use of applicants for naturalization receiving instruction in or under the supervision of the public schools in preparation for citizenship, shall be prepared and distributed by the Service to the appropriate representatives of the public schools upon their signed requisitions therefor.

§ 332b.4 *Public school certificates as evidence of petitioner's educational progress.* Public school certificates attesting the attendance and progress records of petitioners for naturalization in citizenship classes shall be given weight by naturalization officers in determining the petitioner's knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States, and his ability to read, write, and speak English, provided that approval of the courses of instruction, teaching, and examinations of the public schools issuing such certificates is given by the district director and the naturalization courts.

§ 332b.5 *Cooperation with official National and State organizations.* The Central Office and the field offices shall take steps to obtain the aid of and to cooperate with official National and State organizations in the Service's program of promoting instruction and training of applicants for naturalization for their citizenship duties and responsibilities. Similar action shall be taken in relation to duly accredited unofficial educational, social service, welfare, and other organizations having as one of their objects the preparation of applicants for naturalization for their citizenship duties and responsibilities.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 332c—PHOTOGRAPHIC STUDIOS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
332c.1 Establishment of welfare photographic studios.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 332c.1 *Establishment of welfare photographic studios.* District directors shall, after investigation, make reports and recommendations to the Commissioner concerning the desirability of the establishment and operation by welfare organizations, without profit, of photographic studios, solely for the benefit of persons seeking to comply with the requirements of the immigration and naturalization laws. Quarters for such purpose must be in a building occupied by the Service, and be conducted under the supervision of the Commissioner. Such welfare organizations shall submit an annual accounting to the Commissioner of the conduct of such studio.

(Sec. 103, 66 Stat. 173. Interprets or applies sec. 332, 66 Stat. 253)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 332d—DESIGNATION OF EMPLOYEES TO ADMINISTER OATHS AND TAKE DEPOSITIONS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
332d.1 Designation of employees to administer oaths and take depositions.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 332d.1 *Designation of employees to administer oaths and take depositions.* All immigration officers and other officers or employees of the Service of an equal or higher grade are hereby designated to administer oaths and take depositions in matters relating to the administration of the naturalization and citizenship laws.

(Sec. 103, 66 Stat. 173. Interprets or applies sec. 332, 66 Stat. 252)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 333—PHOTOGRAPHS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
333.1 Description of required photographs.
333.2 Attachment of photographs to documents.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 333.1 and 333.2 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 333, 334, 66 Stat. 252, 253, 254.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 333.1 *Description of required photographs.* Every applicant required to furnish photographs of himself under this subchapter shall submit three identical photographs which shall be 2 by 2 inches in size, unmounted, printed on a thin paper, have a light background, clearly show a full front view of the features of the applicant with head bare (unless the applicant is wearing a headdress as required by a religious order of which he is a member), with the distance from the top of the head to point of chin approximately 1¼ inches, and which shall have been taken within 30 days of the date they are furnished. The applicant, except in the case of a child or other person physically incapable of signing his name, shall sign each copy of the photograph with his full true name, in such manner as not to obscure the features. The signature shall be by mark if the applicant is unable to sign his name. If the applicant is a prospective petitioner for naturalization, the photographs shall be signed by him in the English language, unless the applicant is of the class exempted from signing a petition for naturalization in the English language, as provided by § 334.13 of this chapter, in which case the photographs may be signed in any language. In the case of a child unable to sign its name, the photographs shall be signed by the parent, parents, or guardian as may be appropriate, and the signature shall read "(insert name of parent, parents, or guardian) in behalf of (insert name of child)." The photographs shall be signed when submitted with an application if the instructions accompanying the application so require. If the instructions do not so require the photographs shall be submitted without being signed and shall be signed at such later time during the processing of the application as may be appropriate.

§ 333.2 *Attachment of photographs to documents.* There shall be securely and permanently attached to each original and duplicate certificate of naturalization and to each duplicate and triplicate declaration of intention issued by any clerk of court, and to each copy of a declaration of intention, certificate of naturalization or certificate of citizenship issued by the Service, a signed photograph of the applicant. In each case in which a seal is affixed, the imprint of a part of the seal shall be affixed so as to extend over the lower portion of the photograph in such manner as not to obscure the features of the applicant.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 334—PETITION FOR NATURALIZATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
334.1 Right to file petition or application for naturalization.
334.2 Oath or affirmation of petitioner and witnesses.
334.3 Petitions for naturalization; numbering, indexing, binding.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

334.11 Petition for naturalization and preliminary application.
334.12 Notification to appear for preliminary interrogation and to file petition for naturalization.
334.13 Filing of petition for naturalization.
334.14 Investigation and report if applicant is sick or disabled.
334.15 Void petitions for naturalization.
334.16 Amendment of petition or application for naturalization.
334.17 Transfer of petition for naturalization.
334.18 Withdrawal of petition and failure to prosecute.
334.21 Verification of petition for naturalization: administration of oath.

AUTHORITY: §§ 334.1 to 334.21 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 334, 335, 66 Stat. 252, 254, 256, 257, 259, 265.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 334.1 *Right to file petition or application for naturalization.* No person shall be denied the right to apply for naturalization in accordance with the procedure prescribed in this subchapter to any court authorized to exercise naturalization jurisdiction.

§ 334.2 *Oath or affirmation of petitioner and witnesses.* The petition for naturalization shall be executed under the following oath (or affirmation): "You do swear (affirm) that you know the contents of this petition for naturalization subscribed by you, and that the same are true to the best of your knowledge and belief."

The following oath (or affirmation) shall be administered to each of the witnesses who verify the petition: "You do swear (affirm) that the statements of fact you have made in the affidavits to this petition for naturalization subscribed by you are true to the best of your knowledge and belief."

§ 334.3 *Petitions for naturalization; numbering, indexing, binding.* Petitions for naturalization shall be numbered consecutively in the order in which they are filed, shall be filed chronologically in separate volumes, indexed, and made a part of the records of the naturalization court. Each such volume shall, upon completion, be permanently bound by an employee of the Service. Whenever a petitioner's name has been changed by order of court the original and the changed name shall be entered by the clerk of court in the index of petitions for naturalization.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 334.11 *Petition for naturalization and preliminary application.* Except as otherwise provided in this subchapter, a person who has attained the age of eighteen years and who desires to apply for naturalization, shall make and file, in accordance with the provisions of this part, a sworn petition for naturalization, in duplicate. Such person shall, before filing the petition for naturalization, execute and submit to the Service preliminary application to file a petition for naturalization, Form N–400, in accordance with the instructions contained therein.

§ 334.12 *Notification to appear for preliminary interrogation and to file petition for naturalization.* Following the submission of the preliminary application, the applicant shall be notified when and where to appear with his witnesses for preliminary interrogation, as described in Part 332 of this chapter, and to file the petition for naturalization.

§ 334.13 *Filing of petition for naturalization.* The petition for naturalization and the duplicate copy thereof shall be filed by the petitioner, in person, with the clerk of the court or his authorized deputy and only in the office of the clerk, except that an applicant for naturalization who satisfactorily establishes that he is prevented by sickness or other disability from appearing in the office of the clerk, may file the petition for naturalization at such other place as may be designated by the clerk of court or his authorized deputy. Except as otherwise provided in this subchapter, the petition shall be on Form N–405 and shall contain an averment that it is the intention of the petitioner to reside permanently in the United States. The petition shall be signed by the petitioner in the English language, if physically able to write, unless the petitioner on December 24, 1952 was over fifty years of age and had been living in the United States for at least twenty years, in which case the petitioner may sign his name in any language. When the petition has been so filed, the clerk shall furnish to the petitioner an acknowledgment of the filing of the petition on Form N–414. The petitioner shall pay the clerk of the naturalization court, at the time the petition is filed, a fee of $10, unless the petitioner is exempt therefrom by section 344 (h) of the Immigration and Nationality Act.

§ 334.14 *Investigation and report if applicant is sick or disabled.* Whenever it appears that an applicant for naturalization may be unable, because of sickness or other disability, to present himself in the office of the clerk of a naturalization court to file a petition for naturalization, the district director or officer in charge shall cause an investigation to be conducted to determine the circumstances, and shall report the condition of the applicant to the clerk of court for the purpose of aiding the court to determine whether the clerk of court shall designate another place to file a petition for naturalization. The report shall show whether the sickness or disability is of a nature which so incapacitates the applicant as to prevent him from appearing personally in the office of the clerk of court.

§ 334.15 *Void petitions for naturalization.* If a petition for naturalization filed with the clerk of court is materially defective on its face, it shall nevertheless remain a part of the records of the court and the duplicate thereof disposed of, and the fee accounted for, in accordance with the provisions of Part 339 of this chapter. The Service shall inform the petitioner of the defect and the desirability of having the petition marked

"Void" in order that the fee may be refunded or credited to the filing of another petition. If the petitioner desires to have the defective petition submitted to the court for a judicial ruling in lieu of having it marked "Void", no refund of the fee shall be made. A request by the petitioner that his petition be marked "Void" shall be made on Form N–403, in duplicate, and submitted to the district director. If the request is approved by the district director the original shall be furnished the clerk of court for attachment to the petition and the clerk of court shall mark the petition "Void". The duplicate shall be retained in the field office file.

§ 334.16 *Amendment of petition or application for naturalization*—(a) *During pendency of petition or application.* An application to amend a petition or application for naturalization, while such application or petition is pending, shall be made by the petitioner or applicant on Form N–410, with copies thereof equal to the number of copies of the petition or application for naturalization, and presented to the court at the hearing on the petition or application for naturalization. When the court orders the petition or application amended, the original order shall be filed with the original petition or application and the copies attached to the respective copies of the petition or application.

(b) *After final action on petition or application.* Whenever an application is made to the court to amend a petition or application for naturalization after final action thereon has been taken by the court, a copy of the application shall be served upon the district director or officer in charge having administrative jurisdiction over the territory in which the court is located, in the manner and within the time provided by the rules of court in which application is made. A representative of the Service may appear at the hearing upon such application and be heard in favor of or in opposition thereto. When the court orders the petition amended, the clerk of court shall transmit a copy of the order to the district director or officer in charge for inclusion in the Service file.

§ 334.17 *Transfer of petition for naturalization*—(a) *Application for transfer.* A petitioner for naturalization who removes from the jurisdiction of the court in which his petition for naturalization is pending, may make application to the court on Form N–455, in quadruplicate, for transfer of the petition to a naturalization court having jurisdiction over his place of residence, or, if the petition was not required to be filed in a naturalization court having jurisdiction over his place of residence, to any other naturalization court exercising naturalization jurisdiction. The application shall be submitted, in accordance with the instructions contained therein, to the district director or officer in charge exercising administrative jurisdiction over the place where the court in which the petition is filed is located.

(b) *Action by district director or officer in charge.* If the district director or officer in charge consents to the transfer, he shall so indicate on each copy of Form N–455, which shall be filed with the clerk of court in which the petition is pending. If the district director or officer in charge does not consent to the transfer he shall so indicate on each copy of Form N–455 which shall be filed with the clerk of court, with a memorandum of the district director or officer in charge setting forth the reasons for the denial. The applicant shall be notified by the district director or officer in charge of the filing of Form N–455 with the clerk of court, and whether consent has been given by the district director or officer in charge.

(c) *Action by court in which petition is filed.* The court in which the petition is filed shall enter an order on Form N–455, in quadruplicate, approving or disapproving the application. If the application is approved, the original Form N–455 shall be filed with the naturalization record in the office of the clerk of court, the duplicate and triplicate copies, duly attested and certified, transmitted to the court to which the petition is to be transferred, and the quadruplicate copy transmitted to the district director or officer in charge. If the application is disapproved, the original Form N–455 shall be filed with the naturalization record in the office of the clerk of court and the remaining copies transmitted to the district director or officer in charge, who shall notify the applicant of the disapproval.

(d) *Action by court to which petition is transferred.* The court to which the petition is to be transferred shall enter an order on the duplicate and triplicate copies of Form N–455, approving or disapproving the transfer. The duplicate copy shall be filed with the clerk of the court to which the petition is to be transferred, and the triplicate copy, duly attested and certified, transmitted to the clerk of the court in which the petition is filed. If the application is disapproved, the clerk of court receiving the triplicate copy shall notify the district director or officer in charge, who shall notify the applicant of the disapproval.

(e) *Transfer of petition and record.* If the court to which the petition is to be transferred approves the transfer, the clerk of court in which the petition is filed shall file the triplicate copy of Form N–455 with the naturalization record and forward a certified copy of the petition, and the originals of all documents filed relating thereto, to the court to which the petition is being transferred, and notify the district director having administrative jurisdiction over the place in which the petition is filed, of the action taken. Upon receipt of the certified copy and record, the clerk of court to which the petition is transferred shall index it, number it consecutively in the order in which it is received, prefixed by the letters TR, and in a series separate from petitions originally filed in the court. The petition shall be made a part of the record of the naturalization court. No fee shall be charged by the clerk of the court to which the petition is transferred for the filing of the transferred petition or the issuance of a certificate of naturalization.

§ 334.18 *Withdrawal of petition and failure to prosecute.* (a) A petitioner who desires to withdraw his petition for naturalization after the filing thereof shall make request for withdrawal on Form N–404, in duplicate. The original shall be filed with the clerk of court and the duplicate with the office of the Service exercising administrative jurisdiction over the district in which the court is located. At the final hearing upon the petition, the officer in attendance shall inform the court whether the district director or officer in charge consents to the withdrawal of the petition. In cases in which such officer does not consent to the withdrawal, the court shall determine the petition on its merits.

(b) At the final hearing upon a petition for naturalization which the petitioner has failed to prosecute, the officer in attendance shall inform the court whether the district director or officer in charge consents to dismissal of the petition for lack of prosecution. In cases in which such officer does not move that the petition be dismissed for lack of prosecution, the court shall determine the petition on its merits.

§ 334.21 *Verification of petition for naturalization; administration of oath.* Every petition for naturalization shall, before it is filed, be verified by the petitioner, and by the affidavits of two credible witnesses, citizens of the United States, who shall appear in person either before a designated examiner or before the clerk of the court or his authorized deputy. Any such officer shall administer the required oaths to the petitioner and the witnesses. The witnesses shall sign the affidavits. The witnesses shall have and aver knowledge of the petitioner as to each place of his residence in the State where he is residing during the period of at least six months immediately prior to the filing of the petition unless the petitioner is exempted from the usual State residence requirement. If the petitioner has resided at two or more places in the State during the required six-month period and for this reason two witnesses cannot be procured to verify the petition as to all such residence, additional witnesses may be used and their affidavits shall be executed, in duplicate, on Form N–451, one copy of which shall be attached to the original petition and the other to the duplicate petition at the time of filing the petition. The witnesses shall state in their affidavits that they personally know that the petitioner is and has been a resident at such place for such period, the length of the petitioner's physical presence in the United States during such period, and that the petitioner is and has been during all such period of residence a person of good moral character, attached to the principles of the Constitution of the United States, well disposed to the good order and happiness of the United States, and in all respects qualified to become a citizen of the United States. If the petitioner is exempted from the usual State residence requirement, the witnesses shall state in their affidavits the period of time that they have personally known the petitioner to have been resident and physi-

cally present in the United States, and that such petitioner is, and, for the period required by the naturalization provisions applicable to the case, has been, a person of good moral character, attached to the principles of the Constitution of the United States, well disposed to the good order and happiness of the United States, and in all respects qualified to become a citizen of the United States.

PART 334a—DECLARATION OF INTENTION

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.

334a.11 Preliminary form for declaration of intention.
334a.12 Notification to applicant.
334a.13 Filing of declaration of intention.
334a.14 Execution and fee.
334a.15 Disposition.
334a.16 Declaration of intention; numbering, indexing, binding.

AUTHORITY: §§ 334a.11 to 334a.16 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 334, 339, 344, 66 Stat. 252, 254, 259, 264.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 334a.11 *Preliminary form for declaration of intention.* Each prospective declarant shall, before making and filing a declaration of intention, submit to the Service an application therefor on Form N–300 in accordance with the instructions contained therein. The application may be submitted at any time after the applicant has been lawfully admitted for permanent residence and has attained the age of eighteen years.

§ 334a.12 *Notification to applicant.* Following approval of the application by the Service, the applicant shall be notified when and where to appear to make and file the declaration of intention.

§ 334a.13 *Filing of declaration of intention.* A clerk of court or his authorized deputy shall not accept a declaration of intention for filing, unless and until there shall have been received from the Service the applicant's approved Form N–300 authorizing the issuance of the declaration and showing that the applicant is residing in the United States pursuant to a lawful admission for permanent residence.

§ 334a.14 *Execution and fee.* The declaration of intention shall be executed by the alien under oath on Form N–315, in triplicate, before the clerk of any court exercising naturalization jurisdiction or his authorized deputy, regardless of the place of residence of the applicant, and only in the office of said clerk. The applicant may sign the declaration and the photographs affixed thereto in any language, or by mark if unable to write. The declarant shall pay the clerk of court, at the time the declaration of intention is filed, the statutory fee of $5.

§ 334a.15 *Disposition.* The original declaration of intention shall be retained and filed of record by the clerk of court, and the triplicate delivered forthwith to the alien. The duplicate, with Form N–300, shall be forwarded to the appropriate district director or officer in charge on the first day of the month following the month in which the declaration is filed, in accordance with § 339.2 of this chapter for inclusion in the declarant's file.

§ 334a.16 *Declaration of intention; numbering, indexing, binding.* Declarations of intention shall be numbered consecutively in the order in which they are filed in a series separate from petitions. They shall be filed chronologically in separate volumes, indexed, and made a part of the records of the naturalization court. Each declaration volume shall upon completion be permanently bound by an employee of the Service in accordance with § 339.4 of this chapter.

PART 335—PRELIMINARY EXAMINATION ON PETITIONS FOR NATURALIZATION

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.

335.11 Preliminary examination pursuant to section 335 (b) of the Immigration and Nationality Act.
335.12 Recommendations of the designated examiner and the Commissioner; notice.
335.13 Notice of recommendation of designated examiner.

AUTHORITY: §§ 335.11 to 335.13 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 335, 66 Stat. 252, 255.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 335.11 *Preliminary examination pursuant to section 335 (b) of the Immigration and Nationality Act*—(a) *When held.* Preliminary examinations shall be open to the public, and shall, where practicable, be held immediately after the petition for naturalization is filed with the clerk of the court unless, in the opinion of the district director or officer in charge, the interests of good administration would be better served by holding such examinations prior to the filing of the petition in the office of the clerk of court, but in no event shall such examinations be held before the petition has been properly executed by the petitioner and his verifying witnesses.

(b) *Conduct of examination.* Preliminary examinations shall be held before an employee of the Service, designated by the district director to conduct such proceedings and to make findings and recommendations thereon to the naturalization court, who shall be known as the "designated examiner." The petitioner and his witnesses and the witnesses produced on behalf of the Government shall be present. The designated examiner shall, prior to the commencement of the examination, make known to the petitioner his official capacity and that of any other officer of the Service who may participate in the proceeding. The designated examiner shall have before him the entire record of the preliminary interrogation, including the petitioner's application to file a petition for naturalization (Form N–400) and any other evidence or data that may be revelant or material to the inquiry. All testimony taken at the examination shall be under oath or affirmation administered by the designated examiner. The designated examiner may interrogate the petitioner and witnesses produced in behalf of the petitioner or the Government, and present evidence touching upon the petitioner's admissibility to citizenship. He shall regulate the course of the examination, rule upon applications for the issuance of subpenas and issue such subpenas in proper cases, grant or deny continuances, and rule on all objections to the introduction of evidence, which rulings shall be entered on the record. Evidence held by the designated examiner to be inadmissible shall nevertheless be received into the record subject to the ruling of the court. The petitioner and the Government shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. If the petitioner is not represented by an attorney or representative, the designated examiner shall assist the petitioner in the introduction of all evidence available in his behalf. All documentary or written evidence shall be properly identified and introduced into the record as exhibits by number, unless read into the record.

(c) *Assignment of examining officer at preliminary examination.* The district director or officer in charge may in his discretion assign an employee of the Service to act as examining officer at the preliminary examination. Such employee shall examine and cross-examine witnesses produced in behalf of the Government or the petitioner and present evidence pertinent to the petitioner's admissibility to citizenship. The designated examiner may take such part in the interrogation of the petitioner and witnesses and the introduction of evidence as he may deem necessary.

(d) *Stenographic reporting of proceedings; mechanical recording equipment.* A stenographer shall be in attendance whenever, in the opinion of the designated examiner, such attendance is desirable, and in every case to which an examining officer is assigned. The stenographer shall record verbatim the entire proceedings, including the oaths administered and rulings on objections, but shall not record arguments in support of objections, or statements made off the record with the consent of the petitioner. The stenographer shall certify that the transcribed minutes constitute a complete and accurate record of the examination. Whenever, in the opinion of the designated examiner the use of mechanical recording equipment in lieu of a stenographer is deemed desirable, the proceedings may be recorded by such equipment.

(e) *Issuance of subpenas; attendance and mileage fees.* Subpenas requiring the attendance of witnesses or the production of documentary evidence, or

both, may be issued by the designated examiner, upon his own volition or upon written application of the petitioner or his attorney or representative, the examining officer, or the Service. Such written application shall specify, as nearly as may be, the relevance, materiality, and scope of the testimony or documentary evidence sought and show affirmatively that the testimony or documentary evidence cannot otherwise be produced. Subpenas shall be issued on Form I-138 and due record shall be made of their service. The subpena may be served by any person over 18 years of age, not a party to the case, designated to make such service by the district director or officer in charge. Mileage and fees for witnesses subpenaed under this section shall be paid by the party at whose instance the subpena is issued at rates allowed and under conditions prescribed by the naturalization court in which the petition is pending. Before issuing a subpena the designated examiner may require a deposit of an amount adequate to cover the fees and mileage involved. If the witness subpenaed neglects or refuses to testify or produce documentary evidence as directed by the subpena, the district director or the officer in charge shall request the United States Attorney for the proper district to report such neglect or refusal to any court exercising naturalization jurisdiction and to file a motion in such court for an order directing the witness to appear and testify and to produce the documentary evidence described in the subpena.

(f) *Briefs.* At the conclusion of the preliminary examination the petitioner or his attorney or representative, and the examining officer if one was assigned, may submit briefs in support of arguments made or issues raised at the examination.

(g) *Representation by attorney or representative; absence of representative; advice to petitioner.* The petitioner may be represented by an attorney or a representative who has, where required, been admitted to practice before the Service in accordance with Part 292 of this chapter. If at any stage of the preliminary examination it appears to the designated examiner that he may recommend denial of the petition, or granting thereof with the facts to be presented to the court, he shall advise the petitioner of his right to be represented by an attorney or representative. A continuance of the examination shall be granted upon the petitioner's motion for the purpose of obtaining an attorney of representative. The petitioner's attorney or a representative shall be permitted to be present at all times during the preliminary examination or at any subsequent examinations and the petitioner shall not in any such examination or subsequent examinations be interrogated in the absence of his attorney or representative, unless the petitioner waives such appearance. The attorney or a representative shall be permitted to offer evidence to meet any evidence presented or adduced by the Government or the designated examiner. A petitioner who is not represented by an attorney or a representative shall be entitled to all the benefits and the privileges provided for in this section.

(h) *Designation of Service employees to conduct preliminary examinations.* All employees of the Service who have been designated to conduct preliminary examinations upon petitions for naturalization to any naturalization court and to make findings and recommendations thereon to such courts under the provisions of section 333 of the Nationality Act of 1940, as amended, and whose designations are still in force on December 24, 1952, are hereby designated under the provisions of section 335 of the Immigration and Nationality Act to conduct preliminary examinations upon petitions for naturalization to any naturalization court and to make findings and recommendations thereon to such courts. Designations under this paragraph and under paragraph (b) of this section shall remain in force until revoked.

§ 335.12 *Recommendations of the designated examiner and the Commissioner; notice.* The designated examiner shall, as soon as practicable after conclusion of the preliminary examination, prepare an appropriate recommendation thereon for the court. If the designated examiner is of the opinion (a) that the petition should be denied, or (b) that the petition should be granted but the facts should be presented to the court, he shall prepare a memorandum containing a summary of the evidence adduced at the examination, findings of fact and conclusions of law, and his recommendation as to the final disposition of the petition by the court, and shall before final hearing, in those cases designated by the Commissioner, submit the memorandum to him for his views and recommendation. No evidence dehors the record or evidence that would not be admissible in judicial proceedings under recognized rules of evidence shall be considered in the preparation of the memorandum. The Commissioner shall return the designated examiner's memorandum, the record, and any memorandum prepared by the Commissioner containing his own views and recommendation for presentation to the court.

§ 335.13 *Notice of recommendation of designated examiner*—(a) *Recommendation that petition be denied.* When the designated examiner proposes to recommend denial of the petition, the petitioner or his attorney or representative shall be notified thereof, on Form N-425, and furnished a copy of the designated examiner's memorandum. The notice shall be sent by registered mail, with return receipt requested, after any review made by the Commissioner and at least thirty days prior to final hearing. The petitioner shall inform the Service in writing within thirty days from the date of the notice whether he desires a hearing before the court.

(b) *Recommendation that petition be granted.* When the designated examiner proposes to recommend granting of the petition and to present the facts and issues to the court, the petitioner or his attorney or representative shall be notified of the recommendation and furnished a copy of the designated examiners' memorandum prior to the date of the hearing, and after any review made by the Commissioner.

(c) *Disagreement between recommendations of designated examiner and Commissioner.* In those cases reviewed by the Commissioner in which his views and recommendation do not agree with those of the designated examiner, the notice required by paragraphs (a) and (b) of this section shall also advise the petitioner of the recommendation of the Commissioner and that both recommendations will be presented to the court. There shall also be enclosed with such notice a copy of the Commissioner's memorandum.

PART 335a—TRANSFER, WITHDRAWAL OR FAILURE TO PROSECUTE PETITION FOR NATURALIZATION

§ 335a.11 *Transfer of petition; procedure.* See § 334.17 of this chapter.

§ 335a.12 *Withdrawal of or failure to prosecute petition; procedure.* See § 334.18 of this chapter.

PART 335b—PROOF OF QUALIFICATIONS FOR NATURALIZATION: WITNESSES: DEPOSITIONS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
335b.1 Proof of residence and other qualifications.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
335b.11 Substitution of witnesses; procedure.
335b.12 Depositions; procedure.

AUTHORITY: §§ 335b.1 to 335b.11 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 307, 54 Stat. 1142, secs. 287, 316, 332, 335, 336, 405, 66 Stat. 233, 242, 252, 255, 257, 258.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 335b.1 *Proof of residence and other qualifications.*—(a) *Whenever State residence is required.* At the preliminary examination upon the petition for naturalization before a designated examiner, or if no preliminary examination is held, at the final hearing before the court, residence in the State in which the petitioner resides at the time of filing the petition, for at least six months immediately preceding the date of filing the petition and the other qualifications required by section 316 (a) of the Immigration and Nationality Act during such residence, shall be proved only by the oral testimony of two credible witnesses, citizens of the United States. Residence and other qualifications required by section 316 (a) of the Immigration and Nationality Act, for the period prior to such six-month period shall be proved either by depositions taken in accordance with § 335b.12 or by the oral testimony of at least two credible witnesses, citizens of the United States. If oral testimony is taken from witnesses who did not verify the petition, affidavits on Form N-451 shall be executed by such other witnesses, in duplicate, before the clerk of the court

or the designated examiner, one copy of which shall be attached to the original petition and the other to the duplicate petition.

(b) *Whenever State residence is not required.* In any case in which State residence is not required to be established, the petitioner shall, at the preliminary examination before the designated examiner, or if no preliminary examination is held, at the final hearing before the court, prove his residence within the United States and the other qualifications required by section 316 (a) of the Immigration and Nationality Act, for such period as they have known the petitioner, by the oral testimony of two credible witnesses, citizens of the United States. That portion of the time during which the petitioner is required to establish residence within the United States and the other qualifications required by section 316 (a) of the Immigration and Nationality Act, which is not covered by the oral testimony of such witnesses, shall be proved either by depositions taken in accordance with § 335b.12, or by the oral testimony of at least two credible witnesses, citizens of the United States. If oral testimony is taken from witnesses who did not verify the petition, affidavits on Form N–451 shall be executed by them and filed in the manner described in paragraph (a) of this section.

(c) *Whenever petitioner is absent from the United States.* A petitioner who has been granted the benefits of section 316 (b) of the Immigration and Nationality Act or section 307 (b) of the Nationality Act of 1940 to cover his absence from the United States for the purposes specified in that section shall not be required to establish his qualifications under section 316 (a) of the Immigration and Nationality Act for the period of his absences by the testimony of witnesses, as required by this part. The qualifications during such period may be established by any evidence satisfactory to the naturalization court.

(d) *Witnesses excused from final hearing.* If the testimony of the witnesses is heard at a preliminary examination under Part 335 of this chapter the witnesses may be excused by the designated examiner from appearance before the court at the final hearing, unless the petitioner otherwise demands or the court otherwise requires.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 335b.11 *Substitution of witnesses; procedure.* If the witnesses who verified the petition have not been excused from appearance at the final hearing and the petitioner is unable to produce such witnesses, other witnesses may be presented in their stead, upon notice given by the petitioner on Form N–450 to the district director or officer in charge, within a reasonable time in advance of the date set for final hearing. If any of the verifying witnesses appear to be incompetent and the petitioner has acted in good faith in producing such witnesses, other witnesses may be substituted upon notice on Form N–450 given in the manner described in this section. In no case shall a final hearing be held until after the substitute witnesses have been examined by the representative of the Service and an affidavit on Form N–451 has been executed in duplicate by the witnesses before such representative or the clerk of the court in the manner described in § 335b.1 (a).

§ 335b.12 *Depositions; procedure—*(a) *In the United States.* Depositions may be used to prove compliance with the requirements for naturalization during any period except the minimum period of State residence. A request to take depositions shall be made by the petitioner on Form N–460. Such depositions shall be taken only upon written interrogatories on Form N–462. Except as otherwise provided in this section they shall be made in the United States before an employee of the Service authorized to administer oaths and take depositions under Part 332d of this chapter, unless there is a likelihood of unusual delay or hardship, in which case the district director or officer in charge may authorize such depositions to be taken before a postmaster, without charge, or before a notary public or other person authorized to administer oaths for general purposes, and the authorization to take such depositions shall be filed in the naturalization court with the depositions. In cases in which the depositions are taken other than before an employee of the Service or a postmaster, the alien shall be informed of the name and title of the officer designated to take the depositions and the petitioner shall arrange with him independently of the Service to defray all costs and expenses incident thereto. When depositions are taken by the Service, the time and place shall be fixed so as to be as convenient as possible to all concerned, consistent with good administration. The petitioner or his attorney or representative may be present when the depositions are taken. Depositions taken under this section shall be sent to the officer in charge having administrative supervision over the territory in which the petition is pending and by him forwarded to the clerk of the naturalization court prior to the final hearing, for filing with the petition.

(b) *Outside the United States.* Petitioners for naturalization who, under sections of the Immigration and Nationality Act applicable to their cases, are exempt from the usual requirement of residence and physical presence in the United States, but who are required to establish good moral character, attachment to the principles of the Constitution, and favorable disposition to the good order and happiness of the United States for the period applicable to their cases, and who were absent from or were not residents of the United States during such period, may establish their qualifications during the periods of absence by depositions taken outside the United States in the manner described in paragraph (a) of this section. Such depositions shall be taken before any employee of the United States designated for that purpose by the Commissioner. The petitioner shall be informed that he will be required to defray all costs and expenses of the person taking the depositions, as may be authorized by law and that the petitioner shall arrange with the deponents for the payment of such costs and expenses independently of the Service.

PART 335c—INVESTIGATIONS OF PETITIONERS FOR NATURALIZATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
335c.1 Investigations; authority to waive.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

SUBPART A—SUBSTANTIVE PROVISIONS

§ 335c.1 *Investigations; authority to waive.* The authority to waive personal investigations of petitioners for naturalization under the provisions of section 335 (a) of the Immigration and Nationality Act may be exercised by district directors.

(Sec. 103, 66 Stat. 173. Interprets or applies secs. 316, 319, 322, 323, 328, 332, 335, 66 Stat. 242, 244, 246, 249, 252, 255)

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
336.11 Notice to Service; personal representation of Government at naturalization proceedings.
336.12 Written report in lieu of personal representation.
336.13 Preparation of lists and orders of court for presentatoin at final hearing.
336.14 Presentation of designated examiner's and Commissioner's recommendation at final hearing.
336.15 Final hearing; sickness or disability of petitioner; investigation.
336.16 Final hearing; waiver of 30 day period.
336.17 Substitution of witnesses; procedure.

AUTHORITY: §§ 336.11 to 336.17 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 335, 336, 337, 66 Stat. 252, 255, 257, 258.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 336.11 *Notice to Service; personal representation of Government at naturalization proceedings.* At least thirty days prior to the holding of any naturalization proceedings referred to in section 336 (d) of the Immigration and Nationality Act, the clerk of the naturalization court shall give written notice to the appropriate district director or officer in charge of the time, date, and place of such proceedings. Such notice may be waived by the district director or officer in charge. Final naturalization hearings or other naturalization proceedings shall, whenever practicable, be attended personally by naturalization examiners or other members of the Service, who shall present to the court the views and recommendations of the designated examiner and the Commissioner, as appropriate. In those cases in which the recommendation of the Commissioner

does not agree with that of the designated examiner, a member of the Service other than the person who conducted the preliminary examination shall, whenever practicable, represent the Service before the court. Such representative may cross-examine the petitioner and his witnesses and may call other witnesses and produce evidence concerning any matter affecting the petitioner's eligibility for naturalization. In cases in which it appears to be necessary, the representative in attendance at the proceedings, shall have a stenographic report made of the testimony given in the proceedings.

§ 336.12 *Written report in lieu of personal representation.* In any case in which a preliminary interrogation or preliminary examination has been conducted pursuant to Part 332 or Part 335 of this chapter, and it is impracticable thereafter for a representative of the Service to be present at the final naturalization hearing, written notice of that fact shall be given by the Service to the court. The petitions set down for hearing shall be listed on the appropriate form prescribed by § 336.13. The grounds for objection, if any, shall be supported by the memoranda required by §§ 335.12 and 332.14 of this chapter. If continuance of the petition is desired, the basis therefor shall be set forth. The forms and memoranda shall be transmitted to the clerk of court, who shall submit the appropriate lists and orders to the court, in accordance with the procedure described in § 336.13.

§ 336.13 *Preparation of lists and orders of court for presentation at final hearing.* (a) At or prior to the final naturalization hearing the representative attending the hearing shall submit to the court lists and orders of court, in duplicate, on Forms N-480, N-480A, N-481, N-485, N-490, or N-492, as appropriate, for petitions recommended to be granted; on Form N-483 for petitions recommended to be continued; and on Forms N-484, N-484A, N-486, N-491, or N-493, as appropriate, for petitions recommended to be denied. The Commissioner's list on Form N-492 or Form N-493, as appropriate, shall be signed by the district director. After the final hearing, and after any required amendments therein have been made, the presiding judge shall sign the orders of court.

(b) In any case in which a petitioner is not permitted to take the oath of allegiance until a fixed date following a general election, the order of court granting the petition shall be amended by striking therefrom the words "and each having taken the oath of allegiance required by the naturalization laws and regulations" and inserting immediately following the word "America" the words "as of the date of and upon the taking of the oath of allegiance required by the naturalization laws and regulations at a date subsequent to ____ 19____." Following the taking of the oath of allegiance after a general election, pursuant to such amended order, the clerk of court shall prepare a list, in duplicate, on Form N-489, certifying that such oath was taken.

(c) When the court waives the taking of the oath of allegiance in the case of a child, the order of court granting the petition shall be amended by striking therefrom the words "each having taken" and inserting immediately following the word "regulations", a comma and the words "having been waived."

(d) The originals of all court orders and lists specified herein shall be filed permanently in the court, and the duplicates forwarded by the clerk of court to the appropriate field office of the Service for retention by such office. The same disposition shall be made of any list presented to, but not approved by, the court.

§ 336.14 *Presentation of designated examiner's and Commissioner's recommendation at final hearing.* At the final hearing or prior thereto, in addition to the lists prepared under § 336.13, there shall be presented to the court and made a part of the record in the case, the memoranda of the designated examiner and the Commissioner, prepared pursuant to provisions of Part 332 or Part 335 of this chapter.

§ 336.15 *Final hearing: sickness or disability of petitioner; investigation.* Whenever it appears that a petitioner for naturalization may be unable, because of sickness or other disability, to appear in open court for final hearing upon his petition for naturalization, the district director or officer in charge shall cause an investigation to be conducted to determine the circumstances and shall report the condition of the petitioner to the clerk of court for the purpose of aiding the court to determine whether another place for the final hearing shall be designated. The report shall show whether the sickness or other disability is of a nature which so incapacitates the person as to prevent him from appearing in open court.

§ 336.16 *Final hearing; waiver of 30-day period.* A petitioner for naturalization may request the district director or officer in charge, in writing, to waive the thirty-day period following the filing of the petition referred to in section 336 (c) of the Immigration and Nationality Act. Such request may be made at any time after an application to file a petition for naturalization has been filed with the service. The district director or officer in charge shall cause a full and complete investigation to be conducted and if such investigation satisfactorily establishes that such waiver will be in the public interest and will promote the security of the United States, he may, in his discretion, grant the waiver. Notice of granting of the waiver shall be given to the clerk of court in writing.

§ 336.17 *Substitution of witnesses; procedure.* See § 335b.11 of this chapter.

PART 337—OATH OF ALLEGIANCE

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
337.1 Oath of allegiance.
337.2 Persons naturalized by judicial action; effective date.
337.3 Renunciation of title or order of nobility.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
337.11 Oath of renunciation and allegiance; sickness or disability of petitioner.

AUTHORITY: §§ 337.1 to 337.11 issued under sec. 103, 66 Stat. 173. Interpret or applies secs. 322, 323, 332, 337, 66 Stat. 246, 252, 258.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 337.1 *Oath of allegiance*—(a) *Form of oath.* Except as otherwise provided in the Immigration and Nationality Act, a petitioner or applicant for naturalization shall, before being admitted to citizenship, take in open court the following oath of allegiance:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; or that I will perform noncombatant service in the armed forces of the United States when required by the law; or that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God. In acknowledgement whereof I have hereunto affixed by signature.

(b) *Alteration of form of oath.* In those cases in which a petitioner or applicant for naturalization is exempt from taking the oath prescribed in paragraph (a) of this section in its entirety, the inapplicable clauses shall be deleted and the oath shall be taken in such altered form.

(c) *Obligations of oath.* A petitioner or applicant for naturalization shall, before being naturalized, establish that it is his intention, in good faith, to assume and discharge the obligations of the oath of allegiance, and that his attitude toward the Constitution and laws of the United States renders him capable of fulfilling the obligations of such oath.

§ 337.2 *Persons naturalized by judicial action; effective date.* Any person who was or shall hereafter be admitted to citizenship by the written order of a naturalization court, shall be deemed to be a citizen of the United States as of the date of taking the prescribed oath of allegiance. Whenever a waiver of such oath is granted by the court in the case of a child naturalized under section 322 or 323 of the Immigration and Nationality Act, the child shall become a citizen of the United States as of the date of such waiver.

§ 337.3 *Renunciation of title or order of nobility.* A petitioner for naturalization who has borne any hereditary title or has been of any of the orders of nobility in any foreign state, shall, in addition to taking the oath of allegiance prescribed by § 337.1, make under oath in open court an express renunciation of

such title or order of nobility, in the following form:

I further renounce the title of---------- (give title or ---------- which I have heretofore held; or titles)

I further renounce the order of nobility ---------- to which I (Give the order of nobility) have heretofore belonged.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 337.11 *Oath of renunciation and allegiance; sickness or disability of petitioner.* Whenever it appears that a petitioner for naturalization may be unable because of sickness or other disability to take the oath of allegiance in open court, the district director or officer in charge shall cause an investigation to be conducted to determine the circumstances, and shall report the condition of the petitioner to the naturalization court for the purpose of aiding the court to determine whether the oath may be taken at another place. The report shall show whether the sickness or other disability is of a nature which so incapacitates the person as to prevent him from appearing in open court.

PART 338—CERTIFICATE OF NATURALIZATION

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.

338.11 Execution and issuance.
338.12 Endorsement in case name is changed.
338.13 Spoiled certificates.
338.14 Delivery of certificates; surrender of alien registration receipt card.
338.15 Signing of certificate.
338.16 Correction of certificates.

AUTHORITY: §§ 338.11 to 338.16 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 322, 323, 332, 333, 336, 338, 339, 66 Stat. 246, 252, 253, 258, 259.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 338.11 *Execution and issuance.* When a petitioner for naturalization has duly taken and subscribed to the oath of allegiance and a final order admitting petitioner to citizenship has been duly signed by the court, a certificate of naturalization shall be issued by the clerk of the court on Form N–550, in duplicate. The certificates and the stub of the original thereof shall be signed by the petitioner. The certificate shall show under "former nationality" the name of the country of which the petitioner was last a citizen, as shown in the petition, even though petitioner may have been stateless at the time of admission to citizenship . The clerk or a deputy clerk shall sign the certificate in his own handwriting and enter on the stub thereof all the essential facts set forth in the certificate. Both copies of the certificate, including the stubs, shall be prepared in one operation on a typewriter with the use of carbon paper. Photographs shall be affixed to the original and duplicate certificates in the manner provided by Part 333 of this chapter. The stub of the original shall be removed and retained by the clerk of court and filed in an upright card file, or in a three by five inch card drawer by trimming the stub to that size. The original certificate shall be delivered to the petitioner. The duplicate copies of the certificates shall not be separated from their stubs and shall be forwarded to the appropriate office of the Immigration and Naturalization Service with all other duplicate papers in accordance with Part 339 of this chapter.

§ 338.12 *Endorsement in case name is changed.* Whenever the name of a petitioner has been changed by order of court as a part of a naturalization, the clerk of court shall make, date, and sign the following endorsement on the reverse side of the original and duplicate of the certificate of naturalization: "Name changed by decree of court from ----------, as a part of the naturalization," inserting in full the original name of the petitioner. A similar notation shall be made on the stubs of the original and duplicate certificate. The certificate of naturalization shall be issued and the stub of the original thereof signed by the petitioner in the name as changed.

§ 338.13 *Spoiled certification.* Whenever a certificate of naturalization is damaged, mutilated, defaced or otherwise spoiled before delivery by the clerk, the original and duplicate, with stubs intact, shall be marked "Spoiled" and transmitted to the appropriate immigration and naturalization office, in the manner described in § 339.2 of this chapter, with the monthly report of the clerk on Form N–4.

§ 338.14 *Delivery of certificates; surrender of alien registration receipt card.* No certificate of naturalization shall be delivered by the clerk of court unless and until the naturalized person has surrendered his Alien Registration Receipt Card, unless the district director or officer in charge authorizes delivery without the card. The number of the card shall be endorsed by the clerk on the stubs of the original and duplicate certificate. The clerk shall forward the receipt card to the appropriate immigration and naturalization office with the duplicate certificate in accordance with § 339.2 of this chapter.

§ 338.15 *Signing of certificate.* If a child, who has been admitted to citizenship under section 322 or section 323 of the Immigration and Nationality Act is unable to sign his name, the certificate of naturalization shall be signed by the petitioning parent or parents, whether natural or adoptive, as may be appropriate, and the signature shall read "(insert name of petitioning parent or parents) in behalf of (insert name of naturalized child)." A naturalized person whose petition was signed by him in a foreign language may sign his certificate of naturalization in the same manner.

§ 338.16 *Correction of certificates.* Whenever a certificate of naturalization has been delivered which does not conform to the facts shown on the petition for naturalization, or a clerical error was made in preparing the certificate, an application on Form N–458 may be made by the naturalized person to the district director exercising jurisdiction over the place in which the court is located to authorize the correction of the certificate. If the district director finds that a correction is justified and can be made without mutilating the certificate, he shall authorize the clerk of the issuing court on Form N–459, in duplicate, to make the necessary correction and to place a dated endorsement on the reverse of the certificate, over his signature and the seal of the court, explaining the correction. The authorization shall be filed with naturalization record, the corrected certificate returned to the naturalized person and the duplicate Form N–459 shall be endorsed to show the date and nature of the correction and endorsement made, and returned to the district director. No fee shall be charged the naturalized person for the correction. The district director shall forward such duplicate to the Central Office. When a correction would or does result in mutilation of the certificate, the district director may authorize the clerk of court on Form N–459, in duplicate, with the consent of the naturalized person, to issue without fee a new certificate from his supply, upon surrender of the incorrect certificate and submission of photographs. The surrendered certificate shall be marked "Spoiled" and transmitted to the district director with the duplicate copy of the new certificate and the duplicate Form N–459 appropriately endorsed, with the monthly report of the clerk on Form N–4. The original of the new certificate shall be delivered to the naturalized person. Objection shall be made by the Service to any application to the court for the alteration of a certificate of naturalization which would cause it to vary from the record on which the naturalization was granted.

PART 339—FUNCTIONS AND DUTIES OF CLERKS OF NATURALIZATION COURTS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

339.1 Administration of oath to declarations of intention and petitions for naturalization.
339.2 Monthly reports.
339.3 Relinquishment of naturalization jurisdiction.
339.4 Binding of naturalization records.
339.5 Numbering and indexing and filing of petitions for naturalization and declarations of intention.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§339.1 to 339.5 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 339, 344, 66 Stat. 252, 259, 265.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 339.1 *Administration of oath to declarations of intention and petitions for naturalization.* It shall be the duty of every clerk of a naturalization court to administer the required oath to each applicant for a declaration of intention. The clerk shall receive and file petitions and administer the required oaths to

each petitioner and the witnesses to each petition, unless such petitioner and witnesses have executed the petition before a designated examiner.

§ 339.2 *Monthly reports.* Clerks of court shall on the first day of each month submit to the district director, or officer in charge, having administrative jurisdiction over the place in which the court is located, a report on Form N–4, in duplicate, listing all declarations of intention and petitions for naturalization filed and all certificates of naturalization issued or spoiled during the preceding month, in accordance with the instructions contained in Form N–4. When at any time during the month the aggregate number of petitions and declarations filed reaches 100 the clerk shall on request of the district director or officer in charge forthwith forward such reports in accordance with the provisions of this section. The report shall be accompanied by all duplicate copies of declarations of intention and applications therefor on Forms N–300; by all duplicates of petitions for naturalization not theretofore delivered to a representative of the Service, and all duplicates of certificates of naturalization with stubs intact and surrendered alien registration receipt cards attached thereto. The clerk of court shall show opposite the number of each petition in which the petitioner is exempt from payment of a naturalization fee under section 344 (h) of the Immigration and Nationality Act the letter "M". Opposite the name of each such case and at the bottom of the petition, the notation "No fee" shall be inserted. Void petitions shall be listed separately on Form N–4 and on Form N–7 and so indicated on such forms.

§ 339.3 *Relinquishment of naturalization jurisdiction.* Whenever a court relinquishes naturalization jurisdiction, the clerk of court shall, within ten days following the date of relinquishment, furnish the district director or officer in charge having administrative jurisdiction over the place in which the court is located, a certified copy of the order of court relinquishing jurisdiction. A representative of the Service shall thereafter examine the naturalization records in the office of the clerk of court and shall bind and lock them. The clerk of court shall return all unused forms and blank certificates of naturalization to the district director or officer in charge with his monthly report on Form N–4.

§ 339.4 *Binding of naturalization records.* Whenever a volume of petitions for naturalization, applications to take the oath of allegiance, declarations of intention, orders of court, or other documents affecting or relating to the naturalization of persons is completed, it shall be bound and locked in the office of the clerk of court by a representative of the Service. It shall be the duty of the clerk of court to notify the district director or officer in charge as soon as a volume is ready for binding and locking and to request such officer to arrange to have the volume bound and locked.

§ 339.5 *Numbering and indexing and filing of petitions for naturalization and declarations of intention.* See §§ 334.3 and 334a.16 of this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 340—REVOCATION OF NATURALIZATION

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
340.11 Investigation and report.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 340.11 *Investigation and report.* Whenever it appears that any grant of naturalization may have been procured by concealment of a material fact or by wilful misrepresentation, the facts shall be reported to the district director having jurisdiction over the naturalized person's last known place of residence. If the district director is satisfied that a prima facie showing has been made that grounds for revocation exist, he shall cause an investigation to be made and report the facts in writing to the Commissioner with a recommendation as to whether revocation proceedings should be instituted. If it appears that naturalization was procured in violation of section 1425 of Title 18 of the United States Code, the facts in regard thereto may be presented by the district director to the appropriate United States Attorney for possible criminal prosecution.

(Sec. 103, 66 Stat. 173. Interprets or applies secs. 332, 340, 66 Stat. 252, 260)

PART 341—CERTIFICATE OF CITIZENSHIP UNDER SECTION 341 OF THE IMMIGRATION AND NATIONALITY ACT

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
341.1 Persons eligible.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

341.11 Application and fee.
341.12 Supporting documents and copies.
341.13 Notice and examination of applicant and witnesses.
341.14 Burden of proof; benefit of Service records.
341.15 Report and recommendation.
341.16 Final disposition.
341.17 Attorneys.

AUTHORITY: §§ 341.1 to 341.17 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 333, 337, 341, 344, 66 Stat. 252, 254, 258, 263, 264.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 341.1 *Persons eligible.* A person who claims to have derived United States citizenship through the naturalization of a parent or parents or through the naturalization or citizenship of a husband, or who claims to be a citizen at birth outside the United States under the provisions of any of the statutes or acts specified in section 341 of the Immigration and Nationality Act, may apply for a certificate of citizenship.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 341.11 *Application and fee.* Application for a certificate of citizenship under this part shall be submitted to the Service on Form N–600, in accordance with the instructions contained therein. The application shall be signed by the applicant, or in the case of a child under the age of eighteen years by his parent or guardian, but shall not be subscribed or sworn to or affirmed until the applicant appears before an officer of the Service for examination. The application shall be accompanied by the statutory fee of $5.

§ 341.12 *Supporting documents and copies.* The originals of such documentary evidence, or pertinent excerpts therefrom if the documents are lengthy or bulky, as the applicant may have or be able to obtain relating to the date and place of his birth, the date and place of the marriage of his parents, the date and place of marriage of the applicant if the applicant be a woman, the identity of any person involved, or any other documents tending to establish the claimed citizenship, shall be submitted with the application. The applicant shall not be required to furnish a translation of any such documents written in a foreign language. If the applicant desires any such documents returned to him after final action has been taken in his case, the application shall be accompanied also by photostatic, photographic, or typewritten copies of such documents, except that no copy may be made of any original or copy of a declaration of intention or certificate of naturalization or citizenship or any part thereof. If the applicant has made reasonable effort to obtain official copies of public or church records of such documentary evidence without success on cannot obtain such copies without undue hardship, other evidence may be submitted.

§ 341.13 *Notice and examination of applicant and witnesses.* The applicant shall be notified when and where to appear in person before an officer of the Service for examination upon the application and shall be requested to produce witnesses in support of his application. The examining officer shall orally review the application with the applicant, or in the case of a child under the age of eighteen years, with its parent or parents, or guardian, before administering the oath to the applicant. Any necessary changes in the application shall be consecutively numbered and acknowledged in writing by the applicant or the parent or guardian. The applicant and the person or persons through whom applicant claims to have derived or acquired citizenship shall then be carefully questioned under oath concerning the identity and relationship of the applicant to the person or persons through whom citizenship is claimed to ascertain whether the applicant or such person or persons ever lost such citizenship, the applicant's immigration status, if pertinent, and any other matter touching upon the applicant's eligibility for a certificate of citizenship. If the person or persons through whom the applicant

claims citizenship are deceased or otherwise not available, the testimony customarily required of such person or persons shall be furnished by qualified witnesses. If the sworn application form, supporting documentary evidence, records of the Service, the testimony of the person or persons through whom citizenship is claimed, and the testimony of the applicant, or the parent or guardian if the applicant is a child under the age of eighteen years, establish applicant's claim to citizenship, no other witnesses shall be required. Otherwise, such number of credible witnesses, preferably citizens of the United States, as may be deemed necessary, shall be questioned under oath by the examiner concerning the facts of the applicant's citizenship. The testimony heard shall not be reduced to writing in verbatim form except in cases in which neither primary nor secondary documentary evidence is available to establish an essential fact concerning applicant's citizenship, and except in cases in which it appears that criminal proceedings might be instituted as a result of false testimony.

§ 341.14 *Burden of proof; benefit of Service records.* The burden of proof to establish his citizenship and eligibility for the certificate shall at all times be upon the applicant. In presenting his proof, the applicant shall be entitled to the benefit of any pertinent records pertinent to the issue concerning him which are in the custody of the Service and which are not regarded by the Commissioner as confidential. Copies thereof, or information from such records, may be made available to the officer of the Service passing upon the application, without payment of fee by the applicant.

§ 341.15 *Report and recommendation.* Upon completion of the examination, the examining officer shall prepare a report of his findings on Form N-635 as to each of the essential facts to be established in the proceedings, together with his recommendation and any comment he deems necessary. If any issue of law or fact is raised by the evidence, or if denial of the application is recommended, the examining officer shall summarize the evidence, the issues involved, and the reasons for denial, in a separate report to accompany Form N-635. If a recommendation to grant the application is based principally on documentary evidence, that fact shall be stated; if not, a brief statement of the facts and circumstances in evidence considered sufficient to justify the action recommended shall be made. The recommendation of the examining officer and the record shall then be forwarded to the district director for decision.

§ 341.16 *Final disposition*—(a) *Issuance of certificate.* If the district director grants the application he shall issue the certificate on Form N-560, in duplicate. If the applicant has assumed, or is known by, a name other than his true name, but has not changed his name in accordance with the law of the jurisdiction where he assumed it the certificate of citizenship, shall be issued in the applicant's true name followed by the words "also known as" followed by the assumed name, but in such case the applicant shall be required to sign only his true name on the certificate and on the photographs submitted with his application. The certificate shall be signed by the applicant unless he is a child unable to sign his name, in which case the certificate shall be signed by the parent or guardian, and the signature shall read "(Insert name of parent or guardian) in behalf of (insert name of child)." The applicant shall, unless he is too young to understand the meaning thereof, take and subscribe to, before a member of the Service, the oath of renunciation and allegiance prescribed by Part 337 of this chapter. Thereafter personal delivery of the original of the certificate shall be made to the applicant, or to his parent or guardian, who shall sign a receipt therefor.

(b) *Applications denied.* If the district director denies the application, the applicant shall be notified in writing as promptly as possible of such denial with the reasons therefor and, at the same time, shall be advised that he has ten days from the date of receipt of notification in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter.

(c) *Review by Assistant Commissioner, Inspections and Examinations Division.* Upon review of a record received under this section, the Assistant Commissioner, Inspections and Examinations Division, shall enter an order granting or denying the application, which order shall be final. The Assistant Commissioner's decision shall be sent to the district office of origin with the return of the file relating to the applicant. If the application is granted by the Assistant Commissioner, the district director shall issue the certificate in the manner described in paragraph (a) of this section. The district director shall advise the applicant in writing of the Assistant Commissioner's decision.

§ 341.17 *Attorneys.* Attorneys and other persons qualified to practice before the Service who represent applicants for certificates of citizenship under section 341 of the Immigration and Nationality Act, shall be permitted, upon completion of the application and examination of the applicant and his witnesses, to submit briefs and to review the record, either before it is forwarded to the district director or thereafter and prior to final decision. When final decision is made in a case, the attorney or other person representing the applicant shall be notified.

PART 341a—CERTIFICATE OF CITIZENSHIP—HAWAIIAN ISLANDS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
341a.1 Persons eligible.
341a.2 Certificate of Citizenship—Hawaiian Islands; effect of.
341a.3 Certificate of Citizenship—Hawaiian Islands; improper use.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

341a.11 Application; fee.
341a.12 Notice; examination.
341a.13 Report and recommendation.
341a.14 Disposition of application.
341a.21 Certificate lost, mutilated or destroyed.

AUTHORITY: §§ 341a.1 to 341a.21 issued under sec. 103, 66 Stat. 173. Interpret or apply Title V, 65 Stat. 290, secs. 332, 333, 343, 66 Stat. 252, 253, 264; 8 U. S. C. 140.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 341a.1 *Persons eligible.* A citizen of the United States who is a bona fide resident of Hawaii, who intends to depart temporarily from that territory, and who desires to establish his United States citizenship for the purpose of facilitating his readmission to the United States, may apply for a "Certificate of Citizenship—Hawaiian Islands." The burden of proof to establish his eligibility for the certificate shall be upon the applicant.

§ 341a.2 *Certificate of Citizenship—Hawaiian Islands; effect of.* Certificates of Citizenship—Hawaiian Islands, issued pursuant to this part may be presented to an immigration officer at any port of entry, as evidence to prove United States citizenship. The certificate shall not be required to be surrendered to the immigration officer, but may be retained by the proper holder thereof.

§ 341a.3 *Certificate of Citizenship—Hawaiian Islands; improper use.* Whenever it is ascertained that a Certificate of Citizenship—Hawaiian Islands is in the possession of a person to whom it was not issued, the certificate shall be taken up and forwarded with a report of the circumstances to the district director at Honolulu by the district director having administrative jurisdiction over the place where the certificate was presented. No appeal shall lie from any action taken under this section.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 341a.11 *Application; fee.* Application for the issuance of a "Certificate of Citizenship—Hawaiian Islands" shall be submitted to the office of the Service at Honolulu, T. H., on Form N-108, in accordance with the instructions contained therein. The application shall not be signed or sworn to until the applicant appears before an officer of the Service for examination in accordance with the requirements of § 341a.12. The application shall be accompanied by a fee of $5.00, by three photographs of the applicant as prescribed in Part 333 of this chapter, and by documentary evidence or pertinent excerpts therefrom, as described in § 341.12 of this chapter, tending to establish the applicant's citizenship. Pertinent documents in the custody of the Service shall be made available to the applicant under the conditions described in § 341.14 of this chapter.

§ 341a.12 *Notice; examination.* The applicant shall be required to appear in person before an officer of the Service for examination upon the application. The examining officer shall orally review the application with the applicant, before administering the oath to the applicant. Any necessary changes shall be consecutively numbered and acknowledged in writing by the applicant. The

applicant shall then be questioned under oath concerning his citizenship and eligibility for the certificate. If the application, supporting documentary evidence, records of the Service and the testimony of the applicant establish the applicant's eligibility for the certificate, no witnesses shall be required. Otherwise, such number of credible witnesses, preferably citizens of the United States, as may be deemed necessary, shall be questioned under oath concerning the applicant's eligibility for the certificate. If such witnesses are, for good cause shown, unable to appear in person, their affidavits may be accepted in the discretion of the examining officer in lieu of their oral testimony. The testimony of the applicant and witnesses shall not be reduced to writing in verbatim form except when documentary evidence is not available to establish an essential fact concerning the applicant's citizenship, and except in cases in which it appears that criminal proceedings might be instituted as a result of false testimony.

§ 341a.13 *Report and recommendation.* Upon completion of the examination, the examining officer shall prepare a report of his findings on Form N–110 as to each of the essential facts to be established, together with his recommendation and any comment he deems necessary. If any issue of law or fact is raised by the evidence, or if denial of the application is recommended, the examining officer shall summarize the evidence and prepare a report thereon to accompany Form N–110. If a recommendation to grant the application is based principally on evidence other than documentary evidence, a brief statement of the facts and circumstances in evidence considered sufficient to justify such recommendation shall be made. If such recommendation is based principally on documentary evidence that fact shall be stated. The record, supporting documents, and the Form N–110 shall then be forwarded to the district director, Honolulu, T. H., for decision.

§ 341a.14 *Disposition of application—*(a) *Issuance of certificates; delivery.* If the district director is satisfied that the applicant is entitled to receive a certificate of citizenship, he shall so indicate on the Form N–110 and issue the certificate on Form N–109, in duplicate. The original certificate shall be delivered personally to the applicant, and the duplicate filed in the office of the district director at Honolulu, T. H.

(b) *Application denied.* If the district director is not satisfied that the application shall be granted, he shall so indicate on the Form N–110 and deny the application. The applicant shall be notified in writing as promptly as possible of such denial with the reasons therefor and, at the same time shall be advised that he has ten days from the date of receipt of notification in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter.

(c) *Review by Assistant Commissioner, Inspections and Examinations Division.* Upon review of a record received under this section, the Assistant Commissioner, Inspections and Examinations Division, shall enter an order granting or denying the application, which order shall be final. The Assistant Commissioner's decision and the record shall be sent to the district director at Honolulu, T. H., who shall advise the applicant of the decision. If the application is granted by the Assistant Commissioner, the certificate shall be issued by the district director in the manner described in paragraph (a) of this section.

§ 341a.21 *Certificate lost, mutilated or destroyed.* A United States citizen whose Certificate of Citizenship—Hawaiian Islands, has been lost, mutilated or destroyed may apply for a new certificate in lieu thereof. The application shall be made on Form N–565 and submitted to the district director, Honolulu, T. H., in accordance with the instructions contained therein, accompanied by a fee of $5.00. The applicant shall be interrogated, and action upon his application taken in accordance with the provisions of §§ 343a.13 and 343a.14 of this chapter.

PART 343—CERTIFICATE OF NATURALIZATION OR REPATRIATION; PERSONS WHO RESUMED CITIZENSHIP UNDER SECTION 323 OF THE NATIONALITY ACT OF 1940, AS AMENDED, OR SECTION 4 OF THE ACT OF JUNE 29, 1906

SUBPART A—SUBSTANTIVE PROVISIONS

[RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
343.11 Application.
343.12 Issuance of certificate.
343.13 Denial of application.

AUTHORITY: §§ 343.11 to 343.13 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 323, 54 Stat. 1149, secs. 332, 343, 344, 405, 66 Stat. 252, 263, 264, 280; 8 U. S. C. 723.

SUBPART A—SUBSTANTIVE PROVISIONS

[RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 343.11 *Application.* A person who lost citizenship of the United States incidental to service in one of the Allied armies during World War I or II, or by voting in a political election in a country not at war with the United States during World War II, and who was naturalized under the provisions of section 323 of the Nationality Act of 1940, as amended, or a person who, before January 13, 1941, resumed United States citizenship under the twelfth subdivision of section 4 of the act of June 29, 1906, may obtain a certificate evidencing such citizenship by making application therefor on Form N–580, and submitting it to the Service in accordance with the instructions contained therein. The application shall be accompanied by two photographs of the applicant, and the statutory fee of $5.

§ 343.12 *Issuance of certificate.* The field office shall forward the properly executed application with any supporting documents to the district director having jurisdiction over the applicant's place of residence, for decision. The applicant shall be interrogated by an officer of the Service with respect to his eligibility for the certificate, at any time prior to delivery of the certificate. The examining officer shall prepare a report as to the applicant's eligibility to receive the certificate. Every applicant for a certificate of naturalization or repatriation under this part shall be required to satisfy the district director that he has not, since the naturalization or repatriation, become expatriated. If it shall appear to the satisfaction of the district director that the applicant is a citizen, and that he has been naturalized or repatriated as claimed, a certificate of naturalization on Form N–582, in duplicate, or a certificate of repatriation on Form N–581, in duplicate, as appropriate, shall be issued by the district director and forwarded to the field office for delivery of the original to the applicant in person, in the United States only, upon his signed receipt therefor.

§ 343.13 *Denial of application.* If the district director is not satisfied that an application under this part should be granted, he shall deny the application. The applicant shall be notified in writing of such denial with the reasons therefor and, at the same time, shall be advised that he has ten days from the date of receipt of notification in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter. The Assistant Commissioner's decision shall be transmitted to the district director, who shall advise the applicant in writing of the decision and take such action as is required by the decision. If the application is granted by the Assistant Commissioner, the district director shall issue the appropriate document.

PART 343a—NATURALIZATION AND CITIZENSHIP PAPERS LOST, MUTILATED, OR DESTROYED; NEW CERTIFICATE IN CHANGED NAME: CERTIFIED COPY OF REPATRIATION PROCEEDINGS

SUBPART A—SUBSTANTIVE PROVISIONS

[RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
343a.11 Applications for replacement of or for new naturalization or citizenship paper.
343a.12 Submission of application; fees and documents.
343a.13 Interrogation of applicant.
343a.14 Action upon application.

AUTHORITY: §§ 343a.11 to 343a.14 issued under sec. 103, 66 Stat. 173. Interpret or apply sec. 317, 54 Stat. 1146, secs. 324, 332, 343, 344, 405, 66 Stat. 247, 252, 264, 265, 280.

SUBPART A—SUBSTANTIVE PROVISIONS

[RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 343a.11 *Applications for replacement of or for new naturalization or citizenship paper—*(a) *Lost, mutilated, or destroyed naturalization papers.* A person whose declaration of intention, certificate of naturalization, citizenship, or repatriation, or whose certified copy of proceedings under the act of June 25, 1936, as amended, or under section

317 (b) of the Nationality Act of 1940, or under section 324 (c) of the Immigration and Nationality Act, has been lost, mutilated, or destroyed, may apply on Form N–565 for a new paper in lieu thereof.

(b) *New certificate in changed name.* A naturalized citizen whose name has been changed after naturalization by order of court or by marriage, may apply on Form N–565 for a new certificate of naturalization, or of citizenship, in the changed name.

§ 343a.12 *Submission of application; fees and documents.* An application under § 343a.11 shall be submitted to the Service in accordance with the instructions contained therein. Applications under § 343a.11 (a) and (b) shall be accompanied by the statutory fee of $5 (unless the applicant is exempted from the payment of a fee by section 344 (b) (7) of the Immigration and Nationality Act), except that an application for a certified copy of proceedings under the act of June 25, 1936, as amended, shall be accompanied by the statutory fee of $1.50. The applications shall be accompanied by all mutilated naturalization, citizenship or repatriation papers. An application for a new certificate in a changed name shall be accompanied by documentary evidence of such change and the original certificate.

§ 343a.13 *Interrogation of applicant.* The field office shall forward the applications and all supporting documents to the district director having jurisdiction over the applicant's place of residence, for decision. The applicant shall be interrogated by an officer of the Service with respect to his eligibility to receive a new paper at any time prior to delivery of such paper. Every applicant under this part shall satisfy the district director that he has not become expatriated subsequent to the date he claims to have acquired United States citizenship.

§ 343a.14 *Action upon application—* (a) *New certificates issued.* If an application for a new certificate of naturalization, citizenship, or repatriation is approved, the new certificate shall be issued by the district director, in duplicate, and transmitted to the appropriate field office for personal delivery to the applicant, who shall sign a receipt therefor. The new certificate shall be numbered to correspond to the number of the paper which it replaces. Certificates issued to evidence naturalization which occurred prior to September 27, 1906, shall be consecutively numbered, the number in each instance being preceded by the letters "OL". New certificates issued under this part shall be on the following forms: Form N–570 to replace a certificate of naturalization or repatriation, and Form N–561 to replace a certificate of citizenship issued by the Service. When a new certificate of naturalization is issued in a changed name, the district director shall notify the clerk of the naturalization court, on Form N–240, of the action taken.

(b) *New declarations issued.* If an application for a new declaration of intention is approved, the new declaration of intention shall be issued by the district director on Form N–321 or Form N–325, in duplicate, as appropriate, the original delivered to the applicant upon his signed receipt therefor, and the duplicate retained in the declarant's Service file.

(c) *New certified copy of repatriation proceedings issued.* If an application for a new certified copy of the proceedings under the act of June 25, 1936, as amended, or under section 317 (b) of the Nationality Act of 1940, or under section 324 (c) of the Immigration and Nationality Act is approved, there shall be issued by the district director a certified, positive photocopy of the record of the proceedings filed in the Central Office, whether such record be a duplicate of the court proceedings or a copy of the proceedings conducted at an embassy, legation, or consulate. If subsequent to the naturalization or repatriation the applicant's name has been changed by marriage, and if appropriate documentary evidence of such change is submitted with the application, the certification of the positive photocopy shall show both the name in which the proceedings were had and the changed name. The new certified copy shall be transmitted to the appropriate field office for personal delivery to the applicant, who shall sign a receipt therefor.

(d) *Denial of application.* If the district director is not satisfied that an application under this part should be granted, he shall deny the application. The applicant shall be notified in writing of such denial with the reasons therefor and, at the same time, shall be advised that he has ten days from the date of receipt of notification of the decision in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter. The Assistant Commissioner's decision shall be transmitted to the district director, who shall advise the applicant in writing of the decision and take such action as is required by the decision. If the application is granted by the Assistant Commissioner, the district director shall issue the appropriate document.

PART 343b—SPECIAL CERTIFICATE OF NATURALIZATION FOR RECOGNITION BY A FOREIGN STATE

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
343b.11 Application and fee.
343b.12 Investigation; certificate; disposition.
343b.13 Denial of application.

AUTHORITY: §§ 343b.11 to 343b.13 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 343, 344, 66 Stat. 252, 264.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 343b.11 *Application and fee.* A naturalized citizen who desires to obtain recognition as a citizen of the United States by a foreign state shall submit to the Service an application on Form N–577, in accordance with the instructions contained therein and with the statutory fee of $5.

§ 343b.12 *Investigation; certificate; disposition.* The field office shall forward a properly executed application to the district director for decision. If it shall appear to the satisfaction of the district director that the application should be granted, a special certificate of naturalization on Form N–578 shall be issued by the district director in duplicate, the original of which shall be forwarded to the Secretary of State for transmission to the proper authority of the foreign state. The duplicate shall be retained in the Service file of the naturalized person. The district director shall advise the applicant, on Form N–568, of the action taken. If the applicant is within the United States, an officer of the Service shall interrogate the applicant at any time before the certificate is forwarded to the Secretary of State and shall prepare a report as to the applicant's eligibility for the certificate. If the applicant is outside the United States, the certificate shall be transmitted to the Secretary of State, who shall designate an employee of the Department of State in the foreign country in which the applicant is residing to interrogate the applicant before delivery of the certificate to the proper authority in the foreign state. Every applicant under this part shall satisfy the district director that he has not, since naturalization, lost his United States citizenship.

§ 343b.13 *Denial of application.* If the district director is not satisfied that the application should be granted, he shall deny the application. The applicant shall be notified in writing of such denial with the reasons therefor, and, at the same time, shall be advised that he has ten days from the date of receipt of notification of the decision in which he may appeal to the Assistant Commissioner, Inspections and Examinations Division, in accordance with the provisions of Part 7 of this chapter. The Assistant Commissioner's decision shall be transmitted to the district director, who shall advise the applicant in writing of the decision and take such action as is required by the decision. If the application is granted by the Assistant Commissioner, the district director shall issue the special certificate, as provided in § 343b.12.

PART 343c—CERTIFICATIONS FROM RECORDS

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

Sec.
343c.11 Application for certification of naturalization record of court or certificate of naturalization or citizenship.

SUBPART A—SUBSTANTIVE PROVISIONS [RESERVED]

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 343c.11 *Application for certification of naturalization record of court or cer-*

tificate of naturalization or citizenship. Applications for certification of a naturalization record of any court, or of any part thereof, or of any certificate of naturalization, repatriation, or citizenship, under section 343 (e) of the Immigration and Nationality Act for use in complying with any statute, Federal or State, or in any judicial proceeding, shall be made on Form N–585 in accordance with the instructions contained therein and submitted to the Service with a fee as provided in Part 2 of this chapter. If the certification is desired for use in complying with a statute, the date and citation of the statute concerned shall be stated in the application. If it is desired for use in a judicial proceeding, the application shall set forth the title and character of the proceedings and the court in which it is pending. The application shall state the name, title and address of the public official to whom, or the court to which, the certification should be sent.

(Sec. 103, 66 Stat. 173. Interprets or applies secs. 332, 333, 343, 344, 66 Stat. 252, 254, 264)

PART 344—FEES COLLECTED BY CLERKS OF COURT

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
344.1 Division of the year for accounting for naturalization fees.
344.2 Fees in United States courts; remittance.
344.3 Fees in other than United States courts; United States District Courts in Alaska; remittance.
344.4 Fees in the District Courts at the Virgin Islands and Guam; remittance.
344.5 Time for report of and accounting for fees collected.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 344.1 to 344.5 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 344, 66 Stat. 252, 264, 265.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 344.1 *Division of the year for accounting for naturalization fees.* For the purpose of accounting for and reporting naturalization fees quarterly by clerks of courts, the fiscal year shall end on June 30 of any given calendar year and shall be divided as follows: the first quarter shall end September 30; the second quarter ends December 31; the third quarter ends March 31; and the fourth quarter ends June 30.

§ 344.2 *Fees in United States courts; remittance.* All fees collected for declarations of intention and petitions for naturalization by clerks of United States district courts (except in Alaska, and the District Courts of Guam and the Virgin Islands of the United States) shall be forwarded quarterly to the district director having administrative jurisdiction over the place in which the court is located, by a remittance payable to the order of the "Treasurer of the United States."

§ 344.3 *Fees in other than United States courts; United States District Courts in Alaska; remittance.* One-half of all fees collected for declarations of intention and petitions for naturalization by clerks of courts other than United States courts, and one-half of all such fees collected by the clerks of the United States district courts in Alaska, up to $6,000 in any one fiscal year shall be similarly remitted to the district director in the manner provided in § 344.2. Where the collections during the first quarter of any fiscal year equal or exceed $1,500, the clerk shall remit all in excess of $750; and whenever such collections for the first and second quarters equal or exceed $3,000, the clerk shall remit all in excess of $1,500; and whenever the collections for the first three quarters of the fiscal year equal or exceed $4,500, the clerk shall remit all in excess of $2,250; and whenever the total collections for any fiscal year equal or exceed $6,000, the clerk shall remit all fees or moneys so collected in excess of $3,000.

§ 344.4 *Fees in the District Courts at the Virgin Islands and Guam; remittance.* All fees collected for declarations of intention and petitions for naturalization by the clerk of the District Court of the Virgin Islands of the United States shall be paid into the Treasury of Virgin Islands. All such fees collected by the clerk of the District Court of Guam shall be paid into the Treasury of Guam. However, such clerks shall report the fees collected to the district director having administrative jurisdiction over the place in which the court is located, in accordance with § 344.5.

§ 344.5 *Time for report of and accounting for fees collected.* The accounting for naturalization fees collected and the payment of fees turned over to the district director as provided in §§ 344.2, 344.3 and 344.4 shall be made on Form N–7 within thirty days from the close of each quarter of each and every fiscal year.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

PART 344a—COPIES OF AND INFORMATION FROM RECORDS

§ 344a.1 *Copies of and information from records.* See Part 2 of this chapter.

PART 402—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WHO LOST UNITED STATES CITIZENSHIP BY VOTING IN ITALY

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
402.1 Persons eligible.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

402.11 Procedural requirements.

AUTHORITY: §§ 402.1 and 402.11 issued under sec. 103, 66 Stat. 173. Interpret or apply secs. 332, 402, 66 Stat. 252, 278.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 402.1 *Persons eligible.* A former citizen of the United States of the class described in Public Law 114, 82d Congress, approved August 16, 1951, as amended by section 402 (j) of the Immigration and Nationality Act, shall, before being naturalized, establish that (a) he can truthfully take the oath required by said Public Law that he has done nothing to promote the cause of communism, (b) it is his intention, in good faith, to assume and discharge the obligations of the oath of allegiance, (c) his attitude toward the Constitution and laws of the United States renders him capable of fulfilling the obligations of the oath of allegiance, and (d) he is not, and within the period of ten years immediately preceding the filing of the application to take the oath of allegiance or after such filing and before taking such oath, has not been, within any of the classes of persons described in section 313 of the Immigration and Nationality Act.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 402.11 *Procedural requirements.* A person of the class described in § 402.1 who applies in the United States to take the oath of allegiance shall submit to the Service a preliminary application to take such oath on Form N–442, in accordance with the instructions contained therein. The oath shall be taken prior to August 16, 1953, and may be taken before any naturalization court regardless of the applicant's place of residence. The eligibility of the applicant to take the oath shall be investigated by a member of the Service, who shall make an appropriate recommendation to the naturalization court. The application to the court to take the oath of allegiance shall be on Form N–443, in triplicate, the original of which shall be retained as a part of the court record, and the duplicate and triplicate forwarded by the clerk of court to the district director or officer in charge. The district director or the officer in charge shall retain the duplicate and forward the triplicate to the Department of State. No certificate of naturalization or other evidence of citizenship shall be issued by the clerk of court to any person naturalized under this part. No fee shall be charged by the clerk of court for the filing of Form N–443. The oath of allegiance may be taken before any diplomatic or consular officer of the United States abroad, in accordance with such regulations as may be prescribed by the Secretary of State.

PART 402a—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: ALIENS ENLISTED IN THE UNITED STATES ARMED FORCES UNDER ACT OF JUNE 30, 1950, AS AMENDED BY SECTION 402 (E) OF THE IMMIGRATION AND NATIONALITY ACT

§ 402a.1 *Proof of character, attachment and disposition.* See § 329.2 of this chapter.

§ 402a.11 *Procedural requirements.* See § 329.21 of this chapter.

Subchapter D—Immigration and Naturalization Forms

PART 450—FORMS

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.
450.1 Prescribed forms.
450.2 Forms available from the Superintendent of Documents.
450.3 Reproduction of forms by private parties.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

AUTHORITY: §§ 450.1 to 450.3 issued under sec. 103, 66 Stat. 173.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 450.1 *Prescribed forms.* The following forms are hereby prescribed by the Attorney General for use in compliance with the provisions of this chapter:

Form No.	Title and description
AR-2	Alien Registration Form.
AR-2a	Supplemental Sheet, Alien Registration Form.
AR-4	Fingerprint Card.
AR-11	Alien's Change of Address Card.
Customs 7507	General Declaration.
FS 256a	Immigration Visa and Alien Registration.
FS 257a	Temporary Entry Permit.
FS 257b	Application for Nonimmigrant Visa and Alien Registration.
FS 257c	Application for Nonimmigrant Visa and Alien Registration.
FS 257d	Manifest Record of Alien Admitted for Temporary Stay.
G-24	Certification.
G-27	Application for Admission to Practice Before the Board of Immigration Appeals and the Immigration and Naturalization Service.
G-28	Notice of Entry of Appearance as Attorney or Representative.
G-234	Receipt for Fee.
G-241	Receipt for Fee (general).
G-440	Credential Card.
I-17	Petition for Approval of School.
I-24	Application by Alien Student for Permission to Accept Employment.
I-28	Application to Return an Excluded Alien to Country Whence He Came Pending Decision on Appeal.
I-29	Application of Excluded Alien To Be Returned by Transportation Line to Country Whence Alien Came Pending Decision on Appeal.
I-53	Address Report Card.
I-73	Fingerprint Record Card.
I-79	Notice of Intention To Fine Under Immigration and Nationality Act.
I-90	Application for New Alien Registration Receipt Card in a Changed Name or in Lieu of One Lost, Mutilated, Destroyed or on Form AR-3 or AR-103.
I-94-AR	Alien Registration Supplement.
I-94C	Examination Record.
I-94D	Examination Record (C. O. Record).
I-94D-D	Examination Record (C. O. Statistics).
I-94E	Examination Record (Port Record).
I-94F	Examination Record.
I-95A	Crewman's Landing Permit.
I-95B	Crewman's Landing Permit (C. O. Record).
I-95C	Crewman's Landing Permit (Port Record).
I-100	Alien Laborer's Permit and Identification Card.
I-114	Hospital Designation or Request for Medical Service.
I-122	Notice to Alien Detained for Hearing by Special Inquiry Officer.
I-123	To All Alien Visitors to the United States.
I-124	To All Students Entering the United States.
I-126	Annual Report of Status by Treaty Trader.
I-129	Petition for Classification of Quota Immigrant for Alien Whose Services Are Needed Urgently in the United States.
I-129A	Petition for Classification as Nonquota Immigrant for Minister of a Religious Denomination.
I-129B	Application for Permission to Import Nonimmigrant Aliens.
I-129C	Application for Waiver of Excludability and Ineligibility To Secure Visa Under Section 212 (a) (14) of the Immigration and Nationality Act.
I-131	Application for Permit To Reenter the United States.
I-131A	Instructions for Executing Application for Permit to Reenter the United States.
I-132	Permit to Reenter the United States.
I-132B	Information Concerning Permits to Reenter.
I-132C	Report of Admission with Reentry Permit.
I-133	Petition by United States Citizen for Issuance of Immigrant Visa.
I-133A	Petition by Permanent Resident Alien for Issuance of Immigrant Visa.
I-134	Affidavit of Support (for use in connection with immigration visa).
I-137	To All Alien Treaty Traders or Dependents of Treaty Traders Entering the United States.
I-138	Subpena.
I-141	Medical Certificate.
I-142	Medical Certificate (concerning ability of alien to travel).
I-151	Alien Registration Receipt and Border Crossing Card.
I-186	Nonresident Alien's Border Crossing Identification Card.
I-187	Resident Alien's Border Crossing Identification Card.
I-190	Application for Nonresident Alien's Border Crossing Identification Card.
I-191	Application for Advance Permission to Return to Unrelinquished Domicile.
I-192	Application for Advance Permission to Enter as Nonimmigrant.
I-200	Warrant for Arrest of Alien.
I-200A	Warrant for Arrest of Alien.
I-202	Authorization for Removal.
I-205	Warrant—Deportation of Alien.
I-212	Application for Permission to Reapply for Admission Into the United States After Deportation or Removal.
I-220	Order of Parole.
I-220A	Order of Conditional Parole.
I-220B	Order of Supervision.
I-226	Notice to Alien to Appear for Warrant Hearing.
I-234	Certification as to Alien Becoming a Public Charge.
I-243	Application for Removal.
I-247	Notice of Detainer.
I-248	Letter Transmitting Order of Deportation.
I-256	Application for Voluntary Departure.
I-256A	Application for Suspension of Deportation.
I-259	Notice to Detain, Deport or Remove Aliens.
I-259A	Request by Transportation Line to Assume Responsibility for Removal of Aliens.
I-265	Application for Warrant of Arrest.
I-287A	Particulars Concerning Alien Requiring Special Care and Attention.
I-287B	Record of Land Trip and Delivery at Final Destination.
I-287C	Record of Ocean Voyage.
I-290A	Notice of Appeal (to Board of Immigration Appeals).
I-290B	Notice of Appeal (to Assistant Commissioner).
I-290C	Notice of Certification (to Board of gration Appeals).
I-290D	Notice of Certification (to Assistant Commissioner).
I-290E	Notice to Alien of Decision and Order (Appealable to Board of Immigration Appeals).
I-290F	Notice to Alien of Decision and Order (Appealable to Assistant Commissioner).
I-291	Designation of Special Inquiry Officer.
I-300	Receipt of Officer of the Immigration and Naturalization Service for U. S. Bonds or Notes Accepted as Security.
I-302	Power of Attorney.
I-303	Receipt of Obligor on Return of Bonds or Notes.
I-304	Power of Attorney for Immigration Bond Where Cash Deposited as Security.
I-305	Receipt of Officer of Immigration and Naturalization Service for Cash Accepted as Security on Immigration Bond.
I-306	Receipt of Obligor on Return of Cash Accepted as Security on Immigration Bond.
I-310	Bond for Payment of Sums and Fines Imposed Under Immigration and Nationality Act.
I-312	Designation of Attorney in Fact.
I-313	Designation, Coupled With Interest, of Attorney in Fact.
I-315	Bond for Payment of Fines and Sums Imposed on Aircraft Under the Immigration Laws and Regulations (for term or single entry).
I-317	Blanket Bond for Departure of Aliens in Transit or Temporarily Admitted as Visitors for Business or Pleasure.
I-318	Blanket Bond for Departure of Aliens in Continuous Transit Through the United States.
I-318A	Blanket Bond for Departure of Aliens in Continuous Transit Through the United States.
I-320	Bond for Maintenance of Status and Departure of Aliens Admitted for Temporary Services, Labor, or Training.
I-323	Notice of Violation of Conditions of Bond.
I-324	Bond for the Release of an Alien Under Exclusion Proceedings.
I-325	Bond for Maintenance of Status and Departure of Attendants, Servants and Personal Employees of Officials.
I-331	Bond for Alien Admitted for Medical Treatment.
I-332	Bond for Hospital Treatment or Institutional Care of Aliens.
I-333	Notice That Alien Is To Be Charged to Blanket Bond.
I-334	Form letter stating alien is no longer charged against a bond.
I-336	Bond for Alien or Aliens in Transit.
I-337	Bond Conditioned for Departure of an Alien Temporarily Admitted as a Visitor for Business or Pleasure.
I-338	Bond That an Alien Admitted in Pursuance of a Treaty to Carry on Trade Shall Depart Upon Failure to Maintain Status.
I-353	Bond Conditioned for the Delivery of an Alien.
I-354	Bond That an Alien Shall Not Become a Public Charge.
I-374	Bond Conditioned for Departure of an Alien Temporarily Admitted Under the Immigration and Nationality Act as a Student.
I-391	Notice of Cancellation of Bond.
I-407	Land Border Departure Record.
I-415	Manifest of In-bound Passengers (arriving aliens).
I-416	List of In-bound Passengers (United States Citizens and Nationals).
I-419	Record of Alien's Arrival and Departure Under Special Direct
I-419a	Transit Procedure.
I-419b	

Form No.	Title and description
I-420	Agreement Between a Transportation Line and the United States of America (Land-Border).
I-420A	Supplemental Agreement.
I-421	Agreement (Overseas) Between a Transportation Line and the United States of America.
I-424	Report of Departure of Nonimmigrant Alien.
I-426	Agreement Between a Transportation Line and the Commissioner of Immigration and Naturalization (special direct transit procedure).
I-426A	Agreement Between a Transportation Line and the Commissioner of Immigration and Naturalization (aliens in transit through United States from and to Canada or Mexico).
I-434	Manifest of Outward Bound Passenger (Aliens).
I-435	List of Outward Bound Passengers (United States Citizens and Nationals).
I-436	Air Passenger Manifest.
I-480	List or Manifest of Persons Employed on the Vessel as Members of Crew.
I-481	Crew List for Great Lakes Vessels.
I-489	Report of Changes in Crew.
I-502	Notification by Sponsor to the Immigration and Naturalization Service Relating to Exchange Visitors.
I-505	Notice of Interview on application for adjustment of status from nonimmigrant to person lawfully admitted for permanent residence.
I-506	Application for Change of Nonimmigrant Status.
I-507	Application for Status as Permanent Resident (by nonimmigrant).
I-508	Waiver of Rights, Privileges, Exemptions, and Immunities.
I-509	Notice of Proposal to Change Status (from alien admitted for permanent residence, to nonimmigrant).
I-510	Guarantee of Payment (of Medical Expenses).
I-539	Application to Extend Time of Temporary Stay.
N-3	Requisition for Forms and Binders.
N-4	Monthly Report Naturalization Papers Forwarded.
N-5	Continuation Sheet of Monthly Report Naturalization Papers Forwarded.
N-7	Quarterly Abstract of Collections of Naturalization Fees.
N-14	Letter returning application form for correction.
N-17	U. S. A. Citizenship—Naturalization Requirements and Procedure—a brief summary.
N-18	Special Naturalization Benefits for Veterans and Women Married to U. S. Citizens.
N-30	Examination of Court Records.
N-50	Receipt for Duplicate Petitions.
N-105	Application to Create Record of Admission for Permanent Residence.
N-108	Application for Certificate of Citizenship—Hawaiian Islands.
N-109	Certificate of Citizenship (Hawaiian Islands).
N-120	Affidavit of Witness in Proceeding to Create Record of Admission for Permanent Residence.
N-240	Form letter concerning issuance of new certificate of naturalization.
N-300	Application to File Declaration of Intention.
N-305	Form letter notifying alien that Form N-300 has been forwarded to the clerk of the court.
N-315	Declaration of Intention.
N-321	Declaration of Intention (in lieu of old edition lost, mutilated or destroyed).
N-325	Declaration of Intention (in lieu of one lost, mutilated or destroyed).
N-350	Application to Renounce Danish Citizenship.
N-351	Renunciation of Danish Citizenship.
N-400	Application to File Petition for Naturalization.
N-400A	Supplement to Application to File Petition for Naturalization (under sec. 324 (a) or 327, Immigration and Nationality Act).
N-400B	Supplement to Application to File Petition for Naturalization (by a seaman, under sec. 330 of the Immigration and Nationality Act).
N-400C	Supplement to Application to File Petition for Naturalization (for use with editions prior to Dec. 24, 1952).
N-401	Preliminary Form to take Oath of Allegiance (by a woman formerly a citizen, under sec. 324 (c) of the Immigration and Nationality Act, or the Act of June 25, 1936, as amended).
N-402	Application to File Petition for Naturalization in Behalf of a Child (under sec. 322 or 323, Immigration and Nationality Act).
N-403	Request to have Petition for Naturalization marked "Void".
N-404	Request for Withdrawal of Petition for Naturalization.
N-405	Petition for Naturalization (under general provisions of the Immigration and Nationality Act).
N-405A	Affidavit in Support of Petition for Naturalization (by a former citizen, under sec. 327 of the Immigration and Nationality Act).
N-406	Petition for Naturalization (of a married person, under sec. 319 (a) or (b), Immigration and Nationality Act).
N-407	Petition for Naturalization (in behalf of a child, under sec. 322 or 323, Immigration and Nationality Act).
N-408	Application to take Oath of Allegiance and Form of Such Oath (by a woman formerly a citizen, under sec. 324 (c), Immigration and Nationality Act, or the Act of June 25, 1936, as amended).
N-410	Motion for Amendment of Petition (application).
N-414	Acknowledgment of Filing Petition for Naturalization.
N-418	Petition for Naturalization (active duty in the armed forces, under sec. 329 of the Immigration and Nationality Act).
N-421	Affidavit in Support of Petition for Naturalization (by a seaman, under sec. 330, Immigration and Nationality Act).
N-422	Form letter requesting information from Selective Service file.
N-424	Notice to Clerk of Court of Waiver of 90 Days' Notice.
N-425	Notice to Petitioner of Proposed Recommendation of Denial of Petition for Naturalization.
N-426	Certification of Military or Naval Service.
N-429	Notice to Petitioner of Proposed Recommendation of Denial of Petition.
N-433	Withdrawal of Objection to Final Hearing.
N-434	Notice of Objection to Final Hearing.
N-435	Notice of Final Hearing by Clerk of Court (alien enemies).
N-435-1	Continuation Sheet—Form N-435.
N-436	Application for Exception From Classification of Alien Enemy.
N-438	Exception From Classification of Alien Enemy.
N-440	Certificate of Examination.
N-442	Preliminary Form to Take Oath of Allegiance (by former citizen, under Public Law 114, 82d Congress, as amended).
N-443	Application to Take the Oath of Allegiance and Form of Such Oath (by former citizen, under Public Law 114, 82d Congress, as amended).
N-450	Notice of Intention to Substitute Witnesses.
N-451	Affidavits of Witnesses (to Petition for Naturalization).
N-452	Statement of Witness.
N-455	Application for Transfer of Petition for Naturalization.
N-458	Application to Correct Certificate of Naturalization.
N-459	Authorization to Clerk of Court to Correct Certificate of Naturalization.
N-460	Notice to Take Depositions.
N-462	Interrogatories in Depositions of Witnesses.
N-463	Letter Requesting Postmaster to Take Deposition in a Naturalization Proceeding.
N-470	Application to Preserve Residence for Naturalization Purposes (under section 316 (b) or 317, Immigration and Nationality Act).
N-475	Designation of Member of the Immigration and Naturalization Service under section 335 (b) of the Immigration and Nationality Act.
N-476	Examiner's Docket List.
N-480	Naturalization Petitions Recommended To Be Granted.
N-480A	Order of Court (granting petitions).
N-481	Naturalization Petitions Recommended To Be Granted (continuation sheet).
N-483	Naturalization Petitions Recommended To Be Continued (and Order of Court).
N-484	Naturalization Petitions Recommended To Be Denied.
N-484A	Order of Court (denying petitions).
N-485	Naturalization Petitions Recommended To Be Granted (on behalf of children).
N-486	Naturalization Petitions Recommended To Be Denied (on behalf of children).
N-489	Certification by Clerk of Court of the Taking of Oath of Allegiance.
N-490	Order of Court Granting Petitions for Naturalization.
N-491	Order of Court Denying Petitions for Naturalization.
N-492	Commissioner's Recommendation That Petitions Be Granted (and Order of Court).
N-493	Commissioner's Recommendation That Petitions Be Denied (and Order of Court).
N-510	Notice to State Department Notifying Surrender of Canadian Certificate.
N-550	Certificate of Naturalization.
N-560	Certificate of Citizenship.
N-561	Certificate of Citizenship.
N-565	Application for a New Naturalization or Citizenship Paper.
N-567	Request for Search of Military or Naval Files for Naturalization Certificate.
N-568	Notice of Approval to Alien for Special Certificate of Naturalization.
N-570	Certificate of Naturalization.
N-570 OL	Certificate of Naturalization.
N-576	Supplemental Affidavit To Be Submitted With Applications of Japanese Renunciants.
N-577	Application for a Special Certificate of Naturalization To Obtain Recognition as a Citizen of the United States by a Foreign State.

Form No.	Title and description
N-578	Special Certificate of Naturalization.
N-580	Application for a Certificate of Naturalization or Repatriation (under sec. 343 (a) of the Immigration and Nationality Act or 12th subdivision, sec. 4, of Act of June 29, 1906).
N-581	Certificate of Repatriation.
N-582	Certificate of Naturalization.
N-585	Application for Information From or Copies of Immigration and Naturalization Records.
N-600	Application for Certificate of Citizenship.
N-640	Oath of Allegiance.

§ 450.2 *Forms available from the Superintendent of Documents.* (a) The following forms required for compliance with the provisions of this chapter may be obtained, upon prepayment, from the Superintendent of Documents, Government Printing Office, Washington, D. C.: I-94, I-95, I-129, I-129A, I-129B, I-131, I-131A, I-132C, I-133, I-133A, I-134, I-415, I-416, I-419, I-424, I-434, I-435, I-466, I-480, I-489 and I-539.

(b) A small supply of the forms described in paragraph (a) of this section shall be set aside by immigration officers for free distribution and official use.

§ 450.3 *Reproduction of forms by private parties.* (a) The following forms required for compliance with the provisions of this chapter may be printed or otherwise reproduced by an appropriate duplicating process by private parties at their own expense: I-94, I-95, I-132C, I-415, I-416, I-419, I-424, I-434, I-435, I-466, I-480 and I-489.

(b) Forms printed or reproduced by private parties shall conform to the officially printed forms currently in use with respect to size, wording, arrangement, style and size of type, and paper specifications. Such forms and all entries required to be made thereon shall be printed, duplicated, dittoed, or otherwise duplicated in the English language with ink or dye that will not fade or "feather" within 20 years.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS [RESERVED]

Subchapter E—Miscellaneous Provisions

PART 475—ADMISSION OF AGRICULTURAL WORKERS UNDER SPECIAL LEGISLATION

SUBPART A—SUBSTANTIVE PROVISIONS

Sec.

475.1 Definitions.
475.2 Period for which admitted.
475.3 Conditions of admission.
475.4 Compliance by employer.
475.5 Extension of stay; conditions.
475.6 Readmission after temporary visits to Mexico.
475.7 Previous removal, deportation; permission to reapply.
475.8 Arrest and deportation of agricultural workers.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

475.21 Recruitment centers; preliminary inspection.
475.22 Immigration inspection at reception centers; authority to admit; hearings before special inquiry officer.
475.23 Recontracting in the United States.
475.24 Duplicate identification cards.
475.51 Extension of period of admission.

AUTHORITY: §§ 475.1 to 475.51 issued under sec. 103, 66 Stat. 173. Interpret or apply Title V, 65 Stat. 119, secs. 101, 212, 235, 241, 242, 264, 405, 66 Stat. 168, 184, 186, 199, 206, 209, 224, 281; 7 U. S. C. 1461-1468.

SUBPART A—SUBSTANTIVE PROVISIONS

§ 475.1 *Definitions.* As used in this part:

(a) The term "agricultural worker" means a native-born citizen of Mexico who is and has been a bona-fide resident of Mexico for at least one year immediately preceding the date of application for admission and who seeks to enter the United States temporarily under the provisions of Title V of the Agricultural Act of 1949, as amended (63 Stat. 1051, Pub. Law 78, 82nd Cong.), for the sole purpose of engaging in agricultural employment as defined herein, and who is legally admitted to the United States for temporary employment in agriculture in accordance with the terms of the Migrant Labor Agreement of 1951, as amended, entered into between the Governments of the United States and Mexico.

(b) The term "agricultural employment" means:

(1) Cultivation and tillage of the soil, planting, production, cultivation, growing, and harvesting of any agricultural or horticultural commodities and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage, or to market, or to a carrier for transportation to market; or

(2) The maintenance of a farm and its tools and equipment, or salvaging of timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm; or

(3) The maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit and used exclusively for supplying or storing water for farming purposes, and cotton ginning; or

(4) Handling, drying, packing, packaging, processing, freezing, grading or storing, in its unmanufactured state any agricultural or horticultural commodity for the operator of a farm; but only if such operator produced more than one-half of the commodity with respect to which the service is performed; or

(5) All of the activities described in subparagraph (4) of this paragraph for a group of operators of farms but only if such operators produced the commodities with respect to which such activities are performed: *Provided,* That the provisions of this subparagraph and subparagraph (4) of this paragraph shall not be applicable with respect to services performed in connection with commercial canning or commercial freezing, or in connection with any agricultural or horticultural commodities, after their delivery to a terminal market for distribution or consumption.

(c) The term "employer" means:

(1) The operator of agricultural property who is engaged in agricultural employment, as defined in this section;

(2) An association or other group of employees but only if those of its members for whom Mexican workers are being obtained are bound, in the event of its default, to carry out the obligations undertaken by it pursuant to the provisions of the Migrant Labor Agreement of 1951, as amended, unless the Secretary of Labor of the United States determines that such individual liability is not necessary to assure performance of such obligations; or

(3) A processor, shipper or marketer of agricultural products when the Mexican workers whom he obtains are employed by him in agriculture or crops purchased by him.

§ 475.2 *Period for which admitted.* An agricultural worker may be admitted to the United States as a nonimmigrant pursuant to section 101 (a) (15) (H) of the Immigration and Nationality Act: *Provided:*

(a) That the initial period of admission shall not extend beyond December 31, 1953, nor shall any extension be granted which would permit such worker to remain in the United States beyond December 31, 1953;

(b) That no maintenance-of-status or departure bond shall be required; and

(c) That the period of temporary admission shall be subject to immediate revocation, without notice, by the district director of the district having jurisdiction over the place of the alien's employment upon—

(1) Failure of the agricultural worker to maintain his status as such by accepting any employment or engaging in any activities not specifically authorized at the time of his recruitment and temporary admission;

(2) Withdrawal of the employer's certification because of violation of Title V of the Agricultural Act of 1949, as amended, or the Migrant Labor Agreement of 1951, as amended, or individual work contract made thereunder, as specified in § 475.4 (b); or

(3) Determination and notification by the Secretary of Labor that sufficient domestic workers who are able, willing, and qualified are available at the time and place needed to perform the work for which such workers are employed, or that the employment of such workers is adversely affecting the wages and working conditions of domestic agricultural workers similarly employed, or that reasonable efforts have not been made to attract domestic workers for such employment at wages and standard hours of work comparable to those offered to foreign workers; or

(4) Termination of the Migrant Labor Agreement of 1951, as amended, prior to December 31, 1953.

§ 475.3 *Conditions of admission.* Any alien who applies for admission into the United States under the provisions of Title V of the Agricultural Act of 1949, as amended, and the provisions of this part, must:

(a) Establish that he is an agricultural worker as defined in § 475.1 (a);

(b) Establish that he is in all respects admissible under the provisions of the immigration laws;

(c) Have been regularly recruited by the Secretary of Labor as an agricultural worker; and

(d) Establish to the satisfaction of the examining immigration officer that, if admitted, he will comply with all of the conditions of such admission.

§ 475.4 *Compliance by employer.* (a) No agricultural workers shall be made available to, nor shall any such workers made available be permitted to remain in the employ of, any employer who has in his employ any Mexican alien when such employer knows or has reasonable grounds to believe or suspect or by reasonable inquiry could have ascertained that such Mexican alien is not lawfully within the United States. Whenever it shall appear that a Mexican alien not lawfully in the United States is so employed, an investigation shall be made and a report submitted to the district director having jurisdiction over the place of the alien's employment.

(b) Upon notification from the Secretary of Labor that an employer fails or refuses to comply with the provision of Title V of the Agricultural Act of 1949, as amended, or the Migrant Labor Agreement of 1951, as amended, or individual work contract made thereunder, the temporary admission of all agricultural workers employed by such employer may be revoked in the same manner as provided in § 475.2 (c).

(c) If a Mexican agricultural worker leaves his employment without proper authorization, the employer shall report such departure immediately or within five days thereof to the district director having jurisdiction over the reception center at which the worker was recruited. Such notification shall contain (1) the individual worker's name, as shown in the employer's copy of the contract; (2) the worker's Form I–100a number; (3) the location of the reception center at which the worker was originally contracted, and (4) the date the worker left the employer.

§ 475.5 *Extension of stay; conditions.* After an alien has been admitted to the United States as an agricultural worker under the provisions of this part or of prior regulations pertaining to Title V of the Agricultural Act of 1949, as amended, he may be granted an extension or extensions of the period of his temporary admission by the district director or the officer in charge having jurisdiction over the place of the alien's employment, subject to the same limitations as are placed on original admission by § 475.2.

§ 475.6 *Readmission after temporary visits to Mexico.* (a) An agricultural worker who has been admitted to the United States under the provisions of this part or of prior regulations pertaining to Title V of the Agricultural Act of 1949, as amended, may be readmitted after temporary visits to Mexico on presentation of Form I–100a, Alien Laborer's Permit and Identification Card, if he is still maintaining the status of an agricultural worker in the United States.

(b) An agricultural worker who is granted a furlough shall be furnished by the employer with a letter stating the time for which the furlough is granted and that all contractual obligations will be reassumed upon the alien's return to his employment after the furlough. The letter shall be appropriately endorsed to show approval of the furlough by a representative of the United States Employment Service and the appropriate Mexican Consul if the furlough:

(1) Is for more than 15 days, or

(2) Is to take place during the last 15 days of a six-week contract, or

(3) Is to take place during the last 30 days of a contract of more than six weeks.

§ 475.7 *Previous removal, deportation; permission to reapply.* An alien who established that he is in all respects entitled to admission as an agricultural worker under the provisions of this part, except that he has been previously removed at Government expense pursuant to section 242 (b) of the Immigration and Nationality Act, or excluded or arrested and deported, on not more than one occasion solely because of illegal entry or absence of required documents, is hereby granted permission to reapply for admission to the United States as an agricultural worker.

§ 475.8 *Arrest and deportation of agricultural workers.* (a) An alien admitted to the United States as an agricultural worker shall be deemed to have failed to maintain his nonimmigrant status within the meaning of section 241 (a) (9) of the Immigration and Nationality Act if:

(1) He remains in the United States after the expiration of the time for which he was temporarily admitted or after the expiration of any authorized extension of such period; or

(2) He violates or fails to fulfill any of the other conditions of his admission to or extended stay in the United States; or

(3) He evidences orally or in writing or by conduct an intention to violate or to fail to fulfill any of the conditions of his temporary admission to or extended stay in the United States; or

(4) He remains in the United States after the period of his temporary admission or extended stay is revoked pursuant to § 475.2 (c).

(b) Any alien to whom paragraph (a) of this section is applicable shall be subject to being taken into custody and made the subject of further proceedings under the applicable provisions of the Immigration and Nationality Act and the regulations in this chapter.

SUBPART B—PROCEDURAL AND OTHER NONSUBSTANTIVE PROVISIONS

§ 475.21 *Recruitment centers; preliminary inspection.* To the extent possible under the circumstances, all immigration inspections and medical examinations of the agricultural workers at recruitment centers in Mexico shall be similar to those regularly conducted at ports of entry on the border. If the immigration officer at the recruitment center in Mexico determines that the alien is admissible as an agricultural worker he shall so note and initial the conditional permit which is issued to the alien by the Secretary of Labor when the alien is recruited. Such endorsement shall not be construed as a guarantee that the alien will be admitted to the United States nor shall the alien be entitled to accept employment in the United States unless and until he has been issued Form I–100a as prescribed in § 475.22. Aliens who have been issued conditional permits, which have been noted by immigration officers, will be conveyed directly from the recruitment center to a reception center at or near a port of entry under the supervision of representatives of the Secretary of Labor for completion of immigration inspection and registration pursuant to Chapter 7 of Title II of the Immigration and Nationality Act. The conveyance of an agricultural worker to a reception center shall not constitute an admission to the United States. Such alien shall be considered to have been admitted to the United States only after he has been inspected and issued Form I–100 as prescribed in § 475.22. If the immigration officer at the recruitment center in Mexico determines that the alien is inadmissible as an agricultural worker, he shall refuse to note the alien's conditional permit and such decision by the immigration officer shall not be subject to appeal to a special inquiry officer.

§ 475.22 *Immigration inspection at reception centers; authority to admit; hearings before special inquiry officer.* (a) Any alien who presents the conditional permit described in § 475.21, duly noted by an immigration officer at a recruitment center, who is found to be admissible under this part as an agricultural worker may be so admitted by the examining immigration officer, at which time he shall—

(1) Be fingerprinted as follows:

(i) By placing the rolled impression of the right index finger on the reverse side of the original Form I–100a, Alien Laborer's Permit and Identification Card, which shall be prepared in duplicate in each such case;

(ii) By placing complete fingerprints of both hands on one copy of Form AR–4; and

(iii) By executing the obverse of Form AR–4 and placing thereon the serial number of the Form I–100a and a stamped notation reading "Admitted as agricultural worker"; the executed form shall be mailed direct to the Federal Bureau of Investigation, Washington 25, D. C.

(2) Be given the Form I–100a bearing his photograph and stating his name, place of birth and citizenship, duly noted by an immigration officer to show the date, place, and period of his admission into the United States and signed by said immigration officer across the bottom of the photograph, partly on the photograph and partly on the card. Such noted card shall constitute an alien registration receipt card pursuant to section 264 (d) of the Immigration and Nationality Act and shall be the sole documentation required for admission to the United States under the provisions of this part. The Form I–100 shall be forwarded to and retained by the district director of the district having jurisdiction over the port of the alien's entry.

(3) The foregoing shall be deemed to be in compliance with the provisions of Chapter 7 of Title II of the Immigration and Nationality Act relating to the registration of aliens.

(b) Any alien seeking admission under this part in whose case the examining

immigration officer at the reception center is not satisfied that such alien is admissible, shall be held for hearing before a special inquiry officer, and the procedure applicable to aliens seeking admission to the United States under the general provision of the immigration laws shall be followed: *Provided, however,* That the case of an alien believed to be inadmissible to the United States under the provisions of paragraphs (27), (28) or (29) of section 212 (a) of the Immigration and Nationality Act shall be handled in accordance with the provisions of section 235 (c) of the said act and § 235.15 of this chapter.

§ 475.23 *Recontracting in the United States.* During the period for which he is admitted, or any authorized extension thereof, an agricultural worker may, with the approval of the district director having jurisdiction over the place of the alien's employment, be recontracted by the same or another employer. When an agricultural worker is so recontracted, his Form I–100a shall be appropriately noted and the officer in charge having administrative jurisdiction over the port of the alien's entry notified.

§ 475.24 *Duplicate identification cards.* Duplicate Form I–100a may be issued in the discretion of the district director or the officer in charge having jurisdiction over the place of alien's employment where the original has been lost, mutilated, or destroyed. The officer in charge having administrative jurisdiction over the port of the alien's entry shall be notified of the issuance of such a duplicate Form I–100a.

§ 475.51 *Extension of period of admission.* Extension of the temporary admission of an alien admitted to the United States as an agricultural worker under Title V of the Agricultural Act of 1949, as amended, and regulations pursuant thereto or under this part may be granted by the district director or the officer in charge having jurisdiction over the place of the alien's employment only upon determination and certification by the Secretary of Labor that:

(a) Sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed;

(b) The employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed; and

(c) Reasonable efforts have been made to attract domestic workers for such employment at wages and standard hours of work comparable to those offered to foreign workers.

[F. R. Doc. 52–13437; Filed, Dec. 18, 1952; 8:45 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

Sections 6.112 (e) (4), 6.123 (h) (13), and 6.156 (b) which are due to expire December 31, 1952 are revoked, effective as of that date. The expiration dates of §§ 6.104 (a) (3), 6.107 (b) (1), 6.142 (c) (7), 6.144 (d), and 6.159 (b) are extended as set out below:

§ 6.104 *Department of Defense*—(a) *Office of the Secretary of Defense.* * * *

(3) Five Special Advisers to the Secretary of Defense and until December 31, 1953, twelve additional positions of Special Advisers to the Secretary of Defense.

* * * * *

§ 6.107 *Department of the Air Force.* * * *

(b) *Office of the Inspector General.* (1) Until December 31, 1953, in order to provide civilian personnel complementary to military personnel, 5 Special Agent positions in the Office of Special Investigations, Office of the Inspector General, Headquarters, and 90 Special Agent positions in District offices of the Office of Special Investigations, United States Air Force, in grades GS–11 or higher.

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§ 6.142 *Housing and Home Finance Agency.* * * *

(c) *Federal Housing Administration.* * * *

(7) NC/PD Until June 30, 1953, eighty Field Directors (State, District and Territorial).

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§ 6.144 *Selective Service System.* * * *

(d) NC/PD Until January 1, 1954, the following positions in the National Advisory Committee on the Selection of Physicians, Dentists and Allied Specialists: One Executive Secretary; professional advisors in the fields of medicine, dentistry, veterinary medicine, and related fields.

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§ 6.159 *Defense Production Administration.* * * *

(b) Until June 30, 1953, not to exceed 5 positions of Labor Advisors, GS–12 through GS–15.

* * * * *

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR, 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR, 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] ROBERT RAMSPECK,
Chairman.

[F. R. Doc. 52–13375; Filed, Dec. 18, 1952; 8:50 a. m.]

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

MISCELLANEOUS AMENDMENTS

Effective upon publication in the FEDERAL REGISTER, paragraph (a) of § 22.9, paragraphs (c) and (e) (1) of § 22.11 are amended to read as set out below:

§ 22.9 *Hearings*—(a) *Right to appear personally or by representative.* Appellants shall have the right to a hearing and to appear personally or through or accompanied by a designated representative in connection with their appeals to the Office of the Chief Law Officer or the regional office as the case may be. Employing agencies shall also have the right to participate in such hearings. Both parties shall have the right to produce witnesses and to cross-examine witnesses in hearings. If an appellant has expressed a desire for a hearing, arrangements will be made at any stage of the proceedings agreed upon between the appellant and the Office of the Chief Law Officer or regional office concerned. This will be the only opportunity for a hearing and presentation of evidence and witnesses in connection with the appeal, except as provided in § 22.11 (c).

* * * * *

§ 22.11 *Further appeals to the Commissioners.* * * *

(c) *Board of Appeals and Review Procedures.* The Board of Appeals and Review will review the entire record of such further appeals. In its discretion, the Board may afford the parties an opportunity to appear personally and present oral arguments and representations on the procedural aspects of the case and merits of the appeal, but no evidence will be considered by the Board which could have been submitted at the time of the original appeal to the Office of the Chief Law Officer or regional office. If alleged new evidence is offered which was not available at the time of original appeal, the Board will consider whether the evidence is actually new and of such material consequence that the case should be remanded to the office of original jurisdiction. If the case is remanded the appeal will begin anew in the office of original jurisdiction. In exceptional cases the Board may in its discretion receive and consider new evidence without remanding the case and may afford the parties an opportunity to produce witnesses and cross-examine witnesses.

* * * * *

(e) *Reopened appeals.* (1) The Commissioners may in their discretion, when in their judgment such action appears warranted by the circumstances, reopen an appeal at the request of the appellant, or his designated representative, or the employing agency concerned and may grant both parties an opportunity for a personal appearance. In connection with such reopened appeals, both parties will be afforded an opportunity to submit briefs or written representations.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] ROBERT RAMSPECK,
Chairman.

[F. R. Doc. 52–13376; Filed, Dec. 18, 1952; 8:50 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53159]

PART 13—SUGARS, SIRUPS, AND MOLASSES; PETROLEUM PRODUCTS; WOOL AND HAIR

CLEAN CONTENT OF IMPORTED WOOL AND HAIR

The United States Court of Customs and Patent Appeals in its decision in United States v. Fred Whitaker Co., Inc. (1952) C. A. D. 492, 40 C. C. P. A. —, affirming Fred Whitaker Co., Inc. v. United States (1951) C. D. 1365, has ruled that the expression "clean content" contained in paragraph 1102 (b), Tariff Act of 1930 (19 U. S. C. 1001, par. 1102 (b)), was intended by Congress to mean the "commercial yield" of imported wool, that is, as the court stated, "* * * the wool from which all the weight of grease and foreign material has been removed, including the wool fibers which are unavoidably and irrevocably lost" as a result of commercially applied cleaning processes.

In order to reflect the decision announced by the Court of Customs and Patent Appeals in this case, the definition of "clean content" of imported wool and hair contained in § 13.11 (a) (1), Customs Regulations of 1943 (19 CFR 13.11 (a) (1)), is amended to prescribe that wool or hair fibers ordinarily lost during commercial cleaning operations shall not fall within the meaning of that expression. Section 13.14, Customs Regulations of 1943 (19 CFR 13.14), is amended to prescribe a method, based on the best available information, for ascertaining in connection with the examination of imported wool and hair the allowance to be made for the estimated ordinary loss of such fibers. This method is designed to produce uniform and reasonably accurate allowances which are applicable to each type and condition of imported wool and hair. Section 13.14 is also amended to prescribe procedures and conditions according to which importers may elect to submit proof of actual irrecoverable losses of wool or hair fibers resulting from commercial cleaning operations.

1. Section 13.11 *Definitions*, paragraph (a) (1), Customs Regulations of 1943 (19 CFR 13.11 (a) (1)), as amended, is hereby further amended by adding at the end thereof the following new sentence: "'Clean content', as herein defined, shall not include the quantity of any wool or hair fibers ordinarily lost during commercial cleaning operations."

2. Section 13.14, Customs Regulations of 1943 (19 CFR 13.14), as amended, is hereby further amended by deleting the asterisk at the end of paragraph (e) and by adding the following new paragraphs (f) and (g):

§ 13.14 *Weighing, sampling, and laboratory testing for clean content.* * * *

(f) Except as provided in paragraph (g) of this section, in the determination of the clean content of any general sample taken in accordance with this section, an allowance in weight shall be made for wool or hair fibers which it is estimated will be lost ordinarily during commercial cleaning operations. For each general sample the scoured yield of the imported wool or hair and the quantity of vegetable matter present in the general sample shall be ascertained. The weight of the vegetable matter shall be subtracted from the weight of the scoured yield, and the difference shall be considered the weight of the clean fibers present in the imported wool or hair. The allowance for the quantity of wool or hair fibers estimated to be lost ordinarily during commercial cleaning operations shall be computed by making a base allowance of five one-thousandths (0.005) of the ascertained weight of the clean fibers present in the imported wool or hair and an additional allowance of six-tenths (0.6) of a pound for each pound of ascertained vegetable matter: *Provided*, That the combined allowance for such estimated commercial cleaning loss of fibers shall not exceed 15 per centum of the ascertained weight of the clean wool or hair fibers.

(g) Notwithstanding any other provision of this section, an allowance equal to the actual irrecoverable loss in weight of wool or hair fibers resulting from commercial cleaning processes to which a particular sampling unit of wool or hair is subjected shall be made if the importer at the time of entry, or withdrawal from warehouse, for consumption notifies the collector of his intention to furnish evidence establishing such actual irrecoverable loss and produces such evidence within three years from the date of entry or withdrawal. In such cases (1) absolute segregation of such wool or hair shall be maintained until the importer has been notified by the collector that he has accepted evidence showing such actual irrecoverable loss; (2) such evidence shall not be based on samples or estimates, but shall include manufacturer's records showing in detail the actual irrecoverable losses, if any, in wool or hair fibers resulting from commercial cleaning processes to which the whole of the segregated wool or hair has been subjected; (3) such wool or hair and records relating thereto, which are pertinent in this connection, shall be kept available for such inspection as the collector may from time to time deem appropriate; (4) liquidation of the entry covering such wool or hair shall be suspended pending acceptance by the collector of evidence of actual irrecoverable loss, unless such evidence is not furnished within 3 years from the date of entry or withdrawal; and (5) if such evidence is not furnished within that time, it shall be presumed that no such loss has occurred and in those cases, no allowance for any loss of wool or hair fibers after importation shall be made in the determination of the clean content of the sampling unit, notwithstanding any other provision of this part: *Provided*, That as to wool or hair which has not been entered for warehouse an importer may abandon his intention to furnish evidence of actual irrecoverable losses by filing written notice of such abandonment with the collector within 60 days after entry. If such notice of abandonment is filed, the provisions of paragraph (f) of this section shall apply as if no notification under this paragraph had been filed.

(R. S. 251, sec. 1 (pars. 1101–1104), 46 Stat. 646, 647, as amended, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1001 (pars. 1101–1104), 1624)

Notice of the proposed issuance of the foregoing instructions was published in the FEDERAL REGISTER on September 9, 1952 (17 F. R. 8124), pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1002). The basis of the instructions is section 1 (pars. 1101–1104) of the Tariff Act of 1930, as amended (19 U. S. C. 1001 (pars. 1101–1104)), as construed by the courts and their purpose is to amend the definition of "clean content" of imported wool and hair and to provide for the ascertainment of such "clean content" in connection with the assessment and collection of customs duties.

These instructions shall be effective on the date of publication in the FEDERAL REGISTER, the delayed effective date provisions of section 4 (c) of the Administrative Procedure Act being dispensed with because the instructions relate primarily to actions to be taken by customs officers and, although affecting rights of interested persons, do not require any action to be taken by such persons.

[SEAL] FRANK DOW,
Commissioner of Customs.

Approved: December 16, 1952.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 52-13391; Filed, Dec. 18, 1952; 8:51 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

Subchapter A—The Department

[Departmental Reg. 108.166]

PART 40—DIPLOMATIC VISAS UNDER THE IMMIGRATION AND NATIONALITY ACT

DECEMBER 15, 1952.

Part 40, Chapter I, Title 22 of the Code of Federal Regulations, is amended to read as follows:

Sec.
40.1 Definitions.
40.2 Officers authorized to issue diplomatic visas.
40.3 Types and validity of diplomatic visas.
40.4 Classes of aliens eligible to apply for diplomatic visas.
40.5 Classes of aliens ineligible to receive diplomatic visas.
40.6 Advisory opinions from the Department.
40.7 Application for diplomatic visa.
40.8 Passport requirement.
40.9 Evidence of diplomatic status.
40.10 Procedure in issuing diplomatic visas.
40.11 Diplomatic visas issued without charge.
40.12 Significance of diplomatic visa.
40.13 Revocation or cancellation of diplomatic visa.

AUTHORITY: §§ 40.1 to 40.13 issued under sec. 104, 66 Stat. 174; 8 U. S. C. 1104.

§ 40.1 *Definitions.* The following definitions, in addition to the pertinent definitions contained in the Immigration

and Nationality Act, shall be applicable to this part:

(a) "Act" means the Immigration and Nationality Act.

(b) "Department" means the Department of State of the United States of America.

(c) "Diplomatic visa" means a nonimmigrant visa bearing the title "Diplomatic Visa" and issued to a nonimmigrant in accordance with the regulations contained in Part 41 of this subchapter and in this part.

(Sec. 101, 66 Stat. 167; 8 U. S. C. 1101).

(d) "Diplomatic passport" means a national passport bearing the title "Diplomatic Passport" and issued by a competent authority of the foreign government to which the bearer owes allegiance.

(e) "Equivalent of a diplomatic passport", as referred to in section 221 (b) of the act, means a national passport issued by a competent authority of the foreign government to which the bearer owes allegiance, and indicating the diplomatic status of the bearer, but not described as a diplomatic passport, the issuing government being one which does not issue diplomatic passports to its diplomatic officers.

§ 40.2 *Officers authorized to issue diplomatic visas.* (a) A diplomatic or consular officer attached to a diplomatic mission of the United States may issue diplomatic visas if he is authorized to do so by the chief of the mission.

(b) A consular officer, except a consular agent, stationed at a consular office of the United States may issue a diplomatic visa if he is authorized to do so by the Department or by the chief of the diplomatic mission of the United States to the foreign country in which the consular office is located.

(c) The Director of the Visa Office of the Department, and such members of his staff as he may designate, are authorized, in their discretion, to issue diplomatic visas to qualified aliens in the United States, who are within one of the classes described in § 40.4, who, if within a nonimmigrant category defined in section 101 (a) (15) (A) or (G) of the act, have been duly notified to the Secretary of State, and who, after a temporary absence, desire to reenter the United States in the nonimmigrant status specified in the visa.

§ 40.3 *Types and validity of diplomatic visas*—(a) *Regular diplomatic visa.* A regular diplomatic visa shall be valid for the period indicated therein, as provided in § 40.10 (c), not exceeding 12 months from the date of issuance and may be used during the period of validity in making any number of applications for admission into the United States: *Provided*, That the alien's passport continues to be valid for such period, and the status of the bearer as a person entitled to a diplomatic visa is maintained.

(b) *Limited diplomatic visa.* A limited diplomatic visa shall be valid for the limited period specified therein, not to exceed 12 months, and may be used during the period of validity in making a single application for admission into the United States: *Provided*, That the alien's passport continues to be valid for such period, and the status of the bearer as a person entitled to a diplomatic visa is maintained.

§ 40.4 *Classes of aliens eligible to apply for diplomatic visas*—(a) *Regular diplomatic visas.* Aliens of the following classes seeking to enter the United States as nonimmigrants may apply for regular diplomatic visas:

(1) Heads of states and their alternates;

(2) Members of a reigning royal family;

(3) Governors - general, governors, high commissioners, and other similar high administrative or executive officers of a territorial unit, and their alternates;

(4) Cabinet ministers and their assistants holding executive or administrative positions not inferior to that of the head of a departmental division, and their alternates;

(5) Presiding officers of chambers of national legislative bodies;

(6) Justices of the highest national judicial tribunal of a foreign country;

(7) Officers of the diplomatic service and consular officers of career of a foreign government;

(8) Diplomatic couriers regularly and professionally employed as such by a foreign government;

(9) Military, naval, air and other attachés of career, and assistant attachés of career, assigned to a foreign diplomatic mission in the United States or elsewhere;

(10) Military officers holding a rank not inferior to that of a brigadier general in the United States Army or Air Force and naval officers holding a rank not inferior to that of a rear admiral in the United States Navy;

(11) Members of a diplomatic mission of a temporary character;

(12) Officers and representative-members of international bodies of an official nature, other than international organizations so designated by Executive order;

(13) Representatives of foreign governments, and the staff members of foreign-government delegations, to international organizations so designated by Executive order;

(14) Attendants, servants, and personal employees, as defined in § 41.30 of this subchapter, of a principal alien who is within one of the classes described in subparagraphs (1) to (13), inclusive, of this paragraph;

(15) Members of the immediate family of a principal alien who is within one of the classes described in subparagraphs (1) to (13), inclusive, of this paragraph;

(16) Members of the immediate family accompanying or following to join the principal alien who is within one of the classes described in subparagraph (14) of this paragraph; and

(17) Any other alien in whose individual case the Department may specifically authorize the diplomatic or consular officer to accept an application for a regular diplomatic visa.

(b) *Limited diplomatic visas.* Aliens of the following classes seeking to enter the United States as nonimmigrants, if not classifiable within one of the categories specified in paragraph (a) of this section, may apply for limited diplomatic visas:

(1) Subordinate members, including employees, of international bodies of an official nature, other than international organizations so designated by Executive order, who are traveling on official business of such international body;

(2) Subordinate staff members, including employees, of foreign-government delegations to international organizations so designated by Executive order;

(3 Members of delegations proceeding to or from a specific international conference of an official nature;

(4) Members of the immediate family, attendants, servants, and personal employees, accompanying or following to join the principal alien who is within one of the classes described in subparagraphs (1) to (3), inclusive of this paragraph;

(5) Any other alien in whose individual case the Department may specifically authorize the diplomatic or consular officer to accept an application for a limited diplomatic visa.

§ 40.5 *Classes of aliens ineligible to receive diplomatic visas.* Ineligibility to receive a diplomatic visa shall not preclude an alien from applying for a nondiplomatic visa appropriate to his case as an immigrant or as a nonimmigrant. The following classes of aliens shall be considered ineligible to receive diplomatic visas:

(a) Aliens declared by the Department to be individually persona non grata;

(b) Aliens not in possession of a diplomatic passport, or its equivalent if the government to which they owe allegiance does not issue diplomatic passports to any of its nationals;

(c) Aliens not within one of the classes described in § 40.4;

(d) Aliens not within one of the classes of nonimmigrants defined in section 101 (a) (15) or section 212 (d) (3) of the act;

(e) Aliens who are ineligible to receive nonimmigrant visas under the immigration laws and regulations, unless the Attorney General shall have authorized their temporary admission under the authority contained in section 212 (d) (3) of the act, if applicable.

§ 40.6 *Advisory opinions from the Department.* Subject to appropriate instructions from the Department, a diplomatic or consular officer may issue a diplomatic visa, or may refuse to issue a diplomatic visa in the case of an alien eligible for a nondiplomatic nonimmigrant visa, without reference to the Department for an advisory opinion. In the case of an applicant for a diplomatic visa who is found to be ineligible to receive a nonimmigrant visa of any kind, the diplomatic or consular officer shall be governed by the regulations contained in Part 41 of this subchapter, and by any special instructions received from the Department, regarding the requirement of advisory opinions.

§ 40.7 *Application for diplomatic visa.* (a) Application for a diplomatic visa shall be made at an American mission,

or at a consular office authorized to issue diplomatic visas, regardless of the nationality or place of residence of the applicant.

(b) Application for a diplomatic visa shall be made in person, unless the personal appearance of the applicant for the purpose of executing such application is not required in the discretion of the diplomatic or consular officer concerned, in which event the information required to complete the application Form 257 shall be obtained and inserted by the diplomatic or consular officer. No oath or affirmation shall be required in connection with the execution of an application for a diplomatic visa.

(c) Application for a diplomatic visa shall be made on Form 257 by or for each person 14 years of age or over, regardless of the number of persons to be included in such visa. Each alien 10 years of age or over, to be included in a diplomatic visa, shall furnish 3 identical and signed photographs of himself, unless the alien is exempted in the discretion of the diplomatic or consular officer, from compliance with the photograph requirements on the ground that such requirements would result in unusual and exceptional hardship or inconvenience, in which event a signed notation shall be made by the diplomatic or consular officer in the space provided for a photograph in the application form. Forms 257a, 257b, and 257d, when completed, shall be appended to the alien's passport and presented by the alien with his passport to the immigration officer at a port of entry when applying for admission into the United States. Form 257c shall be retained in the files of the issuing office.

§ 40.8 *Passport requirement.* (a) Every alien applying for a diplomatic visa shall be required to present a valid diplomatic passport, or the equivalent thereof, issued by a competent authority of a foreign government recognized de jure by the United States.

(b) The issuance of a diplomatic visa to an alien within Class A–3 or G–5 as described in § 41.5 of this subchapter shall be subject to the condition that the initial period for which the alien may properly be admitted into the United States under the act is to be determined by the Immigration and Naturalization Service after the alien arrives at a port of entry, and the period of stay authorized by that Service may not extend beyond a date which is 6 months prior to the expiration of the alien's passport. An alien whose passport is not valid for the necessary period shall be required to obtain and present such a passport before the diplomatic visa is issued.

§ 40.9 *Evidence of diplomatic status.* A diplomatic or consular officer to whom an alien applies for a diplomatic visa may require any reasonable evidence he deems necessary to establish such alien's eligibility to receive a diplomatic visa. In the case of an alien classifiable within the provisions of section 101 (a) (15) (A) or (G) of the act, the officer to whom application is made shall have discretionary authority to require confirmation of the status of such alien from the foreign office or the international organization concerned.

§ 40.10 *Procedure in issuing diplomatic visas.* (a) The form of a diplomatic visa shall be the same as the nondiplomatic nonimmigrant visa, except that it may bear the title "Diplomatic Visa" or the word "Diplomatic" shall be stamped diagonally across the lower left hand margin of the visa stamp, in such manner as to be partially covered by the impression seal of the office. The word "Gratis" shall be inserted in the space provided for a fee stamp. The printed title of the signing officer in the visa stamp shall be appropriately amended to show the exact title of the officer who signs the visa.

(b) The diplomatic visa stamp shall be impressed upon the alien's passport. The "V" number of the application of each alien included in the diplomatic visa shall be inserted in the blank space provided therefor in the visa stamp. The visa shall be considered as covering all aliens whose application numbers are so listed and who are included in the passport. In the case of an alien who is a member of the immediate family, or an attendant, servant, or personal employee, of a foreign-government official or employee, or who otherwise derives status from a principal alien who is not accompanying him, the name and position of the principal alien from whom such status is derived, shall be written below the lower margin of the visa stamp in the diplomatic passport.

(c) A diplomatic visa shall show the classification of the bearer to be a nonimmigrant under section 101 (a) (15) of the act. The applicable classification symbol, as specified in § 41.5 of this subchapter, shall be inserted in the space provided in the visa stamp. The date of issuance and the date of expiration of the visa shall be inserted in the visa stamp, showing the date, month, and year in that order, the name of the month being spelled out, as "24 December, 1952".

(d) In issuing a diplomatic visa to an alien who (1) contemplates a stay in the United States of more than 29 days and (2) will be subject after such stay to registration and fingerprinting in the United States under the provisions of sections 262 and 263 of the act, and the regulations of the Attorney General issued pursuant thereto, the procedure prescribed in § 41.19 of this subchapter may be followed if the alien so desires.

(e) In issuing a diplomatic visa, the diplomatic or consular officer shall affix his signature, indicate his title, and impress the seal of his office in the spaces provided in the visa stamp. The delivery to the alien or his authorized agent of the visaed passport, with Forms 257a, 257b, and 257d attached, shall complete the issuance of the visa.

§ 40.11 *Diplomatic visas issued without charge.* In accordance with international comity and practice, and upon a basis of reciprocity, no fee shall be charged for the application for a diplomatic visa or for the issuance of such a visa.

§ 40.12 *Significance of diplomatic visa.* An alien to whom a diplomatic visa has been issued shall be entitled to apply at a port of entry for admission into the United States as a nonimmigrant, and the presentation of such a visa by such alien at a port of entry in the United States shall, in the case of an alien properly classified under the provisions of section 101 (a) (15) (A) or (G) of the act, or in the case of an alien who is an accredited official of a foreign government in immediate and continuous transit through the United States, as referred to in section 212 (d) (8) of the act, and who is classified under the provisions of section 101 (a) (15) (C) of the act, be considered conclusive evidence of the proper classification of the bearer.

§ 40.13 *Revocation or cancellation of diplomatic visa*—(a) *Revocation.* Diplomatic and consular officers are authorized to revoke ab initio a diplomatic visa in any case in which it is found that:

(1) The visa was procured by fraud or misrepresentation, or by other illegal means; or

(2) The alien was ineligible ab initio to receive the diplomatic visa under the immigration laws and regulations in effect at the time it was issued.

(b) *Notice of revocation.* Notice of the revocation of a diplomatic visa shall, if practicable, be given to the alien at his last known address prior to his departure for the United States, and to the master, commanding officer, agent, owner, charterer, or consignee, of the carrier or transportation line on which the alien is known or believed to intend to travel to the United States. Such notice shall also be communicated to the Department for transmission to the Attorney General, and to the diplomatic or consular office which issued the visa if the revocation was effected by any other diplomatic or consular office upon instruction from the issuing office or the Department. Upon receiving notice of revocation of his diplomatic visa, the alien shall be required to present his passport at the office indicated in the notice for appropriate notation on the visa stamped therein. The word "Revoked" shall be written plainly on the face of the visa stamp by the revoking officer who shall sign and date such notation, but the revocation shall be effective and shall invalidate the visa from the date of issuance even in the absence of such notation. If it is not practicable to give the alien notice of revocation prior to his departure for the United States, a full report of the facts in the case shall be submitted promptly to the Department.

(c) *Cancellation.* Diplomatic and consular officers are authorized to cancel in futuro a diplomatic visa in any case in which it is found that the alien to whom the visa was issued is no longer eligible for such visa. An alien shall be considered as no longer eligible for a diplomatic visa if he ceases, by reason of circumstances arising after the visa was issued, to have the qualifications necessary to obtain such a visa, or if another visa of any kind is issued to him. In

any such case the alien shall be required to present his passport to the diplomatic or consular officer for cancellation of the diplomatic visa stamped therein. Such cancellation shall be effected by writing the word "Canceled" plainly on the face of the visa stamp. The cancelling officer shall sign and date his notation of cancellation. A report regarding each cancellation of a diplomatic visa shall be forwarded promptly to the Department by the cancelling officer.

(d) *Record of revocation or cancellation.* Upon the revocation or cancellation of a diplomatic visa, appropriate notation of the action taken, including a statement of the reason therefor, shall be made on Form 257c or on an appended memorandum, or a report of the action taken shall be forwarded to the issuing office for its files. An alien whose diplomatic visa has been revoked or cancelled shall be required to surrender Forms 257a, 257b, and 257d, as requested by the diplomatic or consular officer, if such forms have not been surrendered to the Immigration and Naturalization Service.

The regulations contained in this order shall become effective at 12:01 a. m. on December 24, 1952. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign-affairs functions of the United States.

[SEAL] DAVID BRUCE,
Acting Secretary of State.

[F. R. Doc. 52-13323; Filed, Dec. 18, 1952; 8:45 a. m.]

[Departmental Reg. 108.167]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

DECEMBER 15, 1952.

CROSS REFERENCE: For regulations of the Immigration and Naturalization Service, see revision of Chapter I of Title 8 of the Code of Federal Regulations, *supra*.

Part 43 and Part 44, Chapter I, Title 22 of the Code of Federal Regulations, are hereby revoked. Part 41, Chapter I, Title 22 of the Code of Federal Regulations, is prescribed as follows:

Sec.

41.1 Definitions.

DOCUMENTATION OF NATIONALS, CLAIMANT NATIONALS, AND FORMER NATIONALS

41.2 National of the United States.
41.3 Claimant to United States nationality.
41.4 Former national of the United States.

CLASSIFICATION OF NONIMMIGRANTS FOR PURPOSES OF DOCUMENTATION

41.5 Classification symbols.

DOCUMENTATION NOT REQUIRED FOR CERTAIN NONIMMIGRANTS

41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.
41.7 Nonimmigrants required to present passports, but not visas or border-crossing identification cards.

NONIMMIGRANT VISA APPLICATIONS

41.9 Application for nonimmigrant visa.
41.10 Documents required in connection with application for nonimmigrant visa; medical examination; police certificates.

ISSUANCE OF NONIMMIGRANT VISAS

41.11 Authority to issue nonimmigrant visas in the Department.
41.12 Procedure in issuing nonimmigrant visa.
41.13 More than one person included in nonimmigrant visa.
41.14 Fees for nonimmigrant visas.
41.15 Validity of nonimmigrant visa.
41.16 Revalidation of nonimmigrant visa.

REFUSAL AND REVOCATION

41.17 Refusal of nonimmigrant documentation.
41.18 Revocation and invalidation of nonimmigrant visa and other nonimmigrant documentation.

REGISTRATION AND FINGERPRINTING

41.19 Registration and fingerprinting of nonimmigrants.

BORDER-CROSSING IDENTIFICATION CARDS

41.20 Nonresident aliens' border-crossing identification cards.

OFFICIAL VISAS

41.30 Officials of foreign governments.
41.31 Official or representative of foreign government not recognized by the United States.
41.32 Procedure in issuing visa to foreign-government official or employee.
41.33 Evidence of official status.
41.34 Significance of nonimmigrant visa in official cases.

TEMPORARY VISITORS

41.40 Temporary visitors.
41.41 Exchange visitors.
41.42 Burden of proof and evidence of temporary visitor status.

TRANSIT ALIENS

41.50 Transit aliens.
41.51 Burden of proof and evidence of transit status.
41.52 Certain aliens in transit to United Nations.

CREWMEN

41.60 Crewmen.
41.61 Burden of proof and evidence of crewman status.
41.62 Foreign-government official crewmen.
41.63 Procedure in issuing visas to crewmen.
41.64 Crew-list visas.
41.65 Requirement of crew-list visas.
41.66 Crew-list visas not required.
41.67 Refusal of crew-list visa.
41.68 Crew-list form.
41.69 Procedure in issuing crew-list visas.

TREATY ALIENS

41.70 Treaty traders.
41.71 Burden of proof and evidence of treaty-trader status.
41.75 Treaty investors.
41.76 Burden of proof and evidence of treaty-investor status.
41.77 Advisory opinions in treaty-investor cases.

STUDENTS

41.80 Students.
41.81 Burden of proof and evidence of student status.

INTERNATIONAL ORGANIZATION ALIENS

41.90 Aliens coming to international organizations.
41.91 Evidence of status as representative to, or officer or employee of, international organization.
41.92 Procedure in issuing visa to representative to, or officer or employee of, international organization.

TEMPORARY WORKERS

41.100 Temporary workers and trainees.
41.101 Alien servant or personal employee of member of the Foreign Service of the United States, or of other citizen or resident of the United States.

NEWS REPORTERS

41.110 Representatives of foreign press, radio, film, or other information media.
41.111 Burden of proof and evidence of status as representative of foreign information media.

TEMPORARY ADMISSION OF EXCLUDABLE ALIENS

41.150 Procedure in recommending temporary admission of excludable aliens.

AUTHORITY: §§ 41.1 to 41.150 issued under section 104, 66 Stat. 174; 8 U. S. C. 1104. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 41.1 *Definitions.* The following definitions, in addition to the pertinent definitions contained in the Immigration and Nationality Act, shall be applicable to this part:

(a) "Act" means the Immigration and Nationality Act.

(b) "Affirmation" means a verification in confirmation of truth, in lieu of a sworn statement, by a person who has conscientious scruples against taking an oath.

(c) "Consular officer", as defined in section 101 (a) (9) of the act, shall include the District Administrators of the Trust Territory of the Pacific Islands hereby designated as consular officers for the purpose of issuing nonimmigrant visas.

(d) "Department" means the Department of State of the United States of America.

(e) "Passport" as defined in section 101 (a) (30) of the act shall not be considered as limited to a national passport, but shall be considered as including any other document issued by a competent authority, which shows the bearer's origin, identity, and nationality if any, and which is valid for the entry of the bearer into a foreign country. The term "passport" shall not be considered as limited to a single document but may consist of two or more documents which, when considered together, fulfill the requirements of a passport as defined in section 101 (a) (30) of the act: *Provided*, That written permission to enter a foreign country shall be considered as fulfilling one of such requirements if it is clearly valid for such purpose and specifies no conditions to such validity for the alien's entry into a foreign country.

(f) "Port of entry" means a port or place designated by the Attorney General or the Commissioner of Immigration and Naturalization at which an alien

may apply for admission into the United States.

DOCUMENTATION OF NATIONALS, CLAIMANT NATIONALS AND FORMER NATIONALS

§ 41.2 *National of the United States.* A national of the United States shall not be issued a visa or other documentation as an alien for entry into the United States.

§ 41.3 *Claimant to United States nationality.* A claimant to United States nationality under the provisions of section 360 (b) of the act (66 Stat. 273) may be issued a certificate of identity as provided in that section. (See Part 50 of this title.)

§ 41.4 *Former national of the United States.* A former national of the United States who seeks to enter the United States shall be required to comply with the documentary requirements applicable to aliens under the act.

CLASSIFICATION OF NONIMMIGRANTS FOR PURPOSES OF DOCUMENTATION

§ 41.5 *Classification symbols.* A visa issued to an alien within one of the nonimmigrant classes defined in section 101 (a) (15), or referred to in section 212 (d) (8), of the act shall bear a symbol to be inserted by the consular officer in the space provided in the visa stamp and in the nonimmigrant visa application Forms 257b and 257c to show the classification of the nonimmigrant under the provisions of section 101 (a) (15) of the act. The following symbols shall be used:

Class	Section of the act	Symbol to be inserted in visa
Ambassador, public minister, career diplomatic or consular officer, and members of immediate family.	101 (a) (15) (A) (i)	A-1
Other foreign-government official or employee, and members of immediate family.	101 (a) (15) (A) (ii)	A-2
Attendant, servant, or personal employee of A-1 and A-2 classes, and members of immediate family.	101 (a) (15) (A) (iii)	A-3
Temporary visitor for business	101 (a) (15) (B)	B-1
Temporary visitor for pleasure	101 (a) (15) (B)	B-2
Alien in transit	101 (a) (15) (C)	C-1
Alien in transit to United Nations headquarters district under § 11 (3), (4), or (5) of the headquarters agreement.	101 (a) (15) (C)	C-2
Foreign-government official, members of immediate family, attendant, servant, or personal employee, in transit.	212 (d) (8)	C-3
Crewman (seaman or airman)	101 (a) (15) (D)	D
Treaty merchant, spouse and children	101 (a) (15) (E) (i)	E-1
Treaty investor, spouse and children	101 (a) (15) (E) (ii)	E-2
Exchange visitor	101 (a) (15) and 402 (f)	EX
Student	101 (a) (15) (F)	F
Principal resident representative of recognized foreign member government to international organization, his staff, and members of immediate family.	101 (a) (15) (G) (i)	G-1
Other representative of recognized foreign member government to international organization, and members of immediate family.	101 (a) (15) (G) (ii)	G-2
Representative of nonrecognized or nonmember foreign government to international organization, and members of immediate family.	101 (a) (15) (G) (iii)	G-3
International organization officer or employee, and members of immediate family.	101 (a) (15) (G) (iv)	G-4
Attendant, servant, or personal employee of G-1, G-2, G-3, and G-4 classes, and members of immediate family.	101 (a) (15) (G) (v)	G-5
Temporary worker of distinguished merit and ability	101 (a) (15) (H) (i)	H-1
Other temporary worker, skilled or unskilled	101 (a) (15) (H) (ii)	H-2
Industrial trainee	101 (a) (15) (H) (iii)	H-3
Representative of foreign information media, spouse and children	101 (a) (15) (I)	I

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

DOCUMENTATION NOT REQUIRED FOR CERTAIN NONIMMIGRANTS

§ 41.6 *Nonimmigrants not required to present passports, visas, or border-crossing identification cards.* The provisions of section 212 (a) (26) of the act relating to the requirement of passports, visas, and border-crossing identification cards for nonimmigrants, either do not apply as provided by law, or have been waived by the Secretary of State and the Attorney General acting jointly in pursuance of the authority contained in section 212 (d) (4) of the act, in the cases of aliens who are otherwise qualified for admission as nonimmigrants under the applicable provisions of the immigration laws and who fall within any of the following categories:

(a) A Canadian citizen who has a residence in Canada and

(1) Is making application for admission to the United States from Canada; or

(2) Is making application for admission to the United States after a visit solely to some place in foreign contiguous territory or adjacent islands.

(b) A British subject who has a residence in Canada and is making application for admission to the United States from Canada, or from, and after a visit solely to, some place in foreign contiguous territory or adjacent islands.

(c) A Mexican national who

(1) Is a military or civilian official or employee of the Mexican national government, or of a Mexican state or municipal government, and the members of his family, making an application for admission to the continental United States from Mexico on personal or official business or for pleasure; or

(2) Is passing in immediate and continuous transit through the continental United States from one place in Mexico to another by means of a transportation line which crosses the border between the United States and Mexico; or

(3) Is a member of a fire-fighting group entering the United States in connection with fire-fighting activities.

(d) International Boundary and Water Commission officers, employees, and other personnel, entering the United States in the performance of their official duties, and Mexican nationals employed directly or indirectly on the construction, operation, or maintenance of works in the United States undertaken in accordance with the treaty concluded on February 3, 1944, between the United States and Mexico, and entering the United States temporarily in connection with such employment.

(59 Stat. 1252)

(e) A French national who has a residence in French territory in the West Indies, who is in possession of a round-trip transportation ticket, and who is making application for admission into Puerto Rico or the Virgin Islands of the United States for business or pleasure.

(f) A Netherlands subject who has a residence in Netherlands territory in the West Indies and who is making an application for admission to Puerto Rico or the Virgin Islands of the United States for not more than twenty-four (24) hours.

(g) An alien who is being transported by railroad in immediate and continuous transit through the United States directly from one part of Canada to another, or directly from one part of Mexico to another, without stopover, in accordance with the terms of a contract, including a bonding agreement, entered into by the transportation line and the Attorney General under the provisions of section 238 (d) of the act: *Provided*, That at all times such alien is in transit through the United States he shall be in the custody of an officer of the United States or such other custody as may be approved by the Attorney General.

(h) An alien whose case is not within the provisions of paragraph (g) of this section, who is being transported in immediate and continuous transit through the United States without stopover from one foreign place to another in accordance with the terms of a contract, including a bonding agreement, entered into by a transportation line and the Attorney General, under the provisions of section 238 (d) of the act, to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided*, That such alien is in possession of a travel document which is valid for his entry into a foreign country for a period of not less than 60 days after the date of immediate and continuous transit through the United States: *And provided further*, That at all times such alien is not aboard an aircraft which is in flight through the United States he shall be in the custody of an officer of the United States.

(i) An alien member of the armed forces of the United States who (a) is in the uniform of, or who bears documents identifying him as a member of, such armed forces; (b) has not been lawfully admitted for permanent residence; and (c) is making application for admission to the United States under official orders or permit of such armed forces.

(Sec. 284, 66 Stat. 232; 8 U. S. C. 1354)

(j) An American Indian born in Canada, having at least fifty per centum of blood of the American Indian race, and passing the border of the United States.

(Sec. 289, 66 Stat. 234; 8 U. S. C. 1359)

§ 41.7 *Nonimmigrants required to present passports but not visas or border-crossing identification cards.* The provisions of section 212 (a) (26) of the act relating to the requirement of visas and border-crossing identification cards for nonimmigrants have been waived by the Secretary of State and the Attorney General, acting jointly, for aliens who are otherwise qualified for admission as nonimmigrants under the applicable provisions of the immigration laws and who fall within any of the following categories:

(a) A Canadian citizen having a residence in Canada who is returning thereto from any country or place, other than foreign contiguous territory or adjacent islands, and is making an application for admission to the United States.

(b) A British subject having a residence in British territory in the West Indies, who is making an application for admission to Puerto Rico, or the Virgin Islands of the United States.

(c) A Netherlands subject who has a residence in Netherlands territory in the West Indies and who is making an application for admission to Puerto Rico or the Virgin Islands of the United States for more than twenty-four (24) hours.

(d) Nationals of foreign contiguous territory or adjacent islands who are entering the United States as seasonal or temporary workers under specific legislation enacted by Congress and in accordance with international arrangements concluded upon the basis of such legislation.

(Sec. 212, 66 Stat. 187; 8 U. S. C. 1182)

NONIMMIGRANT VISA APPLICATIONS

§ 41.9 *Application for nonimmigrant visas*—(a) *Form of application.* Every alien applying at a diplomatic mission or consular office for a nonimmigrant visa shall make application on Form 257, which shall consist of an original and 3 copies, designated 257a, 257b, 257c, and 257d. The requirement that an alien shall state in such application his race and ethnic classification does not pertain to his religion.

(b) *Aliens required to make separate application.* Except as provided in § 41.11 relating to the issuance of visas to certain nonimmigrants in the United States, or as provided in § 41.65 relating to crew-list visas, every alien shall make a separate application for a nonimmigrant visa. In the case of an alien under 14 years of age, or one physically incapable of making an application, such application may be made by the alien's parent or guardian, and, if the alien has no parent or guardian, by any person having legal custody of, or a legitimate interest in, such alien.

(c) *Personal appearance.* Except as otherwise provided in this section, every alien applying at a diplomatic mission or consular office for a nonimmigrant visa shall be required to appear in person before a consular officer to execute Form 257. The requirement of personal appearance may, subject to operational instructions, be waived in the discretion of the consular officer, in the case of any alien who is within a class of nonimmigrants described in section 101 (a) (15) (A) or section 101 (a) (15) (G) of the act, or in the case of a child under 10 years of age. If a waiver of personal appearance is granted, the application form shall be completed by the consular officer from available information relating to the alien.

(d) *Photographs.* Except as hereinafter provided, every alien applying at a diplomatic mission or consular office for a nonimmigrant visa shall be required to furnish with his application 3 identical photographs of himself. A child under 10 years of age shall not be required to furnish photographs unless he is the bearer of a separate passport. The photographs shall reflect a reasonable likeness of the alien as of the time they are furnished. Each photograph shall be two by two inches in size, unmounted, without head covering, have a light background, and clearly show a full front view of the facial features of the alien. Each copy of the photograph shall be signed by the person making the application with the full name of the alien in such manner as not to obscure the alien's features. The requirements of this paragraph may be waived in the discretion of the consular officer in the the case of any alien who is within a class of nonimmigrants described in section 101 (a) (15) (A) or (G) of the act, or in accordance with the Diplomatic Visa Regulations contained in Part 40 of this title. If the photograph requirement is waived, a signed notation shall be made by the consular officer in the space provided for a photograph in the application form.

(e) *Place of application.* With the exception of certain aliens who are in the United States and who may be issued nonimmigrant visas under the provisions of § 41.11, every alien applying for a nonimmigrant visa shall make application at a United States consular office in the consular district in which he has established his residence: *Provided*, That a consular officer shall have discretionary authority in hardship cases to accept an application for a nonimmigrant visa from an alien who has no residence in his consular district, but who is physically present therein.

(f) *Application fee.* A fee stamp or fee stamps in the prescribed amount shall be affixed to the application form and cancelled. If no application fee is prescribed, the word "Gratis" shall be inserted in the space provided for the fee stamp.

(g) *Signature and seal.* Form 257 shall be signed by or on behalf of the applicant in the appropriate spaces provided therefor and in the presence of the consular officer. The application shall be sworn to or affirmed by the applicant before the consular officer who shall then sign such application and impress the seal of his office in the spaces provided in the application.

(Sec. 222, 66 Stat. 193; 8 U. S. C. 1202)

§ 41.10 *Documents required in connection with application for nonimmigrant visa; medical examination; police certificates*—(a) *Authority to require documents.* Every alien applying for a nonimmigrant visa shall furnish in duplicate if the consular officer in his discretion so requires, with his application a certified copy of each document pertaining to him which may be considered by the consular officer to be necessary to a determination of the alien's eligibility to receive a nonimmigrant visa.

(Sec. 222, 66 Stat. 194; 8 U. S. C. 1202)

(b) *Unobtainable documents.* In the event an alien applying for a nonimmigrant visa establishes to the satisfaction of the consular officer that any document or record required under the authority of this section is unobtainable, the consular officer may permit the alien to submit, in lieu of such document or record, other satisfactory evidence of the fact to which such document or record would, if obtainable, pertain. A document or other record shall be considered "unobtainable" if it cannot be procured without causing the applicant or a member of his family actual hardship other than normal delay and inconvenience.

(c) *Medical examination of nonimmigrants.* An alien applying for a nonimmigrant visa shall be required to present in duplicate a medical certificate from a reputable and competent physician selected by the alien from a panel of such physicians approved by the consular officer, or to be examined by a doctor of the United States Public Health Service, if he is coming from an area or in a status which indicates that a medical examination is advisable, or if the consular officer otherwise has reason to believe that such certificate or examination would disclose that the alien is ineligible to receive the visa.

(Sec. 221, 66 Stat. 192; 8 U. S. C. 1201)

(d) *Police certificates of nonimmigrants.* An alien applying for a nonimmigrant visa shall be required to present a police certificate if the consular officer has reason to believe that the alien has a police or criminal record. In such case the alien shall be required to furnish in duplicate with his application a certification by the appropriate police or other authorities stating what their records show concerning the alien: *Provided*, That the provisions of this paragraph shall not be applicable in the case of an alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (A) (i) or (ii), or 101 (a) (15) (G) (i), (ii), (iii), or (iv), or as an alien entitled to the benefits of section 212 (d) (8), of the act.

(e) *Certificates as part of application.* If a medical examination or a police certificate is required of an alien under the provisions of this section, the medical certificate or notification showing the results of the examination, or the police certificate, or both, shall become a part of the alien's application for a nonimmigrant visa. The duplicate copy of each such document shall be attached to Form 257d.

(f) A consular officer shall have authority to require, in his discretion, that an applicant for a nonimmigrant visa answer any questions pertaining to arrests, police or criminal record, or

other facts in his case which are deemed to be material to his application. Such additional statements shall be attached to Form 257d and made a part of the alien's visa application and shall be covered by the alien's oath to, or affirmation of, the application.

(g) *Disposition of supporting documents.* (1) When issuing a nonimmigrant visa to any alien, the consular officer shall return to the alien for presentation to the immigration authorities at the port of entry the original of all supporting documents furnished by the alien with his application, except police and medical certificates which shall be disposed of as provided in paragraph (e) of this section. The duplicate of each such document shall be retained at the consular office for at least two years and filed with Form 257c during such period.

(2) When refusing a nonimmigrant visa to any alien, the consular officer may return to such alien the original of all supporting documents furnished by the alien with his application. The duplicate of each such document shall be retained at the consular office for at least one year and filed with the memorandum of refusal during such period, except in the case of a duplicate of a document which discloses a permanent ground of ineligibility, which shall be retained indefinitely in the files of the consular office subject to special instructions from the Department regarding its disposition.

ISSUANCE OF NONIMMIGRANT VISAS

§ 41.11 *Authority to issue nonimmigrant visas in the Department.* The Director of the Visa Office of the Department and such members of his staff as he may designate are authorized, in their discretion, to issue nonimmigrant visas to qualified aliens who are classifiable within a nonimmigrant category defined in section 101 (a) (15) (A) or (G) of the act, who are in the United States, who, if in the United States in such nonimmigrant category, have been duly notified to the Secretary of State, and who, after a temporary absence, desire to reenter the United States in the nonimmigrant status specified in the visa.

(Sec. 101, 66 Stat. 166; 8 U. S. C. 1101)

§ 41.12 *Procedure in issuing nonimmigrant visa*—(a) *Visa evidenced by stamp in passport.* Except as hereinafter provided, the issuance of a nonimmigrant visa shall be evidenced by a stamp placed in the alien's passport and properly executed by the consular officer. The symbol for the classification of the alien and the visa, as provided in § 41.5, shall be inserted in the visa stamp. In the case of an alien whose passport was issued by a government not recognized de jure by the United States, or in the case of an alien for whom the passport requirement has been waived, the visa stamp shall be impressed in the appropriate space on the reverse side of Form 257a. No seal, signature, stamp, or notation of any kind shall be placed in a passport issued by a foreign government not recognized de jure by the United States.

(b) *Form of nonimmigrant visa stamp.*

(TITLE OF OFFICE)

(LOCATION)

NONIMMIGRANT VISA

Nonimmigrant classification ------ pursuant 22 CFR 41.5; Imm. and Natlty. Act; Application No. V-------

---

Issued on ----------

Valid through ----------

for ---------- application(s) for admission at United States ports of entry.

[SEAL]

[FEE STAMP]

(Consul)

(c) *Numbering.* The V-number of the application of each alien included in the visa shall be inserted in the space provided in the visa stamp. If the visa was issued upon the basis of a petition filed with and approved by the Attorney General, as in the case of a nonimmigrant under the provisions of section 101 (a) (15) (H) of the act, the petition number shall be noted in the visa stamp, in addition to the V-number of the application, but not necessarily in the same space.

(d) *Period of validity.* If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the word "Unlimited" shall be inserted in the space provided in the visa stamp. Otherwise a specific number shall be inserted. The date of issuance and the date of expiration of the visa shall be inserted at the proper places in the visa stamp and shall show the day, month, and year in that order, the name of the month being spelled out, as "24 December 1952."

(e) *Visa fee.* A fee stamp or fee stamps in the prescribed amount shall be affixed to the nonimmigrant visa stamp in the space provided for a fee stamp, or on the same page of the passport or Form 257, and cancelled by the consular officer. If no visa fee is prescribed, the word "Gratis" shall be inserted in the space provided for the fee stamp.

(f) *Signature and seal.* The consular officer who issues a nonimmigrant visa shall affix his signature, indicate his title, and impress the seal of his office in the spaces provided in the visa stamp.

(g) *Disposition of Form 257.* In issuing a nonimmigrant visa the consular officer shall deliver completed Forms 257a, 257b, and 257d, to the alien with his visaed passport, except as provided in the cases of crewmen under § 41.63. Form 257c shall be retained in the consular files.

§ 41.13 *More than one person included in nonimmigrant visa.* A single nonimmigrant visa may be issued to include more than one qualified alien if each alien executes a separate application and the V-number of each application is inserted in the space provided in the visa stamp. In such a case the visa fee to be collected shall be equal to the total of the fees prescribed for each alien included in the visa. On a basis of reciprocity, a spouse or child who is accompanying the bearer of a foreign passport, and who is included in the same passport by the issuing government, shall not be required to pay any visa fee in addition to that paid by the bearer.

§ 41.14 *Fees for nonimmigrant visas.* (a) The fees for nonimmigrant visa applications made by the nationals and the stateless residents of each foreign country and for the issuance of nonimmigrant visas to such aliens shall be collected in the same amounts as prescribed in the Schedules of Nonimmigrant Visa Fees issued by the Secretary of State and shall thereby correspond, as nearly as practicable, to the total of all similar visa, entry, residence, or other fees, taxes, or charges assessed or levied against nationals of the United States, in connection with their entry or sojourn, by the foreign countries of which such aliens are nationals or stateless residents.

(Sec. 281, 66 Stat. 231; 8 U. S. C. 1351)

(b) *Aliens exempted from nonimmigrant visa fees.* Upon a basis of reciprocity, or as provided in section 13 (a) of the Headquarters Agreement with the United Nations (61 Stat. 716), no fee shall be collected for the application for, or the issuance of, a nonimmigrant visa to an alien of any of the following classes:

(1) Nonimmigrants described in section 101 (a) (15) (A) of the act;

(2) Nonimmigrants described in section 101 (a) (15) (G) of the act;

(3) Nonimmigrants who are issued diplomatic visas under the provisions of Part 40 of this subchapter;

(4) Persons entitled to pass in transit to the United Nations Headquarters District under the provisions of section 11 (3), 11 (4), or 11 (5) of the Headquarters Agreement and who are issued C–2 visas as nonimmigrants under the provisions of section 101 (a) (15) (C) of the act. An alien in this category, if issued a visa as a B–1 or B–2 nonimmigrant, for example, under the provisions of section 101 (a) (15) (B) of the act when he is qualified to receive such a visa, shall pay the fee, if any, prescribed for aliens of the same nationality or stateless resident status.

(c) A fee collected for an application for, or the issuance of, a nonimmigrant visa, shall not be refunded without specific authorization from the Department.

§ 41.15 *Validity of nonimmigrant visa.* (a) The period of validity of a nonimmigrant visa shall date from the time of issuance and shall relate only to the period during which the alien to whom the visa was issued may use it in making application for admission into the United States and shall have no relation to the period of time he may be authorized to stay or remain in the United States, if, upon his arrival at a port of entry, he is admitted into the United States by the immigration authorities. Except as provided in paragraphs (c) and (d) of this section, the

bearer of a nonimmigrant visa may, within the period of its validity, make any number of applications for admission into the United States: *Provided*, That the passport of the bearer continues to be valid for the necessary period, and his nonimmigrant status shall not have changed.

(b) Except as provided in paragraphs (c) and (d) of this section, every nonimmigrant visa shall be valid for a period of 12 months, or for a period of 24 months in the case of an alien who is a national of a foreign country whose government issues visas to United States nationals of a similar class valid for as much as 24 months, or whose government does not require visas of United States nationals of a similar class visiting such country.

(c) A nonimmigrant visa, including one issued to an alien in transit, may, in consideration of reciprocal treatment accorded nationals of the United States by the alien's government, or in consideration of the alien's purpose in travelling to, or through, the United States, or for other valid reasons, be issued for a period of validity which is less than the time specified in paragraph (b) of this section, or for a limited number of applications for admission within the period of validity of the visa.

(d) The validity of a nonimmigrant visa issued to an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District under the provisions of section 11 (3), 11 (4), or 11 (5) of the United Nations Headquarters Agreement (61 Stat. 758), and whose admission is authorized by the Attorney General under the provisions of section 212 (d) (3) of the act despite the alien's inadmissibility under the provisions of section 212 (a) (28) of the act, shall be limited to a single application for admission within such period as, in the opinion of the consular officer, is reasonable to permit the bearer to travel to the United States.

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

§ 41.16 *Revalidation of nonimmigrant visa.* (a) A visa issued on or after December 24, 1952, to an alien as a nonimmigrant under the provisions of section 101 (a) (15) of the act may, upon a basis of reciprocity accorded nationals of the United States of a similar class, be revalidated by a consular officer: *Provided*, That

(1) Such visa has been used by the alien to gain admission into the United States, or if not used, the alien still has Forms 257a, b, and d, which were issued to him;

(2) The application for revalidation is made at the consular office which issued the original visa, or at another office with the consent of the original visa-issuing office;

(3) Such visa is about to expire or expired less than 3 months prior to the application for revalidation; and

(4) The consular officer is satisfied that the alien has maintained a bona fide nonimmigrant status and is otherwise eligible to receive a visa as a nonimmigrant.

(b) A formal application for the revalidation of a nonimmigrant visa need not be required, and the consular officer may, in his discretion, waive the personal appearance of the alien concerned if the consular officer is satisfied that the alien is physically present in the consular district. A nonimmigrant visa may be revalidated any number of times during the period of validity of the alien's passport, if such passport is valid for the period which would be required if an original visa were being issued.

(c) In revalidating a nonimmigrant visa, the consular officer shall follow the procedure prescribed in § 41.12, except that a new Form 257 need not be executed. A new visa stamp shall be impressed in the passport and the word "Revalidated" shall be inserted in the space provided for the V-number in the visa stamp. An appropriate notation of the revalidation, regardless of where it occurs, shall be made on Form 257c on file at the original visa-issuing office.

(d) The period of validity for which a visa may be revalidated shall be determined in accordance with the pertinent provisions of § 42.15 of this subchapter.

(e) The prescribed fee, if any, for the issuance of a nonimmigrant visa shall be collected for any revalidation of such visa.

REFUSAL AND REVOCATION

§ 41.17 *Refusal of nonimmigrant documentation.* (a) Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer that he is properly classifiable within a nonimmigrant category specifically referred to in § 41.5.

(b) Except as provided in paragraphs (c), (d), and (e) of this section, the provisions of section 212 (a) of the act specifying the grounds for refusal of visas to aliens, as implemented by § 42.42 of this subchapter, shall apply to all nonimmigrants.

(c) Aliens who are properly classified as nonimmigrants under the provisions of section 101 (a) (15) of the act, as implemented by § 41.5, shall not be refused nonimmigrant visas or other nonimmigrant documentation on the ground that they are:

(1) Illiterates, as referred to in section 212 (a) (25) of the act;

(2) Polygamists, or persons who practice, or advocate the practice of, polygamy, as referred to in section 212 (a) (11) of the act;

(3) Aliens ineligible to United States citizenship, and aliens who, at the time of their departure from the United States, were nonimmigrants, as provided in section 212 (a) (22) of the act;

(4) Physically defective persons, as referred to in section 212 (a) (7) of the act, if a bond or other undertaking has been furnished as provided in section 221 (g) of the act;

(5) Persons likely to become a public charge, as referred to in section 212 (a) (15) of the act, if a bond or other undertaking has been furnished as provided in section 221 (g) of the act.

(d) (1) None of the grounds for refusing visas to aliens as specified in section 212 (a) of the act shall apply to nonimmigrant aliens within class A–1, as referred to in § 41.5, unless the President so directs and specific instructions are issued by the Department.

(Sec. 102, 66 Stat. 173; 8 U. S. C. 1102)

(2) Aliens in the following classes of nonimmigrants shall be refused visas or other documentation only under those provisions of section 212 (a) of the act stated specifically with reference to each category in this subparagraph:

(i) Class A–2: Section 212 (a) (27) and (29);

(ii) Class C–2: Section 212 (a) (26) (A), (27), (28), and (29);

(iii) Class C–3: Section 212 (a) (26) (A), (27), and (29);

(iv) Class C–1: Section 212 (a) (27);

(v) Classes C–2, C–3, and C–4: Section 212 (a) (27), and (29).

(3) The grounds for refusing visas to aliens as specified in section 212 (a) (28) of the act shall not be applicable to aliens within Classes A–3 and G–3.

(Sec. 212, 66 Stat. 197; 8 U. S. C. 1182)

(e) The grounds for refusing visas to aliens as specified in section 212 (a) (14) of the act shall not apply to an alien who establishes that he is properly classifiable within a specific nonimmigrant category symbolized in § 41.5.

§ 41.18 *Revocation and invalidation of nonimmigrant visa and other nonimmigrant documentation.* (a) A consular officer is authorized to revoke a nonimmigrant visa or other nonimmigrant documentation under the following circumstances:

(1) The consular officer knows, or after investigation is satisfied, that the visa or other documentation was procured by fraud, a willfully false or misleading representation, the willful concealment of a material fact, or other unlawful means; or

(2) The consular officer obtains information establishing that the alien was otherwise ineligible to receive the visa or other documentation at the time of issuance.

(b) A consular officer is authorized to invalidate at any time a nonimmigrant visa or other nonimmigrant documentation in any case in which he finds that the alien has become ineligible for such visa or other documentation. The invalidation shall terminate the validity of the visa or other documentation on the date of such invalidation.

(c) The bearer of a nonimmigrant visa or other documentation which is being considered for revocation or invalidation shall, if practicable, be notified of the proposed revocation or invalidation and shall be given an opportunity to show cause why such action should not be taken. In connection therewith, the alien shall be required to submit for consideration Forms 257a, 257b, and 257d, and to present his travel document containing the visa stamp. If the visa or other documentation is revoked or invalidated, the visa stamp or other documentation shall be cancelled by writing the word "Revoked" or "Invalidated", whichever is applicable, plainly on the face thereof. The cancellation shall be dated and signed by the consular officer. Failure of an alien to submit Forms 257a, 257b, or

257d, or his travel document, as required, shall not affect the validity of the revocation or invalidation of his visa or other documentation.

(d) Notice of revocation or invalidation shall be given to the master, commanding officer, agent, owner, charterer, or consignee of the carrier or transportation line on which the alien is known or believed to intend to travel to the United States, unless the consular officer finds that Forms 257a, 257b, and 257d have been taken up and the visa stamp cancelled. Notice of revocation or invalidation with a full report of the facts in the case shall be submitted promptly to the Department for transmission to the Attorney General: *Provided*, That no such notice and report need be submitted to the Department in the case of an invalidation of a visa, if the copies of Form 257 have been taken up and the visa stamp cancelled prior to the alien's departure for the United States. The consular office which issued the visa or other documentation shall be notified of the revocation or invalidation of such visa or other documentation if such action was effected by any other consular office or by the Department.

(Sec. 221, 66 Stat. 192; 8 U. S. C. 1201)

REGISTRATION AND FINGERPRINTING

§ 41.19 *Registration and fingerprinting of nonimmigrants.* (a) Every alien applying for a nonimmigrant visa shall be fingerprinted, except:

(1) An alien classifiable as a nonimmigrant under the provisions of section 101 (a) (15) (A) (i) or (ii) or section 101 (a) (15) (G) (i), (ii), (iii), or (iv), of the act;

(2) An alien who is an applicant for a diplomatic visa and is exempted from fingerprinting under the provisions of Part 40 of this subchapter;

(3) A child under 14 years of age at the time of application for a nonimmigrant visa.

(b) The fingerprints of a visa applicant shall be taken on Form AR–4 in the case of every alien subject to fingerprinting at the time of his application for a nonimmigrant visa.

(c) In appropriate cases the fingerprints of an alien may be taken on Form AR–4 at the time he makes informal or preliminary application for a nonimmigrant visa, if such procedure is considered necessary for the purposes of identification or investigation. An alien's fingerprints shall, upon the issuance or refusal of a nonimmigrant visa, be transmitted promptly to the Department for appropriate disposition.

(d) Forms 257b and 257c, when duly executed, shall constitute the alien's registration record. The information required in the application shall be sworn to or affirmed by the alien.

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

BORDER-CROSSING IDENTIFICATION CARDS

§ 41.20 *Nonresident aliens' border-crossing identification cards*—(a) *Aliens eligible to receive.* A nonresident alien's border-crossing identification card as defined in section 101 (a) (6) of the act, and as required by section 212 (a) (26) of the act, may be issued to an alien who, upon proper application therefor, establishes to the satisfaction of the consular officer that he:

(1) Is a citizen of Canada or other British subject, having a residence in Canada, or a citizen of Mexico having a residence in Mexico;

(2) Is seeking, and has frequent occasion, to enter the continental United States or Alaska from Canada or the continental United States from Mexico, as a nonimmigrant;

(3) Is a bona fide nonimmigrant and is otherwise eligible to receive such a card under the provisions of the act;

(4) Is in possession of a valid passport or other travel document in the nature thereof duly issued to the holder by the appropriate authorities of Canada, Great Britain, or Mexico, and valid for re-entry to Canada or Mexico, if such a passport or other travel document is required for entry into such country;

(5) Can not reasonably be expected, because of remote residence from the border or some other exceptional reason, to make application for such card at an office of the Immigration and Naturalization Service.

(b) *Application procedure.* An application for a nonresident alien's border-crossing identification card shall be made on Form I–190 at a United States consular office in Canada or Mexico. The applicant shall execute the application in triplicate under oath or by affirmation before the consular officer. Four identical photographs of the alien, as described in § 41.9 (d), shall be submitted with the application. One of such photographs shall be attached to each copy of the application form and to the identification card which is issued to the applicant. The photograph requirement may, in the discretion of the consular officer, be waived in the case of an alien under fourteen years of age at the time of issuance of the card. The original of application Form I–190, duly executed, shall be retained at the consular office and the duplicate and triplicate copies shall be attached to the identification card issued to the alien for delivery to the immigration officer at the time of application for admission into the United States.

(c) *Alien under fourteen years of age or incapable of executing application.* Applicants for nonresident aliens' border-crossing identification cards shall appear in person and make separate applications therefor. In the case of an alien under fourteen years of age, or one physically incapable of making an application, the application for a nonresident alien's border-crossing identification card may be made by the alien's parent or guardian, or, if the alien has no parent or guardian, by any person having lawful custody of, or a legitimate interest in, such alien. An alien under fourteen years of age, or one physically incapable of executing an application, shall be required to appear in person at the time application is made in his behalf.

(d) *Evidence of border-crosser status.* Whenever any alien makes application for a nonresident alien's border-crossing identification card, the burden of proof shall be upon such alien to establish that he is entitled to classification as a nonimmigrant border-crosser and that he is otherwise eligible to receive such card under the provisions of the act. The consular officer may require the alien to furnish any evidence deemed necessary to sustain such burden of proof, including evidence of the alien's intention and ability to depart from the United States at the expiration of his temporary stay. The applicant shall furnish evidence of residence in the border area within the consular district in which application is made, except that a nonresident alien's border-crossing identification card may be issued at a consular office in the interior of Canada or Mexico to an alien who resides in the consular district of such office and who has good and sufficient reason frequently and habitually to cross the land border between the United States and Canada, or the United States and Mexico.

(e) *Procedure in issuing nonresident alien's border-crossing identification card.* If an applicant is found to have the qualifications specified in this section, a nonresident alien's border-crossing identification card may be issued to such applicant on Form I–186. The identification card shall show the date of issuance, the signature of the issuing consular officer, and a brief description of the applicant, and shall be valid for such period as is specified on the card. In the event the photograph requirement has been waived, the right index fingerprint of the applicant shall be placed on the card in lieu of his photograph. The applicant shall sign the card with his full name, or by witnessed mark after proper identification. The seal of the issuing consular office shall be impressed on the card. The applicant shall appear at the consular office in person to receive his nonresident alien's border-crossing identification card, unless the consular officer is satisfied that such card may be safely mailed to the applicant in exceptional cases in which personal appearance would entail undue hardship. No fee shall be charged for the issuance of a nonresident alien's border-crossing identification card or for the application.

(f) *Supporting documents not presented in duplicate.* The contents of all pertinent documents not presented with a duplicate copy for the consular files in support of the alien's application for a nonresident alien's border-crossing identification card shall be noted on the copy of the application which is retained for the consular files or in a separate memorandum attached thereto. Original documents shall be returned to the applicant.

(g) *Invalidation of nonresident alien's border-crossing identification card.* Consular officers are authorized to terminate the validity of a nonresident alien's border-crossing identification card issued by a consular officer:

(1) If the consular officer knows, or after investigation is satisfied, that such card was procured by fraud, a willfully false or misleading representation, the willful concealment of a material fact, or other unlawful means; or

(2) If such a card is found in the possession of an alien other than the rightful holder; or

(3) If improper use is being made of such card; or

(4) If the consular officer receives information establishing the alien's ineligibility to receive a nonresident alien's border-crossing identification card.

(h) *Surrender of invalidated card.* An alien whose border-crossing identification card has been invalidated shall be required to surrender such card upon request of the consular officer, and such officer shall submit a report of the reasons for the invalidation to the Secretary of State for transmission to the Attorney General.

(Sec. 101, 66 Stat. 166; 8 U. S. C. 1101)

OFFICIAL VISAS

§ 41.30 *Officials of foreign governments.* (a) An alien aplying for a nonimmigrant visa under the provisions of section 101 (a) (15) (A) (i) or (ii) of the act shall be required to establish to the satisfaction of the consular officer that he is an accredited official or employee of a foreign government recognized de jure by the Government of the United States, and that he is acceptable to the President or the Secretary of State, or that he is a member of the immediate family of such official or employee.

(b) Except as provided in § 41.92 (c), no alien shall be accorded nonimmigrant status under the provisions of section 101 (a) (15) (A) of the act if the facts in his case clearly bring him within any other specific nonimmigrant category defined in section 101 (a) (15) of the act.

(c) The term "accredited" as used in sections 101 (a) (15) (A) and 212 (d) (8) of the act refers to an alien holding an official position, other than an honorary official position, who is in possession of a travel document or other evidence showing that he seeks to enter, or pass in transit through, the United States for the purpose of transacting official business for his government, and that he is a national of the country whose government he serves: *Provided,* That an alien who is not a national of the country whose government he serves in an advisory, consultative, or other capacity not contemplated by section 101 (a) (15) (A) (iii) of the act shall, if otherwise qualified, be classified under section 101 (a) (15) (B) of the act, or, if in transit, under section 101 (a) (15) (C) of the act.

(d) The term "immediate family", as used in section 101 (a) (15 (A) of the act, means close relatives who are members of the immediate family by blood, marriage, or adoption, and who will reside regularly in the household of the principal alien from whom they derive their subsidiary status.

(e) The term "attendants", as used in section 101 (a) (15) (A) (iii) of the act, includes an alien who is paid from the public funds of the foreign government employing him and to which he owes allegiance, and who is accompanying, preceding, or following to join a foreign-government official or employee to whom he owes a duty or service, regardless of its nature. The term includes an attendant who is a member of the armed forces of the foreign government to which the foreign-government official or employee, as well as the attendant, owe allegiance.

(f) The terms "servants" and "personal employees", as used in section 101 (a) (15) (A) (iii) of the act, include an alien who is employed in a domestic or personal capacity by a foreign-government official or employee, who is paid from the private funds of such official or employee, and who seeks to enter the United States solely for the purpose of such employment.

(Sec. 101, 66 Stat. 167; 8 U. S. C. 1101)

§ 41.31 *Official or representative of foreign government not recognized by the United States.* (a) An official of a foreign government which is not recognized de jure by the United States, or a member of his immediate family, or the attendant, servant, or personal employee of such official, shall not be classified as a nonimmigrant under the provisions of section 101 (a) (15) (A) of the act.

(b) Any alien referred to in paragraph (a) of this section may, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (B) or (C), or, if he is a representative of such government to an international organization, under the provisions of section 101 (a) (15) (G) (iii) of the act.

§ 41.32 *Procedure in issuing visa to foreign-government official or employee*—(a) *Derivative status cases.* In the case of a person who is a member of the immediate family, or an attendant, servant, or personal employee of a foreign-government official or employee, or who otherwise derives status from a principal alien who is not accompanying him, the name and position of the principal alien from whom such person derives his status shall be written below the lower margin of the visa stamp in the foreign passport.

(b) *Official on personal business.* A foreign-government official or employee, or a member of the immediate family, attendant, servant, or employee of such official or employee, who seeks to enter the United States temporarily for personal business or pleasure, shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (B) of the act.

(See Sen. Rep. 1137, 82d Cong., 2d Sess., p. 19)

(c) *Courier and acting courier on official business*—(1) *Courier of career.* An alien who is regularly and professionally employed as a courier by the government to which he owes allegiance shall ordinarily apply for a diplomatic visa at a United States mission as a nonimmigrant under the provisions of section 101 (a) (15) (A) (i) of the act. When proceeding to the United States on official business for his government and not applying for a diplomatic visa, such an alien shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (A) (ii) of the act, and the symbol A–2 shall be inserted in the space provided for classification in the visa stamp and in Forms 257b and 257c.

(2) *Official acting in capacity of courier.* An alien who is not regularly and professionally employed as a courier by the government to which he owes allegiance, who, however, holds an official position with, and is proceeding to the United States in the capacity of a courier on official business for, his government, shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (A) (ii) of the act. In such a case the symbol A–2 shall be inserted in the space provided for classification in the visa stamp and in Forms 257b and 257c. The case of an alien who is not a national of the country for whose government he is acting as courier shall be considered under the provisions of subparagraph 3 of this paragraph.

(3) *Nonofficial acting in capacity of courier.* An alien who is not regularly and professionally employed as a courier, who holds no official position with the government for which he is acting in the capacity of courier, or is not a national of the country for whose government he is acting in the capacity of courier, shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (B) of the act. In such a case the symbol B-1 shall be inserted in the space provided for classification in the visa stamp and in Forms 257b and 257c.

§ 41.33 *Evidence of official status.* An alien applying for a nonimmigrant visa as a foreign-government official or employee, or as an attendant, servant, or personal employee of such an official or employee, or as a member of the immediate family of any such alien, may be required to present evidence of his status and of the means and destination of his travel to, or through, the United States, and any other evidence considered necessary to establish eligibility to receive a visa as a nonimmigrant under the provisions of section 101 (a) (15) (A) or (101) (a) (15) (C), and other applicable provisions, of the act.

§ 41.34 *Significance of nonimmigrant visa in official cases.* A visa properly issued to an accredited official of a foreign government as a nonimmigrant under the provisions of section 101 (a) (15) (A) or (C) of the act shall entitle such official to apply at a port of entry in the United States within the period of its validity for admission as a nonimmigrant, and such visa, when presented to the immigration authorities by such official shall be conclusive evidence of his proper classification.

TEMPORARY VISITORS

§ 41.40 *Temporary visitors.* (a) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (B) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to visit the United States temporarily for business or temporarily for pleasure.

(b) The term "business," as used in section 101 (a) (15) (B) of the act, refers to legitimate activities of a commercial or professional character. It does not include purely local employment or labor for hire. An alien seeking to enter for

employment or labor pursuant to a contract or other pre-arrangement shall be required to qualify under the provisions of § 41.100. An alien of distinguished merit and ability seeking to enter the United States temporarily with the idea of performing temporary services of an exceptional nature, requiring such merit and ability, but having no contract or other pre-arranged employment, may be classified as a nonimmigrant temporary visitor for business.

(c) The term "pleasure," as used in section 101 (a) (15) (B) of the act, refers to the purpose of an alien who seeks to enter the United States temporarily as a tourist or for some other legitimate purpose, including amusement, education (other than some activity which would make him classifiable as a student or teacher), health, rest, or visits with relatives or friends. Under no circumstances shall an alien who seeks to enter the United States as a student or for pre-arranged employment of any kind be classified as a temporary visitor for business or pleasure, unless such classification shall have been authorized by the Secretary of State after consultation with the Attorney General.

(Sec. 101, 66 Stat. 167; 8 U. S. C. 1101)

§ 41.41 *Exchange visitors.* The term "exchange visitor" refers to an alien who falls within one of the categories specifically named in section 201 of the United States Information and Educational Exchange Act of 1948, as amended (62 Stat. 7; 66 Stat. 276; 22 U. S. C. 1446), who seeks to enter the United States temporarily and who has been selected to participate in an exchange visitor program designated by the Secretary of State, as provided in Part 68 of this subchapter. Exchange visitors shall be classified as nonimmigrants under the provisions of section 101 (a) (15) of the act. In issuing a visa to an exchange visitor the symbol "EX" shall be inserted in the space provided for classification on the visa stamp and on Forms 257b and 257c, and the number of the program shall be added to the symbol.

§ 41.42 *Burden of proof and evidence of temporary visitor status.* (a) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (B) of the act shall not only have the burden of establishing that he is entitled to classification as a temporary visitor within the meaning of that section of the act, but also that he is not ineligible to receive a visa as a nonimmigrant under the provisions of section 212 of the act and § 41.17.

(b) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (B) of the act shall establish specifically that:

(1) He has a residence in a foreign country which he has no intention of abandoning;

(2) He is not classifiable under any of the nonimmigrant categories defined in section 101 (a) (15) (F), (H), or (I) of the act;

(3) He is proceeding to the United States temporarily for one of the purposes specified in section 101 (a) (15) (B) of the act;

(4) He intends in good faith, and will be able, to depart from the United States at the expiration of a temporary stay;

(5) He is in possession of a valid foreign visa or other form of permission to enter some foreign country upon the termination of his temporary stay; and that

(6) He has made adequate financial provision to enable him to carry out the purpose of his travel to, sojourn in, and departure from the United States.

(Sec. 291, 66 Stat. 234; 8 U. S. C. 1361)

TRANSIT ALIENS

§ 41.50 *Transit aliens.* An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (C) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to enter the United States temporarily as a nonimmigrant and solely for the purpose of proceeding in immediate and continuous transit through the United States to a foreign destination, or that he qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District under the provisions of section 11 (3), 11 (4), or 11 (5) of the Headquarters Agreement with the United Nations.

(Sec. 101, 66 Stat. 167; 8 U. S. C. 1101)

§ 41.51 *Burden of proof and evidence of transit status.* (a) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (C) of the act shall not only have the burden of establishing that he is entitled to classification as an alien in transit within the meaning of that section of the act, but also that he is not ineligible to receive a visa as a nonimmigrant under the applicable provisions of section 212 of the act, or any other provision of law, and § 41.17.

(b) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (C) of the act shall establish specifically that:

(1) He is proceeding to the United States solely for the purpose of passing in immediate and continuous transit through the United States to a foreign destination or to the United Nations Headquarters District;

(2) He is in possession of a ticket for, or other assurance of, transportation to his destination;

(3) He is in possession of sufficient funds to enable him to carry out the purpose of his transit journey, or has sufficient funds otherwise available for that purpose;

(4) He is in possession of a valid foreign visa or other form of permission to enter some foreign country: *Provided,* That possession of such a visa or other form of permission shall not be required in the case of an alien proceeding through the United States for the purpose of applying for admission into Canada or some other country if under the laws or regulations of the country of destination the alien would not be required to present a visa, or other form of permission as a condition of entry; and that

(5) He intends in good faith, and will be able, to depart from the United States at the expiration of the period for which he may be admitted.

(Sec. 291, 66 Stat. 234; 8 U. S. C. 1361)

§ 41.52 *Certain aliens in transit to United Nations.* An alien within the provisions of sections 11 (3), 11 (4) or 11 (5) of the Headquarters Agreement with the United Nations, to whom a visa is to be issued for the purpose of applying for admission solely in transit to the United Nations Headquarters District, shall be issued a nonimmigrant visa classified "C–2", and shall be informed by the consular officer that, if admitted, he may be subject to such restrictions in his travel within the United States as may be provided in regulations prescribed by the Attorney General.

CREWMEN

§ 41.60 *Crewmen.* (a) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (D) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to proceed to, and land in, the United States temporarily and solely in pursuit of his calling as a nonimmigrant crewman serving in good faith as such in some capacity required for normal operation and service on board a vessel or aircraft proceeding to the United States. Aliens employed on board such vessel or aircraft in a capacity not ordinarily associated with, or required for, normal operation and service on board the vessel or aircraft, or persons employed or listed as regular members of the crew in excess of the number normally required, shall be considered as passengers and shall be documented as any other passenger not employed aboard the vessel or aircraft.

(b) An alien serving as a member of the crew on board a fishing vessel having its home port or an operating base in the United States is not comprehended within the provisions of paragraph (a) of this section. Such an alien is classifiable as an immigrant.

(c) Each nonimmigrant crewman seeking to proceed to and land in, the United States temporarily in pursuit of his calling shall, except as provided in § 41.64, apply for an individual visa as a nonimmigrant under the provisions of section 101 (a) (15) (D) of the act and in accordance with the provisions of § 41.9.

(Sec. 101, 66 Stat. 167; 8 U. S. C. 1101)

§ 41.61 *Burden of proof and evidence of crewman status.* (a) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (D) of the act shall not only have the burden of establishing that he is entitled to classification as a crewman within the meaning of that section of the act, but also that he is not ineligible to receive a visa as a nonimmigrant under the provisions of section 212 of the act, or any other provision of law, and § 41.17.

(b) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (D) of the act shall establish specifically that:

(1) He intends to proceed to, and land only temporarily in, the United

States solely in pursuit of his calling as a crewman;

(2) He intends in good faith, and will be able, to depart from the United States with the vessel or aircraft on which he will arrive, or on some other vessel or aircraft; and that

(3) He is in possession of a national passport, or other travel document, crewman's identity certificate, or other papers, which establish his origin, identity and nationality if any, and which further establish unconditionally that he will be permitted to enter some foreign country after a possible temporary landing in the United States.

(Sec. 291, 66 Stat. 234; 8 U. S. C. 1361)

§ 41.62 *Foreign-government official crewmen.* (a) All alien crewmen serving as such on board any vessel or aircraft proceeding to the United States with a purpose of landing temporarily in the United States shall be subject to the provisions of § 41.60 (c) or § 41.64, except those serving on:

(1) Foreign warships or other vessels of war, or military, naval, or other aircraft of the armed forces of a foreign country, when making friendly calls at United States ports under advance arrangements made with the military, naval, or air force authorities of the United States; or

(2) Any other government vessel or aircraft.

(b) The term "government vessel or aircraft" means a vessel or aircraft owned and operated, or operated only, directly by the Government of the United States with government personnel in connection with public business of a non-commercial and non-profit character, or a foreign-flag vessel or aircraft owned and operated, or operated only, directly by a foreign government recognized de jure by the United States, with foreign government personnel in connection with public business of a non-commercial and non-profit character. The term "government vessel or aircraft" shall not include a vessel or aircraft which is merely controlled or subsidized by a government, or one which is engaged in what would ordinarily be regarded as commercial shipping or commercial transportation.

(c) Whenever any alien seeks to enter the United States in the circumstances described in subparagraph (1) or (2) of paragraph (a) of this section, advance arrangements shall be made with the Secretary of State and the Attorney General regarding the documentation and admission of such alien.

§ 41.63 *Procedure in issuing visas to crewmen.* (a) The provisions of §§ 41.5 and 41.12 shall be followed in issuing a visa to an alien as a nonimmigrant under section 101 (a) (15) (D) of the act, except in the case of an alien whose name is included in a crewlist visa as authorized in § 41.64, or except as provided in paragraph (b) of this section.

(b) In the case of a crewman who is issued an individual nonimmigrant visa and whose passport was issued by a government not recognized de jure by the United States, or a crewman in whose case the passport requirement has been waived, the visa shall be stamped at the reverse side of Form 257a, and the completed Forms 257a, 257b, and 257d shall be delivered to the alien. In all other cases of crewmen who are issued individual visas the alien's visaed passport shall be delivered to him, but Forms 257a, 257b, 257c, and 257d shall be retained in the consular files pending the receipt of special instructions from the Department concerning their disposition.

§ 41.64 *Crew-list visas.* Until December 31, 1953, or until such later date as it becomes administratively practicable to act on the applications of all crewmen for individual visas, a crewman who is unable to obtain, but has not been refused, an individual visa as a nonimmigrant under the provisions of section 101 (a) (15) (D) of the act and § 41.60 (c), and whose name appears on the crew list of a vessel or aircraft on which he is proceeding to the United States as a crewman, may be included in a crew-list visa. Such crew-list visa may be issued by a consular officer in accordance with the provisions of § 41.65.

(Sec. 221, 66 Stat. 192; 8 U. S. C. 1201)

§ 41.65 *Requirement of crew-list visas.* (a) Until December 31, 1953, or until such later date as it becomes administratively practicable to act on the applications of all crewmen for individual visas, there shall be submitted for visaing at the consular office nearest the foreign port or place from which a vessel or aircraft commences its voyage to the United States a crew list of all nonimmigrant alien crewmen who are not in possession of a valid individual visa.

(b) No crewman shall be considered as having complied with the documentary requirements of the act relating to applicants for admission as nonimmigrants unless his name appears on a visaed crew list, or he is in possession of an appropriate individual visa, or the nonimmigrant visa requirement is waived by the Secretary of State and the Attorney General acting jointly on the basis of an unforeseen emergency in an individual case under the authority contained in section 212 (d) (4) of the act.

(66 Stat. 167; 8 U. S. C. 1182)

(c) If there is no consular officer stationed at the port or place from which the vessel or aircraft commences its voyage to the United States, but if a consular officer is stationed at a nearby port or place to whom the crew list may be submitted for visaing by mail or otherwise without delaying the departure of the vessel or aircraft, the crew list shall be so submitted. If there is no consular officer stationed nearby, the crew list shall be submitted for visaing at the first port or place of call at which a consular officer is stationed.

(d) A vessel or aircraft arriving at a port in the continental United States, Hawaii, Puerto Rico, or the Virgin Islands, after entering and clearing from a port or place in the Canal Zone for purposes other than transit, refueling, or landing passengers for medical treatment, shall be subject to all the crew-list visa requirements applicable to vessels or aircraft arriving in the United States from any foreign port or place.

(e) Supplemental crew-list visas shall be obtained at the port of departure or at subsequent ports or places of call to cover any additional crewmen who have been signed on since the previous crew-list visa was obtained, unless such crewmen are in possession of valid individual visas.

§ 41.66 *Crew-list visas not required.* (a) The presentation of a crew list for visaing shall not be required in the following cases:

(1) A vessel or aircraft proceeding from a port or place at which no American consular officer is stationed and compliance with the requirements of § 41.65 (c) is not possible;

(2) A government vessel or government aircraft;

(3) A vessel or aircraft operating between a port of the United States and a port of Canada, if not touching at a port of any other country;

(4) A vessel or aircraft operating on regular service exclusively between a port in the State of Florida and Habana, Cuba: *Provided*, That a new crew-list visa must be obtained (i) to cover the first trip each month, and (ii) at any other time during the month whenever a new crewman having no individual visa is signed on;

(5) A vessel or aircraft which is proceeding from one foreign place to another, and is diverted from its course to a port in the United States under emergency conditions;

(6) A vessel or aircraft having alien crewmen who desire to land temporarily in the Virgin Islands of the United States while the vessel or aircraft on which they are serving is in a Virgin Islands port;

(7) A vessel or aircraft having members of the crew all of whom are in possession of individual visas or reentry permits, or who are otherwise permitted to land without crew-list visas under the regulations of the Attorney General.

(8) Notwithstanding the provisions of paragraph (a) of this section, a crewman proceeding to the United States under the conditions described therein may not be found to be eligible to land temporarily as a nonimmigrant unless the nonimmigrant visa requirement is waived by the Secretary of State and the Attorney General acting jointly on the basis of an unforeseen emergency in an individual case.

§ 41.67 *Refusal of crew-list visa.* (a) A consular officer who knows or has reason to believe that a crew list submitted for a visa contains the name of an alien who is not a bona fide crewman, or who is otherwise ineligible to receive an individual visa as a crewman, shall either withhold the crew-list visa until the name of such alien shall have been removed from the crew list by the master of the vessel or the commanding officer of the aircraft, or he shall issue the crew-list visa, excluding therefrom the name of any such alien listed as a member of the crew. In excluding an alien's name from a crew-list visa, the consular officer shall place a notation below the visa

stamp indicating the name of each crewman so excluded. In no event shall a consular officer strike an alien's name from a crew list.

(b) When a crew-list visa is refused in any case, a full report shall be forwarded by the consular officer to the Department in sufficient time to be received before the arrival of the vessel or aircraft at a port of entry. In such a case the original of the crew list shall be returned to the master or commanding officer, and the duplicate shall be filed in the consular office.

(Sec. 221, 66 Stat. 192; 8 U. S. C. 1201)

§ 41.68 *Crew-list form.* (a) Crew lists or manifests of aliens employed on vessels or aircraft as members of the crew shall be prepared in duplicate on Department of Justice Form I–480 in cases of vessels, or on Customs General Declaration Form 7507 in the cases of the crews of aircraft, or on such other form as the Department of Justice may prescribe. Masters or agents of vessels and commanding officers of aircraft shall be required to obtain a supply of crew-list forms which they may purchase in the United States from Collectors of Customs. Consular officers anticipating a demand for such forms shall keep a supply on hand from which they may furnish copies in an emergency. Consular officers shall requisition copies of such forms from the Department.

(b) No application for a crew-list visa shall be required other than the presentation of the alien crew list in duplicate and all necessary information with respect thereto.

§ 41.69 *Procedure in issuing crew-list visas—(a) Preparation of crew list.* (1) Entries on the crew list of a vessel or aircraft shall be made in the English language. All entries on both copies shall be made in accordance with the regulations prescribed by the Attorney General for the preparation of such lists.

(2) The person preparing an alien crew list shall insert the word "first" before the name of each crewman who was not employed on the vessel or aircraft on its last preceding trip to the United States. In addition, the initials "PE" (meaning "Previous Experience") shall be inserted immediately after the word "first" in the case of each crewman proceeding to the United States on his first trip on a vessel or aircraft to which he has been transferred from another vessel or aircraft of the same transportation line.

(3) If a crew list is prepared on more than one page, the pages shall be securely fastened together with eyelets in the upper left corner, tied by ribbon or taste inserted through the eyelets, and the crew-list visa shall be placed on the last page. The ends of the ribbon or taste shall be brought through a slit cut in the last page and fastened to that page, opposite the visa stamp, by a wafer seal on which the impression seal of the consular office shall be placed. The consular impression seal shall be placed on all other pages in the lower right corner. The pages shall be numbered.

(4) In order to facilitate the handling of the crew list of a large vessel, a consular officer is authorized to separate a crew list containing 400 or more names into four separate sections. The separate sections shall correspond to the following departments of the crew of the vessel: "(I) Deck Department, (II) Engine Department, (III) Catering Department, and (IV) Armed Guard". The crew-list visa shall be placed on the last page of the last section of the crew list. Each section of the crew list shall be closed in such a manner as to prevent any additions to the list after the visa has been issued with the words "I. Deck Department (or II. Engine Department, III. Catering Department, or IV. Armed Guard), Containing _____ members of the crew". The final section of the crew list shall be closed with the additional words "Crew list in four parts: Total crewmen _____".

(5) The name of each additional crewman signed-on a vessel or aircraft after the issuance of a crew-list visa shall be included in a supplemental crew list. If such name is in substitution for the name of another alien listed as a member of the crew, the name of such alien shall be indicated by the person preparing the supplemental crew list submitted for a visa.

(6) If the additional members of the crew are signed on in an emergency, under circumstances which make it impossible to submit the names to the consular officer before sailing, the facts shall be reported to a consular officer at the first port of call at which a consular officer is stationed. Such consular officer may issue a supplemental crew-list visa covering the names of the additional crewmen if they are qualified for inclusion in a crew-list visa.

(b) *Form of crew-list visa.* The nonimmigrant-visa stamp shall be used in visaing a crew list. The crew-list visa shall be issued to be valid for a period of six months from the date of issuance and for one application at a port of entry for permission to land temporarily. The last day of such period shall be specified in the visa stamp as the last day of validity of the visa. The classification symbol D shall be inserted in space provided in the visa stamp for classification of the crewmen as nonimmigrants under section 101 (a) (15) (D) of the act and § 41.5. The issuing officer shall sign the visa, indicate his title, and affix the seal of his office in the usual manner.

(c) *Crew-list visa fees.* A fee of $2.00 shall be collected by a consular officer for visaing a crew list (Tariff of United States Foreign Service Fees). A fee stamp, or stamps, in the prescribed amount shall be placed on the visa and cancelled. No fee shall be charged for a crew-list visa issued in the case of a United States vessel or aircraft, or for a supplemental crew-list visa issued in the case of any vessel or aircraft.

(d) *Disposition of crew list.* After the crew-list visa shall have been issued or refused, the original copy of the crew list shall be returned to the master or commanding officer of the vessel or aircraft for delivery to the appropriate authorities at the first port of arrival in the United States. The duplicate copy of the crew list filed in the consular office shall bear appropriate notations to identify the service, its date, fee and fee number.

TREATY ALIENS

§ 41.70 *Treaty traders.* (a) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (E) (i) of the act shall be required to establish to the satisfaction of the consular officer that (1) he is entitled to enter the United States solely to carry on substantial trade principally between the United States and the foreign state of which he is a national, under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and such foreign state, or that (2) he is the spouse or child of any such alien and is accompanying or following to join him.

(b) The term "national", as used in this section, means a citizen or subject of a foreign country with which there is existing, at the time of application for a visa, a treaty of commerce and navigation as provided in paragraph (a) of this section.

(c) The term "trade", as used in this section, means trade of a substantial nature which is international in scope, carried on by the alien in his own behalf or as an agent of a foreign person or organization engaged in trade, and is principally between the United States and the foreign state of which such alien is a citizen or subject. Consideration shall be given to any conditions in the country of which the alien is a national which may affect the alien's ability to carry on substantial trade principally between the United States and such country.

(d) The nationality of a spouse or child of a treaty trader shall not be material to the classification of such spouse or child under the provisions of section 101 (a) (15) (E) (i) of the act.

(e) Representatives of foreign information media shall first be considered for possible classification as nonimmigrants under the provisions of section 101 (a) (15) (I) of the act and § 41.110, before consideration is given to their possible classification as nonimmigrants under the provisions of section 101 (a) (15) (E) of the act and of this section.

(Sec. 101, 66 Stat. 168; 8 U. S. C. 1101)

§ 41.71 *Burden of proof and evidence of treaty-trader status.* (a) An alien applying for a nonimmigrant visa as a treaty trader under the provisions of section 101 (a) (15) (E) (i) of the act shall not only have the burden of establishing that he is entitled to classification as a treaty trader within the meaning of that section of the act, but also that he is not ineligible to receive a visa as a nonimmigrant under provisions of section 212 of the act or any other provision of law, and § 41.17.

(b) An alien applying for a visa as a nonimmigrant treaty trader under the provisions of section 101 (a) (15) (E) (i) of the act shall be required to present any evidence deemed necessary by the consular officer to establish that he is entitled to nonimmigrant classification

under that section. Such alien shall establish specifically that:

(1) He is proceeding to the United States solely for the purpose of carrying on substantial trade principally between the United States and the foreign state of which he is a national, under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and such foreign state. In this connection, bank statements, invoices, and correspondence from persons or organizations with whom or with which he has, and will have, commercial relations, may be required;

(2) He intends in good faith, and will be able, to depart from the United States upon the termination of his status; and that

(3) If he is employed or to be employed, his employer shall be a foreign person or organization and he shall be engaged in duties of a supervisory or executive character, or if he is, or is to be, employed in a minor capacity, he has special qualifications which make his services essential to the efficient operations of the employer. An alien employed solely in a manual capacity shall not be entitled to classification as a treaty trader.

(Sec. 291, 66 Stat. 234; 8 U. S. C. 1361)

§ 41.75 *Treaty investors.* (a) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (E) (ii) of the act shall be required to establish to the satisfaction of the consular officer that (1) he is entitled to enter the United States solely to develop and direct the operations of an enterprise in which he has invested, or in which he is actively in the process of investing, a substantial amount of capital, under and in pursuance of the specific provisions relating to treaty investors, negotiated after June 27, 1952, in a treaty of commerce and navigation between the United States and the foreign state of which the alien is a national, or that (2) he is the spouse or child of such an alien, and is accompanying or following to join him.

(b) The term "national", as used in this section, means a citizen or subject of a foreign country with which there is existing at the time of application for a visa a treaty of commerce and navigation as provided in paragraph (a) of this section.

(c) The nationality of a spouse or child of a treaty investor shall not be material to the classification of such spouse or child under the provisions of section 101 (a) (15) (E) (ii) of the act.

§ 41.76 *Burden of proof and evidence of treaty-investor status.* (a) An alien applying for a nonimmigrant visa as a treaty investor under the provisions of section 101 (a) (15) (E) (ii) of the act shall not only have the burden of establishing that he is entitled to classification as a treaty investor within the meaning of that section of the act, but also that he is not ineligible to receive a visa as a nonimmigrant under the provisions of section 212 of the act or any other provision of law, and § 41.17.

(b) An alien applying for a visa as a nonimmigrant treaty investor under the provisions of section 101 (a) (15) (E) (ii) of the act shall be required to present any evidence deemed necessary by the consular officer to establish that he is entitled to nonimmigrant classification under that section. Such alien shall establish specifically that:

(1) He seeks to enter the United States solely for the purpose of developing and directing an enterprise in the United States in which he has invested, or is actively in the process of investing, a substantial amount of capital;

(2) The enterprise is one which actually exists or is in active process of formation, and is not a fictitious paper operation;

(3) He is not applying for a nonimmigrant visa in an effort to evade the quota or other restrictions which are applicable to immigrants; and that

(4) He intends in good faith, and will be able, to depart from the United States upon the termination of his status.

(Sec. 291, 66 Stat. 2341; 8 U. S. C. 1361)

§ 41.77 *Advisory opinions in treaty-investor cases.* For the purpose of coordinating the administration and enforcement of the provisions of section 101 (a) (15) (E) (ii) of the act among consular officers in each country of the world, each consular officer to whom an alien applies for a nonimmigrant visa as a treaty investor shall forward a full report of all the pertinent facts in each case to the Secretary of State with a request for an advisory opinion.

STUDENTS

§ 41.80 *Students.* (a) An alien applying for a nonimmigrant visa as a student under the provisions of section 101 (a) (15) (F) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him and approved by the Attorney General. The Attorney General has approved until further notice, for the purposes of section 101 (a) (15) (F) of the act, all schools and places of study which, on December 23, 1952, are on the approved list of institutions of learning for the purposes of section 4 (e) of the Immigration Act of 1924, and consular officers shall be guided by such list in considering the cases of applicants for visas as nonimmigrant students under the provisions of section 101 (a) (15) (F) of the act.

(b) *Official students.* An alien who has been selected by his government to study at an institution of learning or other place of study in the United States shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (F) of the act, regardless of whether the alien's expenses for such study will be borne by his government, unless such alien is classifiable as an exchange visitor within class EX as provided in § 41.5, or unless such alien is accredited and accepted as a foreign government official, as defined in section 101 (a) (15) (A) (ii) of the act. In issuing a visa to an alien under the provisions of section 101 (a) (15) (F) of the act, the symbol F shall be inserted in the space provided for classification in the visa stamp and in Forms 257b and 257c.

(c) *Official trainees.* An alien who has been selected by his government for training in the United States with an agricultural, commercial, financial, governmental, or other industrial establishment, shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (H) (iii) of the act, regardless of whether the alien's expenses for such training will be borne by his government, unless such alien is classifiable as an exchange visitor within class EX as provided in § 41.5, or unless such alien is accredited and accepted as a foreign government official, as defined in section 101 (a) (15) (A) (ii) of the act. In issuing a visa to an alien under the provisions of section 101 (a) (15) (H) (iii) of the act, the symbol H–3 shall be inserted in the space provided for classification in the visa stamp and in Forms 257b and 257c.

§ 41.81 *Burden of proof and evidence of student status.* (a) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (F) of the act shall not only have the burden of establishing that he is entitled to classification as a student within the meaning of that section of the act, but also that he is not ineligible to receive a visa as a nonimmigrant under the provisions of section 212 of the act or any other provision of law, and § 41.17. Such alien shall establish specifically that:

(1) He has a residence in a foreign country which he has no intention of abandoning;

(2) He is a bona fide student qualified to pursue, and seeking to enter the United States temporarily and solely for the purpose of pursuing, a full course of study as prescribed by the approved institution of learning or other recognized place of study which has accepted such student for study;

(3) He is in possession of sufficient funds to cover his expenses or other arrangements have been made to provide for his expenses;

(4) He has sufficient scholastic preparation and knowledge of the English language to enable him to undertake a full course of study in the institution of learning or other place of study by which he has been accepted, or if his knowledge of the English language is inadequate to enable him to pursue a full program of study in such language, the approved school or other recognized place of study is equipped to offer, and has accepted him expressly for, a full program of study in a language with which he is sufficiently familiar; and that

(5) He intends in good faith, and will be able, to depart from the United States upon the termination of his status.

(b) An alien who intends to study the English language exclusively while in the United States may be classified as a nonimmigrant student under the provisions of section 101 (a) (15) (F) of the act, if otherwise qualified, and if the approved school is equipped to offer, and has ac-

cepted him expressly for, a full course of study in the English language, even though no credits are given by the institution for such study. In all cases in which special arrangements have been made with the approved school for the acceptance of a student who lacks an adequate knowledge of the English language, or who intends to enter the United States solely for the purpose of studying the English language, a copy of the letter from the school setting forth such special arrangements shall be appended to Form 257b.

(Sec. 291, 66 Stat. 234; 8 U. S. C. 1361)

INTERNATIONAL ORGANIZATION ALIENS

§ 41.90 *Aliens coming to international organizations.* (a) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (G) (i) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to enter the United States as:

(1) A designated principal resident representative of a foreign government recognized de jure by the United States, to an international organization of which his government is a member; or

(2) An accredited resident member of the staff of such representative; or

(3) A member of the immediate family of such a representative, or of an accredited resident member of his staff.

(b) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (G) (ii) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to enter the United States as:

(1) An accredited representative, other than a designated principal resident representative described in paragraph (a) of this section, of a foreign government recognized de jure by the United States, to an international organization of which his government is a member; or

(2) A member of the immediate family of such representative.

(c) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (G) (iii) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to enter the United States as:

(1) An accredited representative of a foreign government not recognized de jure by the United States, to an international organization of which his government is a member; or

(2) An accredited representative of a foreign government recognized de jure by the United States, to an international organization of which his government is not a member; or

(3) An accredited representative of a foreign government not recognized de jure by the United States, to an international organization of which his government is not a member; or

(4) A member of the immediate family of a representative as described in subparagraph (1), (2), or (3) of this paragraph.

(d) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (G) (iv) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to enter the United States as:

(1) An officer or employee of an international organization; or

(2) A member of the immediate family of such officer or employee.

(e) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (G) (v) of the act shall be required to establish to the satisfaction of the consular officer that he seeks to enter the United States as:

(1) An attendant, servant, or personal employee of a representative, officer, or employee referred to in paragraphs (a), (b), (c), and (d) of this section; or as

(2) A member of the immediate family of such attendant, servant, or personal employee.

(f) Aliens referred to in paragraphs (a), (b), (c), (d), and (e) of this section may be accorded a nonimmigrant classification under the provisions of section 101 (a) (15) (G) of the act only if they seek to enter, or pass in transit through, the United States in pursuance of their official duties directly related to such status, as distinct from personal or other private business or pleasure in which case they shall be classified, if otherwise qualified as nonimmigrants, under some other appropriate category defined in section 101 (a) (15) of the act.

(g) No alien shall be accorded nonimmigrant status under section 101 (a) (15) (G) of the act if the facts in his case clearly bring him within any other specific nonimmigrant category defined in section 101 (a) (15) of the act.

(h) The term "international organization" means any public international organization which has been designated by the President by Executive order as being entitled to enjoy the privileges, exemptions, and immunities provided for in the International Organizations Immunities Act (59 Stat. 669).

(i) The term "principal alien" means one from whom an alien who is a member of his staff, a member of his immediate family, or his attendant, servant, or personal employee, derives such subsidiary or subordinate status, provided such status is comprehended within the specific provisions of section 101 (a) (15) (G) of the act.

(j) The term "immediate family," as used in section 101 (a) (15) (G) of the act, means close relatives who are members of the immediate family by blood, marriage, or adoption, and who will reside regularly in the household of the principal alien from whom they derive their subsidiary status.

(k) The term "attendants", as used in section 101 (a) (15) (G) (v) of the act, includes an alien who is paid from the public funds of the foreign government to which he owes allegiance, or from the funds of the international organization, and who is accompanying or following to join the principal alien to whom he owes a duty or service.

(l) The term "servants" and "personal employees", as used in section 101 (a) (15) (G) (v) of the act, include an alien who is employed in a domestic or personal capacity by a principal alien, who is paid from the private funds of such alien, and who seeks to enter the United States solely for the purpose of such employment.

(Sec. 101, 66 Stat. 163; 8 U. S. C. 1101)

§ 41.91 *Evidence of status as representative to, or officer or employee of, international organization.* (a) An alien applying for a visa as a nonimmigrant representative to, or as an officer or employee of, an international organization shall be required to present evidence of his status and of the means and destination of his travel to, or through, the United States. The consular officer to whom such alien applies for a visa may, if in doubt, require a confirmation of the status of such representative, officer, or employee from the appropriate foreign office or from the international organization concerned, and any other evidence considered necessary to establish the applicant's eligibility to receive a visa as a nonimmigrant under the provisions of section 101 (a) (15) (G), and other applicable provisions, of the act.

(b) An alien who applies for a visa as a resident member of the staff, a member of the immediate family, or an attendant, servant, or personal employee, of a principal alien may be required to present satisfactory evidence of such status.

§ 41.92 *Procedure in issuing visa to representative to, or officer or employee of, international organization.* (a) The provisions of §§ 41.5 and 41.12 shall be followed in issuing a visa to an alien as a nonimmigrant under the provisions of section 101 (a) (15) (G) of the act.

(b) In the case of an alien who is a resident member of the staff, a member of the immediate family, or an attendant, servant, or personal employee of a principal alien, the name and title of the principal alien from whom such status is derived shall be written below the lower margin of the visa stamp or on the same page of the passport or other document bearing the visa stamp.

(c) An alien who seeks to enter the United States as a foreign-government representative to an international organization and who, at the same time, is proceeding to the United States on official business as a foreign-government official within the meaning of section 101 (a) (15) (A) of the act, shall, if otherwise qualified, be issued a visa as a nonimmigrant under the provisions of section 101 (a) (15) (A) of the act.

TEMPORARY WORKERS

§ 41.100 *Temporary workers and trainees.* (a) An alien applying for a nonimmigrant visa as a temporary worker or trainee under the provisions of section 101 (a) (15) (H) of the act shall not be granted such status unless the consular officer is in receipt of an authorization from the Secretary of State to grant the alien such nonimmigrant status upon the basis of a petition of the alien's prospective employer in the United States, filed with and approved by the Attorney General. Such approved petition shall constitute prima facie evidence that the alien is entitled to apply for classification as a temporary worker or trainee within the meaning

of section 101 (a) (15) (H) of the act: *Provided*, That the approval of such petition shall not, of itself, establish that the alien is a bona fide nonimmigrant or that he is otherwise qualified to receive a nonimmigrant visa.

(b) Aliens who are entitled to classification as nonimmigrants under the provisions of section 101 (a) (15) (A) or (G) of the act shall not be subject to the petition requirements of section 101 (a) (15) (H) and section 214 (c) of the act, unless they are coming to the United States under contract or other pre-arrangement to perform service or labor for hire, or for training, which is outside the scope of the official duties inherently involved in their status, in which case they shall be classified as nonimmigrants under the provisions of section 101 (a) (15) (H) of the act and approved petitions shall be required before the visas are issued.

(c) No consular officer shall refuse to grant nonimmigrant status to an alien under the provisions of section 101 (a) (15) (H) of the act on the ground that the alien is not qualified to perform the service or labor, or to undertake the training, specified in the employer's petition approved by the Attorney General: *Provided*, That a consular officer who knows or has reason to believe that such alien is not so qualified shall suspend action on the alien's application for a nonimmigrant visa under section 101 (a) (15) (H) of the act and submit a full report to the Secretary of State for possible reference to the Attorney General of the question whether the Attorney General desires to reconsider his approval of the employer's petition.

(d) If the consular officer knows or has reason to believe that an alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (H) of the act is ineligible to receive such visa under the provisions of section 212 of the act or any other provision of law, and § 41.17, he shall refuse to issue such visa and shall submit a full report to the Secretary of State for possible reference to the Attorney General to complete the file of the Immigration and Naturalization Service in the case.

(e) Aliens coming to the United States as temporary workers or trainees under the exchange visitor program provided for in the United States Information and Educational Exchange Act of 1948, as amended (62 Stat. 6, 66 Stat. 276; 22 U. S. C. 1446), shall be classified as nonimmigrants under the symbol "EX" and the provisions of section 101 (a) (15) of the act, and § 41.5. Such cases shall not be subject to the petition procedure provided for in section 214 (c) of the act. (See § 41.41.)

(f) An alien who is of distinguished merit and ability and who seeks to enter the United States temporarily with the general intention of performing temporary service of an exceptional nature requiring such merit and ability, but having no contract or prearranged employment, may be classified as a temporary visitor for business under the provisions of section 101 (a) (15) (B) of the act.

(g) The term "industrial trainee", as used in section 101 (a) (15) (H) (iii) of the act, shall include an alien coming to the United States for training in agriculture, commerce, communications, finance, government, or transportation, as well as for training in a purely industrial establishment. The term "industrial trainee" shall also include a student who seeks to enter the United States to pursue a course of study or training at a vocational training school.

(Sec. 101, 66 Stat. 168; 8 U. S. C. 1101)

§ 41.101 *Alien servant or personal employee of member of the Foreign Service of the United States, or of other citizen or resident of the United States.* An alien seeking to enter the United States temporarily for employment as a servant or personal employee of a member of the Foreign Service of the United States, or of any other citizen or resident of the United States, shall, if otherwise qualified, be classified as a nonimmigrant under the provisions of section 101 (a) (15) (H) (ii) of the act. Such alien servant or personal employee shall be subject to the petition procedure referred to in § 41.100 (a). In issuing a visa to such alien the symbol H–2 shall be inserted in the spaces provided for classification in the visa stamp and Forms 257b and 257c.

NEWS REPORTERS

§ 41.110 *Representatives of foreign press, radio, film, or other information media.* (a) An alien applying for a nonimmigrant visa under the provisions of section 101 (a) (15) (I) of the act shall not be accorded such status unless he establishes to the satisfaction of the consular officer that he seeks to enter the United States as:

(1) A representative of a foreign press, radio, film, or other foreign information medium, solely to engage in such vocation; or as

(2) The spouse or child of such representative, and is accompanying or following to join him.

(b) An alien who will be engaged in the United States in newsgathering activities between the United States and the country of which he is a national, and who is entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national, shall be classified as a nonimmigrant under the provisions of section 101 (a) (15) (I) of the act and not as a nonimmigrant under the provisions of section 101 (a) (15) (E) of the act.

(66 Stat. 168; 8 U. S. C. 1101)

§ 41.111 *Burden of proof and evidence of status as representative of foreign information media.* (a) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (I) of the act shall not only have the burden of establishing that he is entitled to classification as a representative of a foreign information medium within the meaning of that section of the act, but also that he is not ineligible to receive a visa as a nonimmigrant under the provisions of section 212 of the act or other provision of law, and § 41.17. Such alien shall establish specifically that:

(1) He seeks to enter the United States solely to represent in good faith a foreign press, radio, film, or other foreign information medium; and that

(2) He intends in good faith, and will be able, to depart from the United States upon the termination of his status.

(b) In order to qualify as the representative of a foreign press, radio, film, or other information medium within the meaning of section 101 (a) (15) (I) of the act, an alien shall be accredited by such a foreign medium having its home office in a foreign country, the government of which grants upon a basis of reciprocity similar privileges to representatives of such a medium having home offices in the United States, except that when the information medium is owned, operated, subsidized, or controlled by a foreign government, directly or indirectly, the reciprocity required by the provisions of section 101 (a) (15) (I) of the act shall be accorded by such foreign government.

TEMPORARY ADMISSION OF EXCLUDABLE ALIENS

§ 41.150 *Procedure in recommending temporary admission of excludable aliens.* (a) In the case of an alien who is properly classifiable as a nonimmigrant under the provisions of section 101 (a) (15) of the act, but who is known or believed by the consular officer to be ineligible to receive a visa as a nonimmigrant under the provisions of section 212 (a) of the act, other than paragraph (27) or (29), the consular officer to whom application is made by the alien for a nonimmigrant visa may, upon his own initiative, or shall, upon the alien's request, or upon the request of the Secretary of State, submit a full report to the Secretary of State with a recommendation for possible transmission to the Attorney General for advance authorization of the temporary admission of the alien into the United States as a nonimmigrant. The consular officer's recommendation, whether favorable or unfavorable, shall be accompanied by a full explanation of the facts in the case, and by an application to the Attorney General for temporary admission on such form, if any, as may be required by the Attorney General. A statement of the reasons for the consular officer's favorable or unfavorable recommendation shall be included in the report.

(b) When the Attorney General authorizes the temporary admission of an excludable alien as a nonimmigrant and the consular officer is so informed by the Secretary of State, the consular officer may proceed with the issuance of a nonimmigrant visa to the alien, subject to the conditions imposed by the Attorney General upon the alien's temporary admission into the United States.

(c) In the case of an alien who is seeking to enter the United States for the purpose of proceeding in transit to the Headquarters District of the United Nations in the United States under the provisions of section 11 (3), (4), or (5) of the Headquarters Agreement with the United Nations, and who is known or believed to be ineligible to receive a visa under the provisions of section 212 (a) (28) of the act, but not mandatorily

ineligible under the provisions of section 212 (a) (27) or (29) of the act, the consular officer shall submit promptly to the Secretary of State a full report with a request for an advisory opinion concerning the action to be taken in the case. The consular officer may include in such report a recommendation for possible transmission to the Attorney General concerning the alien's possible temporary admission into the United States under the provisions of section 212 (d) (3) of the act. Upon receipt of notification from the Secretary of State that the Attorney General has authorized the temporary admission of such an alien in transit, the consular officer may proceed with the issuance of a transit visa to the alien, subject to the conditions imposed by the Attorney General for the admission of the alien in transit to the United Nations Headquarters District.

(Sec. 212, 66 Stat. 187; 8 U. S. C. 1182)

The regulations contained in this order shall become effective on December 24, 1952 at 12:01 a. m., e. s. t. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

[SEAL] DAVID BRUCE,
Acting Secretary of State.

[F. R. Doc. 52-13324; Filed, Dec. 18, 1952; 8:45 a. m.]

[Departmental Reg. 108.168]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

DECEMBER 15, 1952.

Part 42, Chapter I, Title 22, Code of Federal Regulations, is amended to read as follows:

Sec.

42.1 Definitions.

CLASSIFICATION OF IMMIGRANTS

42.2 Presumption of immigrant status.
42.3 Immigrant classification symbols.

CLASSES OF NONQUOTA IMMIGRANTS

42.4 Nonquota relatives.
42.5 Returning resident aliens.
42.6 Natives of Western Hemisphere countries.
42.7 Former United States citizens.
42.8 Ministers of religion.
42.9 United States Government employees.

CLASSES OF QUOTA IMMIGRANTS

42.10 Quota immigrants.
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AUTHORITY: §§ 42.1 to 42.49 issued under sec. 104, 66 Stat. 174; 8 U. S. C. 1104. Statutory provisions interpreted or applied are cited to text in parentheses.

§ 42.1 *Definitions.* The following definitions, in addition to the pertinent definitions contained in the Immigration and Nationality Act, shall be applicable to this part:

(a) "Act" means the Immigration and Nationality Act.

(b) "Affirmation" means a verification in confirmation of truth in lieu of a sworn statement by a person who has conscientious scruples against taking an oath.

(c) "Chinese person" means an alien who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to China.

(d) "Consular officer", as defined in section 101 (a) (9) of the act, shall include the District Administrators of the Trust Territory of the Pacific Islands hereby designated as consular officers for the purpose of issuing immigrant visas.

(e) "Department" means the Department of State of the United States of America.

(f) "Passport" as defined in section 101 (a) (30) of the act shall not be considered as limited to a national passport, but shall be considered as including any other document issued by a competent authority, which shows the bearer's origin, identity, and nationality if any, and which is valid for the entry of the bearer into a foreign country. The term "passport" shall not be considered as limited to a single document but may consist of two or more documents which, when considered together, fulfill the requirements of a passport as defined in section 101 (a) (30) of the act: *Provided*, That written permission to enter a foreign country shall be considered as fulfilling one of such requirements if it is clearly valid for such purpose and specifies no conditions to such validity for the alien's entry into a foreign country.

(g) "Port of entry" means a port or place designated by the Attorney General or the Commissioner of Immigration and Naturalization at which an alien may apply for admission into the United States.

CLASSIFICATION OF IMMIGRANTS

§ 42.2 *Presumption of immigrant status.* Every alien shall be presumed to be an immigrant until he furnishes information or presents evidence establishing nonimmigrant status under the provisions of Part 41 of this subchapter. An immigrant shall be classified as a quota immigrant until he establishes that he is classifiable as a nonquota immigrant. In order to be classified as a nonquota immigrant, an alien shall be required to qualify for such classification within one of the nonquota immigrant categories specified in section 101 (a) (27) of the act and hereinafter more specifically described in this part.

§ 42.3 *Immigrant classification symbols.* (a) A visa issued to an alien as an immigrant within one of the nonquota immigrant classes defined in section 101 (a) (27) of the act, or to an alien as an immigrant within one of the quota immigrant classes described in section 203 (a) of the act, shall bear a symbol to show the classification of the immigrant, in conformity with section 221 (a) of the act. Such symbol shall be inserted by the consular officer in the designated space on the visa side of the immigrant visa application Form 256.

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

(b) The following symbols shall be used in the cases of nonquota immigrants:

Class	Section of the act	Symbol to be inserted in visa
Spouse of United States citizen	101 (a) (27) (A)	M-1
Child of United States citizen	101 (a) (27) (A)	M-2
Returning resident	101 (a) (27) (B)	N
Native of certain Western Hemisphere countries	101 (a) (27) (C)	O-1
Spouse of alien classified O-1	101 (a) (27) (C)	O-2
Child of alien classified O-1	101 (a) (27) (C)	O-3
Person who lost United States citizenship by marriage	101 (a) (27) (D) and 324 (a)	P-1
Person who lost United States citizenship by serving in foreign armed forces	101 (a) (27) (D) and 327	P-2
Person who lost United States citizenship through parent's foreign naturalization	101 (a) (27) (E) and 349 (a) (1)	P-3
Minister of religion	101 (a) (27) (F)	Q-1
Spouse of alien classified Q-1	101 (a) (27) (F)	Q-2
Child of alien classified Q-1	101 (a) (27) (F)	Q-3
Certain employees or former employees of United States Government abroad	101 (a) (27) (G)	R-1
Spouse of alien classified R-1	101 (a) (27) (G)	R-2
Child of alien classified R-1	101 (a) (27) (G)	R-3

(c) The following symbols shall be used in the cases of quota immigrants:

Class	Section of the act	Symbol to be inserted in visa
First preference: Selected immigrant	203 (a) (1)	T-1
Spouse of alien classified T-1	203 (a) (1)	T-2
Child of alien classified T-1	203 (a) (1)	T-3
Second preference: Parent of United States citizen	203 (a) (2)	U
Third preference: Spouse of alien resident	203 (a) (3)	V-1
Third preference: Child of alien resident	203 (a) (3)	V-2
Fourth preference: Brother or sister of United States citizen	203 (a) (4)	W-1
Fourth preference: Son or daughter 21 years of age or over, or married, of United States citizen	203 (a) (4)	W-2
Nonpreference: Other quota immigrants	203 (a) (4)	X

CLASSES OF NONQUOTA IMMIGRANTS

§ 42.4 *Nonquota relatives.* (a) An alien shall, regardless of ancestry, be accorded a nonquota immigrant status under the provisions of section 101 (a) (27) (A) of the act, only if such alien establishes by the presentation of appropriate evidence to the consular officer that he is the spouse or child of a citizen of the United States, and is the beneficiary of an approved petition filed in his behalf with the Attorney General by such citizen, upon the basis of which the consular officer shall have been authorized by the Secretary of State to grant the nonquota immigrant status. An approved petition for first-preference quota status for the husband of a United States citizen shall, if still valid on December 24, 1952, be deemed to be valid for nonquota status under section 101 (a) (27) (A) of the act until December 24, 1953, except as otherwise provided in § 42.28.

(b) In issuing an immigrant visa to an alien child as a nonquota immigrant under the provisions of section 101 (a) (27) (A) of the act, the consular officer shall warn such alien, if he is approaching the age of twenty-one years, that he will not be admissible as such a nonquota immigrant if he fails to apply for admission at a port of entry in the United States before reaching the age of twenty-one years.

(Sec. 101, 66 Stat. 169; 8 U. S. C. 1101)

§ 42.5 *Returning resident alien—(a) Burden of proof.* An alien shall, regardless of ancestry, be accorded a nonquota immigrant status under the provisions of section 101 (a) (27) (B) of the act only if such alien sustains the burden of establishing through the presentation of appropriate evidence to the consular officer that the applicant has the status of an alien lawfully admitted for permanent residence and that he is returning to the United States from a temporary visit abroad.

(Sec. 291, 66 Stat. 234; 8 U. S. C. 1361)

(b) *Evidence of returning resident status.* An alien applying for a nonquota immigrant visa under the provisions of section 101 (a) (27) (B) of the act shall be required to present any evidence deemed necessary by the consular officer to establish eligibility to receive such visa. In this connection, the applicant may be required to furnish for inspection his alien registration receipt card (Form I–151) if such a card has been issued to him, or an expired reentry permit if such a reentry permit was issued to him. Such alien shall be required to establish specifically that:

(1) He had the status of an alien lawfully admitted for permanent residence at the time of his departure from the United States;

(2) He departed from the United States with the intention of returning thereto;

(3) He is returning to the United States from a temporary visit abroad: *Provided*, That when his stay abroad was protracted, he shall be required to establish whether the reasons therefor were beyond his control and whether he was not responsible therefor, in order that it may be determined whether the sojourn abroad was temporary.

(c) *Authority to require supporting documents.* The provisions of section 222 (b) of the act requiring an immigrant to furnish with his application for a visa certain records and documents shall apply, in the case of an applicant for a nonquota immigrant visa under the provisions of section 101 (a) (27) (B) of the act, to the extent of requiring the applicant to furnish those records and documents which relate to the period of his residence in the United States, unless the consular officer has a valid reason for questioning the legality of the alien's previous admission into the United States for permanent residence, or his eligibility otherwise to receive a visa.

(d) *Bearers of reentry permits.* No alien who is in possession of an unexpired reentry permit issued to him shall be issued an immigrant visa of any kind without a specific authorization from the Secretary of State, and an authorization from the Attorney General to take up the alien's reentry permit.

(e) *Bearers of border-crossing cards.* No alien who is in possession of a valid and unexpired resident alien's border-crossing identification card issued to him shall be issued an immigrant visa of any kind without a specific authorization from the Secretary of State, and an authorization from the Attorney General to take up the alien's border-crossing identification card.

§ 42.6 *Natives of Western Hemisphere countries.* (a) An alien shall be accorded a nonquota immigrant status under the provisions of section 101 (a) (27) (C) of the act only if such alien sustains the burden of presenting evidence which establishes to the satisfaction of the consular officer that:

(1) Such alien was born in Canada, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, or that

(2) Such alien is the eligible spouse, or the child of an alien referred to in subparagraph (1) of this paragraph, and is accompanying or following to join him.

(b) The provisions of paragraph (a) of this section shall not apply to a Chinese person, or to any other person who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle, unless such person is the child of, and is accompanying or following to join, an alien referred to in subparagraph (1) of paragraph (a) of this section.

(c) Nonquota immigrant status under the provisions of section 101 (a) (27) (C) of the act, once acquired as provided in paragraphs (a) and (b) of this section, shall not be lost by the operation of the provisions of section 202 (a) (1) or (2) of the act.

(d) An alien born in a quota area and claiming nonquota immigrant status under the provisions of section 101 (a) (27) (C) of the act because of relationship to a spouse or parent born in a nonquota country shall be required to present the evidence necessary to establish such status.

(e) An alien referred to in subparagraph (2) of paragraph (a) of this section, who is following to join an alien parent in the United States, shall establish by satisfactory evidence that the parent was born in a nonquota country, and has the status of an alien lawfully admitted for permanent residence.

(f) An alien applying for a nonquota immigrant visa as the spouse of an alien classifiable as a nonquota immigrant under the provisions of section 101 (a) (27) (C) of the act shall be required to

establish that the applicant's spouse from whom nonquota status is derived by the applicant under that section of the act was born in a nonquota country and is eligible to receive a nonquota immigrant visa under that section of the act, or that such applicant's spouse was born in a nonquota country and has the status of an alien lawfully admitted for permanent residence. Such an applicant shall not be eligible for nonquota status under section 101 (a) (27) (C) of the act if he or she is a Chinese person, or any other person who is attributable by as much as one-half of his or her ancestry to a people or peoples indigenous to the Asia-Pacific triangle.

(Sec. 101, 66 Stat. 169; 8 U. S. C. 1101)

§ 42.7 *Former United States citizens*—(a) *Women expatriates.* An alien applying for reacquisition of citizenship under the provisions of section 324 (a) of the act shall, regardless of ancestry, be accorded nonquota immigrant status under the provisions of section 101 (a) (27) (D) of the act only if such alien sustains the burden of presenting evidence which establishes to the satisfaction of the consular officer that she was a citizen of the United States and that she lost her citizenship by reason of marriage to an alien, or by reason of the loss of United States citizenship by her husband, or by reason of her marriage to an alien who was ineligible to citizenship, and that she has not acquired any other nationality by any affirmative act other than marriage. The provisions of this paragraph shall apply to aliens regardless of their marital status at the time of the issuance of a visa.

(b) *Military expatriates.* A person, regardless of ancestry, who shall have been a citizen of the United States, and who shall have lost his citizenship under the provisions of section 349 (a) (3) of the act, or under the provisions of section 401 (c) of the Nationality Act of 1940 (54 Stat. 1169), by entering, or serving in, the armed forces of a foreign state, and who may apply for reacquisition of citizenship under the provisions of section 327 of the act, may be accorded the status of a nonquota immigrant under the provisions of section 101 (a) (27) (D) of the act.

(c) *Children expatriates.* An alien shall, regardless of ancestry, be accorded a nonquota immigrant status under the provisions of section 101 (a) (27) (E) of the act only if such alien:

(1) Sustains the burden of presenting evidence which establishes that he was a citizen of the United States and that he lost such citizenship prior to January 1, 1948 through the naturalization in a foreign state of a parent or parents as provided in section 349 (a) (1) of the act; and

(2) Makes application for a nonquota immigrant visa under the provisions of section 101 (a) (27) (E) of the act on or before December 23, 1953.

(Sec. 101, 66 Stat. 169–170; 8 U. S. C. 1101)

§ 42.8 *Ministers of religion.* (a) An alien shall, regardless of ancestry, be accorded a nonquota immigrant status under the provisions of section 101 (a) (27) (F) of the act only if such alien establishes that:

(1) He continuously for at least 2 years immediately preceding the time of his application for a visa has been, and seeks to enter the United States solely for the purpose of, carrying on the vocation of minister of a recognized religious denomination having a bona fide organization in the United States and needing the services of such minister, as evidenced by an authorization from the Secretary of State to grant such status upon the basis of a petition filed by a competent authority of the denomination with, and approved by, the Attorney General; or

(2) Is the spouse or child of such minister and is accompanying or following to join him.

(b) The term "minister", as used in section 101 (a) (27) (F) of the act, means a person duly authorized by a recognized religious denomination having a bona fide organization in the United States to conduct religious worship, and to perform other duties usually performed by a regularly ordained pastor or clergyman of such denomination. The term shall not include a lay preacher not authorized to perform the duties usually performed by a regularly ordained pastor or clergyman of the denomination of which he is a member, and shall not include a nun, lay brother, or cantor.

(Sec. 101, 66 Stat. 170; 8 U. S. C. 1101)

§ 42.9 *United States Government employees.* An alien shall, regardless of ancestry, be accorded a nonquota immigrant status under the provisions of section 101 (a) (27) (G) of the act only if the consular officer is satisfied that such alien:

(a) Has served the Government of the United States faithfully as an employee for a total period of not less than 15 years;

(b) Performed such service abroad for one or more establishments of the United States Government, but not necessarily for the Foreign Service of the United States;

(c) If a former employee, was retired under honorable conditions; and

(d) Has been recommended for such nonquota status by the principal officer at the diplomatic or consular office where the alien is applying for a visa and such recommendation shall have been approved by the Secretary of State upon the basis of a finding that the granting of such status is in the national interest of the United States; or

(e) Is the spouse or child of an alien described in paragraphs (a) to (d), inclusive, of this section.

(Sec. 101, 66 Stat. 170; 8 U. S. C. 1101)

CLASSES OF QUOTA IMMIGRANTS

§ 42.10 *Quota immigrants*—(a) *Presumption of classification.* Every alien shall be presumed to be a nonpreference quota immigrant until such alien establishes that he is entitled to be classified as a preference quota immigrant, or as a nonquota immigrant, or as a nonimmigrant.

(b) *Burden of proof of classification.* Every alien who seeks to establish that he is classifiable as a preference quota immigrant shall have the burden of proving that he is entitled to be classified within one of the preference quota classes specified in the act and referred to more specifically in § 42.11.

(Sec. 291, 66 Stat. 234; 8 U. S. C. 1361)

(c) *Effect of approved petition.* The fact that a consular officer shall have been authorized by the Secretary of State to grant a preference quota status to an alien upon the basis of a petition filed with, and approved by, the Attorney General in such alien's case shall not be considered as shifting from the alien to the consular officer the burden of proving eligibility to receive a visa. Such authorization by the Secretary of State shall have the effect of establishing prima facie that the alien is entitled to the classification approved in the petition.

§ 42.11 *Classes of quota immigrants*—(a) *First preference class.* The first preference class of quota immigrants shall consist of the selected immigrants referred to in section 203 (a) (1) of the act, including the accompanying spouses and children of such immigrants, who shall be entitled to preferential consideration under the first half of the quota to which they are chargeable and within any other portion of such quota not required for the issuance of visas to immigrants primarily entitled thereto.

(b) *Second preference class.* The second preference class of quota immigrants shall consist of the alien parents of citizens of the United States, such citizens being twenty-one years of age or over, as referred to in section 203 (a) (2) of the act, who shall be entitled to preferential consideration under the next 30 per centum of the quota to which they are chargeable and to second preference within any other portion of such quota not required for the issuance of visas to immigrants primarily entitled thereto.

(c) *Third preference class.* The third preference class of quota immigrants shall consist of the alien spouses and children of aliens lawfully admitted for permanent residence, referred to in section 203 (a) (3) of the act, who shall be entitled to preferential consideration under the remaining 20 per centum of the quota to which they are chargeable and to third preference within any other portion of such quota not required for the issuance of visas to immigrants primarily entitled thereto.

(d) *Fourth preference class.* The fourth preference class of quota immigrants shall consist of the alien brothers and sisters of United States citizens, and of the alien sons and daughters who are twenty-one years of age or over, or married, of United States citizens, as referred to in section 203 (a) (4) of the act, who shall be entitled to a preference of not exceeding 25 per centum of that portion of every quota which is not required for the issuance of immigrant visas to qualified immigrants within the first, second, and third preference classes.

(e) *Nonpreference class.* The nonpreference class of quota immigrants shall consist of all quota immigrants not entitled to preferential consideration as

preference-quota immigrants under section 203 (a) (1), (2), (3), or (4) of the act: *Provided*, That prior to July 1, 1954, not more than 50 per centum of the quota numbers available for the issuance of visas to qualified nonpreference quota immigrants shall be available for the issuance of visas to qualified immigrants under the second proviso to section 3 (c) of the Displaced Persons Act of 1948, as amended (62 Stat. 1009, 64 Stat. 219).

(f) *Priority of access to unused portions of a quota.* In determining whether an alien shall have access to an unused preference portion of a quota after the preference portion of the quota to which he is primarily entitled has been exhausted, priority shall be given to aliens within each of the preference classes in the order of their preference as specified in the act, until the unused portion or portions of the quota shall have been exhausted. No quota number shall be made available for the issuance of an immigrant visa to a nonpreference quota immigrant if there is a sufficient demand on the part of qualified preference-quota immigrants to exhaust the quota.

(Sec. 203, 66 Stat. 178, 8 U. S. C. 1153)

§ 42.12 *Annual determination of quota numbers available under each quota.* For the purposes of section 203 (a) of the act and § 42.11, the full quota for each quota area for each quota year shall be considered to be the quota as proclaimed by the President under section 201 (b) or 202 (e) of the act, less the quota numbers authorized to be taken from, or otherwise previously used under such quota by authority of law before the beginning of each quota year, as provided in section 201 (e) of the act, or in any other provision of law.

§ 42.13 *Determination of quota to which an immigrant is chargeable.* (a) An immigrant who was born in a quota area shall be chargeable to the quota of such area, unless he is classifiable as a nonquota immigrant as defined in section 101 (a) (27) of the act, or unless he falls within one of the exceptions to the general rule of quota chargeability, as specified in section 202 of the act, or unless he is a Chinese person who is chargeable to the quota for Chinese as provided in § 42.15.

(b) A quota immigrant child accompanied by his alien parent may be charged to the quota of the accompanying parent, as provided in section 202 (a) (1) of the act, regardless of the ancestry of such child or of his accompanying alien parent, and regardless of whether the child was born in the Asia-Pacific triangle or in a subquota area inside or outside of such triangle. This rule shall apply in such manner as to permit a child born in a subquota area to be charged, as provided in section 202 (a) (1) of the act, to a governing country's quota with his accompanying parent who is chargeable to such governing country's quota, even if the child was born in a subquota area under the same governing country's quota and the subquota is exhausted.

(c) An alien born in a quota area in which neither of his parents was born and in which his parents were, at the time of such alien's birth, merely visiting temporarily, or in which one or both of his parents were stationed after having been sent there temporarily under orders or instructions of an employer, principal, or superior authority foreign to such country in connection with the business or profession of such employer, principal, or superior authority, may, except as otherwise provided in section 202 (a) (5) of the act, be charged to the quota of either parent, as provided in section 202 (a) (4) of the act.

(Sec. 202, 66 Stat. 176; 8 U. S. C. 1152)

ASIANS

§ 42.14 *Asia-Pacific triangle*—(a) *Persons born in a quota area in the triangle.* A quota immigrant, regardless of his ancestry, who was born in a quota area lying wholly within the geographically delimited area specified in section 202 (b) of the act and referred to as the Asia-Pacific triangle, shall be chargeable to the quota of the quota area of his birth, unless he falls within one of the exceptions to the general rule of quota chargeability, as specified in section 202 of the act, or unless he is chargeable to the quota for Chinese persons as provided in § 42.15.

(b) *Persons indigenous to, but born outside of, the Asia-Pacific triangle.* A quota immigrant who was born outside of the Asia-Pacific triangle and who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle shall be chargeable to a quota as specified in section 202 (b) of the act, unless he is chargeable to the quota for Chinese persons as provided in § 42.15.

(c) *Asia-Pacific quota.* Quota immigrants in the following categories, other than Chinese persons, and except as provided in § 42.13 (b), shall be chargeable to the Asia-Pacific quota of one hundred annually:

(1) A quota immigrant attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle, if born within a colony or other dependent area situate wholly within said triangle;

(2) A quota immigrant born outside the Asia-Pacific triangle who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to one or more colonies or other dependent areas situate wholly within the Asia-Pacific triangle;

(3) A quota immigrant born outside the Asia-Pacific triangle who is attributable by as much as one-half of his ancestry to peoples indigenous to two or more separate quota areas situate wholly within the Asia-Pacific triangle; and

(4) A quota immigrant born outside the Asia-Pacific triangle who is attributable by as much as one-half of his ancestry to peoples indigenous to a quota area or areas and one or more colonies and other dependent areas situate wholly within the Asia-Pacific triangle.

(d) No alien shall be chargeable to the Asia-Pacific quota, except one who falls within one of the categories enumerated under subparagraphs (1) to (4) inclusive, of paragraph (c) of this section, and who is attributable by as much as one-half of his ancestry to a people or people indigenous to the Asia-Pacific triangle.

(e) The quota proclaimed for "Pacific Islands (trust territory, United States administered)" to which an immigrant is chargeable in accordance with the provisions of section 202 of the act shall be distinguished from the Asia-Pacific quota which is referred to in paragraph (c) of this section.

(Sec. 202, 66 Stat. 177; 8 U. S. C. 1152)

§ 42.15 *Quotas for Chinese persons and for China*—(a) *Quota for Chinese persons.* A Chinese person who is classifiable as a quota immigrant shall be chargeable, regardless of the place of his birth, to the quota for Chinese persons of 105 annually authorized under section 201 (a) of the act, unless such person is a child chargeable to the quota of an accompanying parent as provided in section 202 (a) (1) of the act.

(b) *Quota for China.* An alien, other than a Chinese person, who was born in China and who is classifiable as a quota immigrant shall be chargeable to the quota for China regardless of his ancestry, unless such alien falls within paragraph (1), (2), (3), or (4) of section 202 (a) of the act: *Provided*, That if such alien is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle he may be excepted from chargeability to the quota for China only if he is a child chargeable to the quota of an accompanying parent as provided in section 202 (a) (1) of the act.

§ 42.16 *Quota preferences applicable to quotas of quota areas within Asia-Pacific triangle.* The provisions of section 203 (a) of the act concerning the classes of quota immigrants and the preferences within such classes, as described in § 42.11, shall apply to all quotas, including all quotas for quota areas within the Asia-Pacific triangle, which shall include the quota for Chinese persons.

§ 42.17 *Nonquota status for natives of Asia-Pacific triangle; Exceptions.* The provisions of section 101 (a) (27) of the act defining the nonquota classes, except the provisions of subparagraph (C) thereof relating to certain natives of Western Hemisphere countries, shall be applicable to qualified immigrants including Chinese persons and others who are attributable by as much as one-half of their ancestry to a people or peoples indigenous to the Asia-Pacific triangle: *Provided*, That the child of an immigrant parent who is entitled to nonquota status under the provisions of section 101 (a) (27) (C) of the act, if accompanying or following to join such a parent, shall also be entitled to nonquota status under that section of the act, notwithstanding the fact that such child may be a Chinese person or may be attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle.

(Sec. 202, 66 Stat. 177; 8 U. S. C. 1152)

§ 42.18 *Subquotas*—(a) *Definition.* The term "subquota" refers to that por-

tion of the quota of a governing country which may be made available, subject to a limitation of 100 annually, to quota immigrants born in any colony or other component or dependent area overseas from such governing country.

(b) *Immigrants chargeable to subquotas.* Any quota immigrant born in a colony or other component or dependent area overseas from the governing country shall be chargeable to the subquota of such country, except as provided in paragraph (c) of this section, or § 42.13 (b).

(c) *Exceptions to subquota chargeability.* (1) Any quota immigrant born in a colony or other component or dependent area overseas from the governing country, who is a Chinese person or who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle, shall not be chargeable to a subquota, but shall be chargeable to the Chinese quota if a Chinese person, or to another appropriate quota, as provided in section 202 (b) of the act, and §§ 42.14 and 42.15.

(2) A spouse who is an eligible quota immigrant, or a child regardless of ancestry, born in a subquota area accompanying an alien spouse or parent chargeable to the quota of the governing country of such area, may be charged to the quota of the governing country under the conditions specified in section 202 (a) (2) of the act, and not to the subquota if such subquota is exhausted: *Provided*, That this subparagraph shall not be applicable in the case of such an applicant who is within the provisions of subparagraph (1) of this paragraph.

(d) *Control of subquotas.* The numerical control of a subquota shall in the case of an oversubscribed quota of the governing country, be subject to the same limitations which apply to the quota of the governing country, including the ten percent monthly limitations upon the issuance of visas during the first ten months of each quota year and the ten percent monthly limitations shall be in relation to the whole quota and not merely based upon the subquota or subquotas.

(e) *Priority in issuing visas under subquotas.* The priority in the issuance of visas within each quota category to aliens chargeable to a subquota shall be determined by the registration priority of such aliens in relation to the whole quota of the governing country: *Provided*, That once a subquota has been exhausted for a particular quota year, no more quota visas may be issued during such quota year to aliens chargeable to such subquota, regardless of any preference status or priority of consideration to which they may otherwise be entitled, unless the provisions of § 42.13 (b) or paragraph (c) (2) of this section are applicable.

(f) *Priority of consideration under subquotas.* The order for consideration of the cases of registrants under each quota, which includes the subquota or subquotas of each quota, shall be determined in accordance with the provisions of section 203 (d) of the act.

(Sec. 202, 66 Stat. 177; 8 U. S. C. 1152)

WAITING LISTS

§ 42.20 *Immigrant waiting lists*—(a) *Quota or nonquota waiting lists.* Whenever it becomes administratively impracticable at any consular office to give consideration to, and take final action upon, the case of an applicant for a quota or a nonquota immigrant visa without a waiting period, each such applicant's priority shall be maintained by the registration of his name on an administrative waiting list at such office. Quota waiting lists shall be maintained for each quota and shall include aliens chargeable to each subquota in such manner as to show the priority date of registration within each of the preference or nonpreference classes, and to permit the transfer of the name of any applicant from one category to another without losing his original priority Quota waiting lists shall not be required in cases of immigrants chargeable to undersubscribed quotas, but an administrative waiting list shall be established if the workload at the consular office requires a waiting period before final consideration may be given by the consular officer to the cases of immigrants chargeable to the undersubscribed quotas. Nonquota administrative waiting lists may, in the discretion of the consular officer, be maintained separately for each nonquota category or for all nonquota categories combined.

(b) *Registration prior to December 24, 1952.* (1) All persons whose names were registered on quota waiting lists on December 23, 1952, shall have their names transferred to the appropriate category of the waiting list for the quota, including the subquota, to which they are chargeable without losing the priority of their original registration, unless such registration is subject to cancellation under the provisions of § 42.23.

(2) In the case of an alien entitled to second preference status under the provisions of section 203 (a) (2) of the act and § 42.11 (b), who is the alien parent of a citizen of the United States and the beneficiary of a petition approved by the Attorney General prior to, and still valid on, December 24, 1952, the date of the approval of such petition shall be considered to be the date of such alien's registration priority, except in the case of an alien who is actually registered on the waiting list on a date preceding that of the approval of the petition, in which case the date of actual registration shall establish his priority. A valid petition as referred to in this subparagraph shall continue to be valid until December 24, 1953, except as otherwise provided in § 42.28.

(c) *Registrations on or after December 24, 1952.* Except as otherwise provided in paragraph (b) of this section, or in § 42.25 (b) the registration of a quota immigrant on a waiting list shall be effected on or after December 24, 1952, upon the basis of an application for registration properly executed by the immigrant and received at the consular office by mail from such immigrant. The date, as well as the hour and minute wherever practicable, of the receipt at the consular office of each registration application form shall be noted thereon and shall constitute the registration priority under which the applicant's name shall be registered in the proper category on the appropriate waiting list.

(Sec. 203, 66 Stat. 179; 8 U. S. C. 1153)

§ 42.21 *Aliens included in single registration*—(a) *Principal and derivative registrants.* The application of a quota immigrant for registration on a waiting list shall be considered as automatically including any parent, spouse, or any child such immigrant or his spouse may have, and whom he may desire to have accompany him, at the time his turn may be reached and he makes a formal application for an immigrant visa, regardless of whether such spouse or child was specifically mentioned in his application for registration. No other aliens shall be considered to be included in such application unless they are members of the immediate family by blood or marriage, and are residing regularly in the household, of the principal registrant, and are specifically named in his application for registration.

(b) *Period of derivative registration.* No alien who derives registration from the principal registrant under the provisions of paragraph (a) of this section shall be permitted to retain such registration beyond a period of one year from the date an immigrant visa was issued to the principal registrant who has preceded such alien to the United States.

§ 42.22 *Aliens not to be registered on a waiting list*—(a) *General rule.* Except as provided in paragraph (b) of this section, no alien may have his name entered or retained on a quota or subquota immigrant waiting list while he is in the United States.

(b) *Exceptions.* (1) An alien in the United States who is maintaining, or an alien seeking to enter in, the status of a nonimmigrant under the provisions of section 101 (a) (15) (A), (D), (E), (G), (H) or (I) of the act, or as a nonimmigrant visitor for business (B–1) under the provisions of section 101 (a) (15) (B) of the act if the inherent nature of his occupation, business or profession requires such alien to enter the United States.

(2) An alien who entered the United States before September 10, 1946, and whose name was registered on an immigrant waiting list before July 1, 1949: *Provided*, That such alien did not enter the United States in violation of the immigration laws.

(3) An alien who is proceeding to, or remaining in, the United States at the behest of the Joint Chiefs of Staff.

(c) *Registration of non-residents of consular district.* Except as provided in paragraph (b) of this section, every alien applying for registration on an immigrant waiting list shall make application at the consular office in the consular district in which he has his residence: *Provided*, That a consular officer shall have discretionary authority to accept an application for registration from an alien having no residence in his consular

district, but who is physically present therein, if the reason given for registration in other than the consular district where the alien resides is satisfactory to the consular officer and he is satisfied that such registration may be accepted without prejudice to the security of the United States.

§ 42.23 *Removal of names of registrants from quota waiting list.* The registration of a quota immigrant shall be cancelled under any of the following circumstances:

(a) The registrant dies;

(b) The registrant was erroneously listed on the waiting list;

(c) The registrant enters the United States in violation of the immigration laws;

(d) The registrant abandons his intention to immigrate to the United States. An alien who for any reason fails to apply formally or informally for a visa within 60 days after being duly notified that his name has been reached on the waiting list shall be considered to have abandoned his intention to immigrate: *Provided*, That any such alien who can establish to the satisfaction of the consular officer that his failure to apply formally or informally for a visa was for reasons beyond his control and for which he was not responsible may make an application for a visa under his original priority on the waiting list when the circumstances which prevented him from applying formally or informally for a visa cease to exist, or within 60 days thereafter;

(e) The registrant has been denied an immigrant visa on some ground which cannot be overcome by the presentation of further evidence or by a probable change in the circumstances of his case;

(f) The registrant is issued an immigrant visa: *Provided*, That any alien receiving an immigrant visa who fails to use it for reasons beyond his control and for which he is not responsible, and who makes application for another visa in a subsequent quota year and within 60 days of the termination of the circumstances which prevented him from using the original visa, may be accorded his original priority on the waiting list for the purpose of making one additional application for a visa;

(g) The registrant is issued a nonimmigrant visa, unless the provisions of § 42.22 (b) are applicable to his case;

(h) The registrant is issued a nonresident alien's border-crossing identification card, unless the alien is within one of the nonimmigrant categories specified in § 42.22 (b) (1).

§ 42.24 *Reinstatement of name on waiting list.* (a) Upon the issuance of a nonimmigrant visa to an alien who is registered on a quota waiting list, and who is proceeding to the United States as a temporary visitor not within § 42.22 (b) (1), or as an alien in transit, the alien's name shall be removed from the waiting list, but it may be reinstated on such list at the same or another consular office under the original registration priority, if the alien establishes that he departed promptly from the United States after an urgent and brief visit to, or an immediate and continuous transit journey through, the United States.

(b) An alien who is found to have proceeded to the United States as a nonimmigrant in transit under the provisions of § 41.7 (a) of this subchapter shall have his name removed from the waiting list and such alien shall not have his name restored to its priority on the waiting list unless he can establish that he proceeded through the United States in immediate and continuous transit.

ORDER OF PRIORITY OF CONSIDERATION

§ 42.25 *Priority for considering quota immigrant cases—(a) Priority in order of registration.* No immigrant within a preference category under a quota shall have his case considered before consideration is given to immigrants in a higher preference quota category as provided in section 203 (d), of the act, and no immigrant within any category under a quota shall have his case considered until after consideration shall have been given to other immigrants in the same category who have an earlier priority of registration on the chronological quota waiting list for such category.

(b) *Registration of first-preference immigrants.* The registration priority of a first-preference quota immigrant shall be determined by the date on which a petition was filed with the Attorney General for the immigration of such immigrant. An authorization received from the Secretary of State to grant first-preference quota immigrant status to the beneficiary of an approved petition shall be recorded at each consular office in the order of the date on which the petition was filed with the Attorney General and shall constitute the chronological registration record of such case on the quota waiting list, or on the administrative list if the quota is under-subscribed and the workload at the consular office necessitates an administrative waiting period.

(Sec. 203, 66 Stat. 179; 8 U. S. C. 1153)

(c) *Registration of other preference quota immigrants.* The registration priority of quota immigrants in the second, third and fourth preference classes shall be determined in each class in the chronological order in which such immigrants are registered on quota waiting lists at each consular office in the order of the receipt of their registration applications, as provided in § 42.20 (c) or in the chronological order in which the required petitions for the immigrants in such classes were filed with the Attorney General, whichever date is earlier.

(Sec. 203, 66 Stat. 179; 8 U. S. C. 1153)

(d) *Registration of nonpreference quota immigrants.* The registration priority of nonpreference quota immigrants shall be determined in each class by the chronological order in which the immigrants' names are registered on the appropriate quota waiting lists at each consular office in the order of the receipt of their registration applications as provided in § 42.20 (c).

(e) *Retention of registration priority.* An alien who ceased to have first, second, third, or fourth preference-quota-immigrant status shall retain his chronological registration priority which shall be transferred to any other category in which he may qualify, except to the first-preference-quota-immigrant category.

§ 42.26 *Procedure in granting preference.* No alien shall be accorded consideration as a person entitled to the status of a first, second, third, or fourth preference-quota immigrant until the consular officer shall have been authorized by the Secretary of State to grant such status upon the basis of a petition filed with, and approved by, the Attorney General as provided in sections 204 and 205 of the act. Classification as a preference quota immigrant shall be granted to an immigrant upon the receipt at the consular office of the authorization from the Secretary of State to grant such status, but further consideration of the case of such immigrant shall be in the order of his priority among other immigrants in the same category.

(Secs. 204 and 205, 66 Stat. 179–180; 8 U. S. C. 1154, 1155)

§ 42.27 *Petitions for nonquota immigrant status.* No alien shall be granted the status of a nonquota immigrant spouse or child of a citizen of the United States under the provisions of section 101 (a) (27) (A) of the act, or as a nonquota minister of religion under the provisions of section 101 (a) (27) (F) (i) of the act, unless the consular officer shall have received from the Secretary of State an authorization to grant such status upon the basis of a petition filed with, and approved by, the Attorney General in accordance with the provisions of section 204 or 205 of the act. After an alien has been granted a nonquota status as specified in this section, his priority of consideration over other applicants in such nonquota status shall be determined according to the date on which the petition was filed with the Attorney General.

(Secs. 204 and 205, 66 Stat. 179–180; 8 U. S. C. 1154, 1155)

§ 42.28 *Suspension or termination of action in petition cases.* Consular officers shall suspend or terminate action on nonquota and preference quota petition cases under the following circumstances, and shall submit a full report of the facts in any such case to the Department for transmission to, and appropriate action by, the Attorney General:

(a) The Consular officer knows or has reason to believe that the petition for a nonquota or preference quota status was approved erroneously, or that such approval was obtained by fraud, misrepresentation, or other unlawful means;

(b) The beneficiary fails to obtain an immigrant visa at a consular office within one year following the date of approval of the petition;

(c) The petitioner loses his United States citizenship, or dies, or, if other than an individual, the petitioner ceases to exist, before the beneficiary obtains an immigrant visa under the status approved;

(d) The marriage of the petitioner to the beneficiary is terminated by divorce, or the marriage has been annulled, be-

fore the beneficiary obtains an immigrant visa under the status approved;

(e) The child beneficiary of a petition is married at the time he makes formal application for an immigrant visa under the status approved;

(f) The child beneficiary of a petition will attain the age of 21 years before he can possibly arrive in the United States to apply for admission under the status approved;

(g) The consular officer knows or has reason to believe that the beneficiary, for any reason, is not entitled to receive a visa under the status approved;

(h) Approval of a petition for nonquota or preference quota status has been specifically revoked by the Attorney General, and notice of revocation has been communicated through the Department to the appropriate consular officer. In the case of a petition, approval of which has terminated by the expiration of the period for which approval was given, the status of the alien beneficiary shall be considered as merely suspended until the consular officer shall have ascertained by inquiry of the Attorney General, through the Department, at such time as it appears possible to issue a visa to such alien within less than six months, whether the approval of such petition may be re-affirmed for an additional period.

EXEMPTIONS FROM IMMIGRANT VISA REQUIREMENTS

§ 42.29 *Immigrants not required to obtain immigrant visas.* The following classes of immigrants shall not be required to obtain immigrant visas:

(a) Immigrants in possession of valid reentry permits or resident alien's border-crossing identification cards.

(b) An alien immigrant child born subsequent to the issuance of an immigrant visa to an accompanying parent, who will arrive in the United States and apply for admission during the period of validity of such visa.

(c) An American Indian born in Canada and having at least fifty per centum of blood of the American Indian race.

(d) An alien member of the armed forces of the United States who is in the uniform of, or who bears documents identifying him as a member of, such armed forces, who has been previously lawfully admitted for permanent residence, and who is proceeding to the United States under official orders or permit of such armed forces.

(e) Any alien lawfully admitted for permanent residence who is not required under the regulations of the Attorney General to present a valid immigrant visa upon returning to the United States.

APPLICATIONS

§ 42.30 *Application for immigrant visa*—(a) *Form and content of application.* Every alien applying for an immigrant visa shall make application therefor on Form 256. In the application the immigrant shall furnish the information required under the provisions of section 222 (a) of the act, and such additional information as may be required in the application form. The requirement of the act that an immigrant shall state in his application his race and ethnic classification does not pertain to his religion.

(b) *Persons required to make separate application.* (1) Each alien shall be required to make a separate application for an immigrant visa;

(2) An alien under 14 years of age, or one physically incapable of executing an application, may have his application for an immigrant visa executed in his behalf by a parent or guardian. If the alien has no parent or guardian, the application may be executed by any person having lawful custody of, or a legitimate interest in, such alien.

(c) *Personal appearance.* Every applicant for an immigrant visa, including an alien whose application is executed by another person, shall be required to appear personally at the consular office in connection with his application.

(d) *Photographs.* Each applicant shall be required to furnish, with his application for an immigrant visa 3 identical copies of his photograph. The photographs shall reflect a reasonable likeness of the alien as of the time they are furnished, be 2 by 2 inches in size, unmounted, show a full front view without head covering, and shall be printed on a light background. Each copy of such photograph shall be signed by the person making an application in such a way as not to obscure the alien's features. One copy of such photograph shall be attached to Form 256a and another to Form 256b. The third copy shall be enclosed in a sealed envelope which shall be appended to Form 256a.

(e) *Place of application.* An alien shall apply for an immigrant visa in the consular district in which he has his residence: *Provided,* That a consular officer shall have discretionary authority to accept an application from an alien having no residence in the consular district if such alien is physically present and the consular officer is satisfied that such application may be accepted without prejudice to the security of the United States.

(f) *Completion of visa application.* The consular officer to whom formal application is made for an immigrant visa shall make certain that all pertinent questions on the application form are answered and all applicable blank spaces are filled out. The applicant shall be required to read the application when it is completed, or it shall be read to him in his language, or he shall otherwise be apprised of its full contents, and he shall be asked whether he is willing to subscribe thereto. If the alien is not willing to subscribe to the application unless changes are made in the information stated by him in such application a new application shall be prepared to conform to the alien's willingness to subscribe to the necessary information.

(g) *Signature and seal.* Form 256 shall be signed in the presence of the consular officer by the applicant in the appropriate spaces in accordance with the manner in which he affixes his signature. The application shall be sworn to, or affirmed, by the applicant before the consular officer, who shall be satisfied that the applicant understands, and is willing to subscribe to, its contents. The consular officer shall then sign such application, indicate his title, and affix the seal of his office in the designated places.

(h) *Application fee stamp.* A fee stamp or fee stamps in the amount of Five Dollars ($5.00), to be collected by the consular officer, shall be affixed to the application form and shall be canceled by the consular officer.

(Sec. 222, 66 Stat. 193, 8 U. S. C. 1202)

§ 42.31 *Immigrant preceding his family; informal examination of members of family.* (a) In the case of an applicant for an immigrant visa who proposes to precede his family to the United States, the consular officer may arrange for an informal examination of the other members of such applicant's family in order to determine whether there exists at that time any mental, physical, or other ground of ineligibility on their part to receive an immigrant visa;

(b) In the event any member of such family is found upon informal examination to be ineligible to receive an immigrant visa, the alien who intends to precede his family to the United States shall be so informed, and required by the consular officer to acknowledge in writing that he has been so informed;

(c) A determination in connection with an informal examination that an alien appears to be eligible for a visa shall carry no assurance that the alien concerned will be issued an immigrant visa in the future. The question of eligibility to receive such a visa is one which must finally be determined at the time of formal application.

§ 42.35 *Supporting documents in immigrant cases; burden of proof*—(a) *Burden of proof.* An alien who applies for an immigrant visa shall have the burden of establishing not only that he is entitled to the classification he seeks, but also that he is otherwise eligible to receive an immigrant visa under the immigration laws and the provisions of this part.

(b) *Supporting documents.* An alien applying for an immigrant visa shall be required to furnish with his application 2 copies of a police certificate; 2 certified copies of any existing prison record, military record, and record of his birth; and 2 certified copies of all other records or documents concerning him or his case, which the consular officer may deem to be necessary.

(1) The term "police certificate", as used in this section, means a certification by the appropriate police authorities stating what their records show concerning the alien, including any and all arrests, the reasons therefor, and the disposition of each case of which there is a record.

(2) The term "prison record", as used in this section, means an official document containing a report of the applicant's record of confinement in a penal or correctional institution, including his demeanor during such confinement.

(3) The term "military record", as used in this section, means an official document containing a record of the applicant's service and conduct while in military service, including any convictions of crime before military tribunals

as distinguished from other criminal courts. A certificate of discharge from the military forces or an enrollment book belonging to the applicant shall not be acceptable in lieu of the official military record unless it shows the alien's complete record while in military service as hereinbefore indicated in this subparagraph. The applicant may, however, in any event be required to present for inspection such a discharge certificate or enrollment book if deemed necessary by the consular officer to establish the applicant's eligibility to receive an immigrant visa.

(4) The term "record of birth", as used in this section, means a birth certificate showing the date and place of birth and the parentage of an alien, issued by the official custodian of birth records in the country of the applicant's birth and based upon the original registration of birth. An alien who has only one copy of his birth certificate and cannot obtain another may present two certified or photostatic copies thereof, but the original shall be offered for inspection by the consular officer who may return it to the alien.

(5) The term "other records or documents", as used in this section, includes official records which are pertinent to a determination of the applicant's identity, classification, or any other matter relating to his eligibility to receive an immigrant visa.

(c) *Unobtainable documents.* (1) If an immigrant establishes to the satisfaction of the consular officer that any document or record required under this section is unobtainable, the consular officer may permit the immigrant to submit, in lieu of such document or record, other satisfactory evidence of the fact to which such document or record would, if obtainable, pertain. A document or other record shall be considered "unobtainable" if it cannot be procured without causing to the applicant or a member of his family actual hardship, other than normal delay and inconvenience.

(2) If the consular officer determines that a supporting document, as referred to in paragraph (b) of this section, actually is unobtainable, although the catalog of available documents prepared by the Department shows that it is available, he shall affix to each copy of the visa application a statement bearing his signature and the seal of his office and setting forth in detail his reasons for considering the record or document to be unobtainable, and for accepting the particular secondary evidence attached to the visa.

(d) *Authenticity of records and documents.* If a consular officer has reason to believe that a particular record or document required under the provisions of this section and submitted by an applicant is not authentic or has been altered or tampered with in any material manner, he shall require or take such action as may be necessary to determine its authenticity, or to ascertain the facts to which such document purports to relate in the alien's case.

(Sec. 222, 66 Stat. 193, 8 U. S. C. 1202)

PASSPORTS

§ 42.36 *Passport requirements for immigrants*—(a) *Requirements and exceptions.* Every alien applying for an immigrant visa shall present to the consular officer an unexpired passport which shall be valid for at least 60 days beyond the period of validity of the immigrant visa issued to him, except:

(1) An immigrant who is stateless, or is outside of the country of his nationality and establishes that he is unable to obtain a national passport, and who presents two or more documents which, when considered together, fulfill the requirements of a passport as defined in section 101 (a) (30) of the act: *Provided,* That written permission to enter a foreign country shall be considered as fulfilling one of such requirements if it is clearly valid for such purpose and specifies no conditions to such validity for the alien's entry during a period of at least 60 days beyond the period of validity of the visa issued to him.

(2) An immigrant, lawfully admitted for permanent residence, who is returning to the United States from a temporary visit abroad;

(3) An immigrant child under 2 years of age, who was born during his mother's temporary visit abroad, and who is accompanying a parent on the first return of the parent to the United States after such child's birth;

(4) An immigrant who is a member of the armed forces of the United States;

(5) An immigrant who establishes that he is unable to obtain a passport, who is not within one of the exceptions provided in this paragraph, and in whose case the requirement of a passport imposed by this section or by the regulations of the Attorney General shall have been waived by the Attorney General and the Secretary of State as evidenced by a specific instruction from the Department to the consular officer.

(b) *Immigrants included in single passport.* A passport may include any person or persons whose inclusion is authorized under the laws or regulations of the issuing governmental authority: *Provided,* That a photograph of each such person 14 years of age or over shall have been attached to the passport.

(Sec. 222, 66 Stat. 193; 8 U. S. C. 1202)

EXAMINATION AND FINGERPRINTING

§ 42.37 *Physical and mental examination of immigrants.* (a) Prior to the issuance of an immigrant visa to any alien, the consular officer shall require such alien to submit to a physical and mental examination in order to determine his eligibility to receive such a visa.

(Sec. 221, 66 Stat. 192; 8 U. S. C. 1201)

(b) At consular offices where medical officers of the United States Public Health Service are on duty, the alien's examination shall be conducted by such officers. If a medical officer of the United States Public Health Service is not available, the required examination shall be conducted by a reputable and competent physician selected by the alien from a panel of such physicians approved by the consular officer. The consular officer shall bring to the attention of the panel of physicians the regulations of the United States Public Health Service governing the medical examination of aliens, including laboratory tests, and shall advise visa applicants, when laboratory facilities for the required tests are not available, that such tests must be made at the United States port of entry and may be a basis for the alien's exclusion.

§ 42.38 *Registration and fingerprinting of immigrants*—(a) *Authority.* Every alien applying for an immigrant visa shall be fingerprinted on standard fingerprint Form AR–4, except a child under 14 years of age at the time of application for an immigrant visa.

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

(b) *Advance fingerprints.* An alien may be required by the consular officer at the time such alien makes preliminary or informal application for an immigrant visa, to have a set of his fingerprints taken on Form AR–4 in the event such procedure is considered necessary for the purpose of identification, or investigation. Consular officers may, where necessary, use the fingerprint card of an applicant for an immigrant visa in order to ascertain from the appropriate local or any other authorities whether they have any pertinent information concerning the applicant's eligibility to receive a visa.

(c) *Alien registration.* Every alien executing an application for an immigrant visa on Form 256 is thereby automatically registered, as required by section 221 (b) of the act, if the visa is issued.

(d) *Disposition of fingerprints.* The alien's fingerprint card AR–4 shall, upon the issuance or refusal of an immigrant visa, be forwarded to the Department, with the pertinent information required to be inserted therein, and a statement of the ground on which the visa was refused, if it was refused.

ISSUANCE OF IMMIGRANT VISAS

§ 42.40 *Authority to issue, refuse, and revoke, immigrant visas*—(a) *Authority to issue.* Consular officers are authorized to issue immigrant visas in accordance with the authority contained in sections 221 (a) and 224 of the act, and in accordance with the precedure prescribed in § 42.41.

(66 Stat. 191, 195; 8 U. S. C. 1201, 1204)

(b) *Authority to refuse.* Consular officers are authorized to refuse immigrant visas in accordance with the authority contained in section 221 (g) of the act. The term "reason to believe", as used in section 221 (g) of the act, shall be considered to require a determination based upon facts or circumstances which would lead a reasonable person to conclude that the applicant is ineligible to receive an immigrant visa as provided in the act and as implemented by the regulations contained in this part.

(66 Stat. 192; 8 U. S. C. 1201)

(c) *Authority to revoke.* Consular officers are authorized to revoke immigrant visas in accordance with the authority contained in section 221 (i) of the act

and on one or more of the specific grounds set forth, and in accordance with the procedure specified in § 42.44.

(66 Stat. 192; 8 U. S. C. 1201)

§ 42.41 *Procedure in issuing immigrant visa*—(a) *Insertion of pertinent data.* In issuing an immigrant visa the pertinent information shall be inserted in the designated blank spaces on the visa side of Form 256. The dates inserted at the proper places in the visa shall be in a form which shows the day, month, and year in that order, the name of the month being spelled out—such as: "24 December 1952". The symbols specified in § 42.3 shall be used to indicate the classification of the immigrant and the visa. If the visa was issued upon the basis of an approved petition filed with the Attorney General the number of such petition shall be inserted on the visa side of Form 256.

(b) *Numbering.* Nonquota immigrant visas may be numbered in consecutive order at each consular office, beginning a new series on December 24, 1952, and thereafter on July 1 of each year, if the consular officer in charge considers the numbering of nonquota visas to be desirable. A quota immigrant visa shall bear the quota number assigned to the consular officer for use in issuing the visa to the alien concerned.

(c) *Attaching supporting documents.* The supporting documents submitted in connection with the application, as required by section 222 (b) of the act and § 42.35 shall be attached to the application side of Form 256 with two eyelets. Medical documents pertaining to the applicant, including X-ray plates, shall be placed in a sealed envelope which shall be attached to Form 256a. Ribbon or taste shall be used in attaching the supporting documents to Form 256a, and the ends thereof shall be fastened under a wafer seal which shall be affixed to the visa side of Form 256a in the designated space. Consular officers shall prepare visas strictly in this manner not only to reduce the possibility of fraud but to prevent the visas from becoming separated from the proper photographs and related and supporting documents while in the hands of travel agents, pursers, government officials, the courts, and persons operating the files of the Immigration and Naturalization Service over what may be a period of many years until the alien becomes a naturalized citizen of the United States and thereafter.

(d) *Fee stamp.* A fee stamp or fee stamps in the amount of Twenty Dollars ($20.00) to be collected by the consular officer, shall be affixed to the visa side of Form 256a in the designated space and canceled by the consular officer.

(e) *Signature and seal.* The consular officer who issues an immigrant visa shall affix his signature, indicate his title, and impress the seal of his office on the visa side of Form 256a in a manner which partly covers the photograph, fee stamp, and wafer seal. Thereupon Form 256a shall become an immigrant visa and shall be issued by delivery to the immigrant or his authorized agent or representative.

(f) (1) *Notation in the immigrant's passport.* Upon the issuance of an immigrant visa to an alien who presents a passport issued by a government which is recognized de jure by the United States, the consular officer shall place a notation in the following form in such passport:

Nonquota_____ Immigrant Visa _____
Quota _____ No. _____
Dated _____
Issued to _____
(Name)
American Consul at _____

(2) *Passport of unrecognized government.* No seal, stamp, or notation of any kind shall be placed in a passport or other travel document issued by a government not recognized de jure by the United States.

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

INELIGIBLE IMMIGRANTS

§ 42.42 *Classes of aliens ineligible to receive immigrant visas*—(a) *General authority to refuse immigrant visas.* An alien shall be ineligible to receive an immigrant visa if the consular officer knows or has reason to believe that:

(1) The alien is within one or more of the classes described in section 212 of the act, as hereinafter implemented in this section; or

(2) The alien's application fails to comply with the act or the regulations contained in this part, as provided in section 221 (g) of the act.

(b) *Requirement of medical certificate.* A finding of ineligibility to receive an immigrant visa under the provisions of sections 212 (a) (1) to (6) inclusive, of the act, shall be based upon the certificate of a competent medical examiner as prescribed in § 42.37.

(c) *Purely political offenses.* The term "purely political offense", as used in sections 212 (a) (9) and (10) of the act, shall include offenses which, the evidence presented to the consular officer clearly establishes, were involved in convictions obviously based on trumped-up charges or predicated upon repressive measures against racial, religious, or political minorities. The admission by an immigrant that he has committed acts which would not constitute a crime under the laws of the United States, but which would have been punishable under the laws or decrees of a foreign country which, the evidence presented to the consular officer clearly establishes, were predicated upon the repression of racial, religious, or political minorities shall be considered as the admission of the commission of a purely political offense within the meaning of section 212 (a) (9) of the act. The mere fact that an alien is or was a member of a racial, religious, or political minority shall not be considered as sufficient in itself to warrant a conclusion that the crime of which he was convicted was a purely political offense.

(d) *Polygamy.* Aliens who are members of religious organizations which tolerate polygamy are not ineligible to receive immigrant visas under the provisions of section 212 (a) (11) of the act, unless such aliens themselves are polygamists, or unless they practice or advocate the practice of polygamy.

(e) *Former prostitutes.* The fact that an immigrant may have ceased to engage in prostitution shall not remove the immigrant's ineligibility to receive a visa under the provisions of section 212 (a) (12) of the act.

(f) *Skilled or unskilled laborers*—(1) *Certification by Secretary of Labor required.* No immigrant shall be considered ineligible to receive a visa under the provisions of section 212 (a) (14) of the act, even if he is migrating to the United States under a contract or other pre-arrangement of employment of any kind in the United States, until the Secretary of Labor shall have made the certification to the Secretary of State and the Attorney General as provided in clauses (A) or (B) of section 212 (a) (14) of the act concerning the availability of such labor in the locality of the alien's destination, or the effect of the immigration of such foreign labor on conditions of workers in the United States. The existence or the cancellation of such a certification by the Secretary of Labor shall be recognized by the consular officer only upon the basis of an official notification from the Department.

(2) *Prearranged employment immaterial to ineligibility.* When the Secretary of Labor makes the certification referred to in subparagraph (1) of this paragraph, with respect to a particular occupation, the provisions of section 212 (a) (14) of the act shall apply to an immigrant who is seeking to enter the United States for the purpose of performing such skilled or unskilled labor, even if such immigrant has no offer, promise, contract of employment, or any other form of pre-arranged employment in such occupation, unless such alien falls within one of the exempt categories specified in subparagraph (3) of this paragraph.

(3) *Exemptions.* Notwithstanding the fact that a consular officer has been officially notified of a determination and certification by the Secretary of Labor, as referred to in subparagraph (1) of this paragraph, the provisions of section 212 (a) (14) of the act shall have no application to the following classes of immigrants:

(i) Parents, spouses, or sons and daughters regardless of age or marital status, of United States citizens;

(ii) Parents, spouses, or children of aliens lawfully admitted to the United States for permanent residence;

(iii) Brothers or sisters of United States citizens;

(iv) Immigrants whose services are determined by the Attorney General to be needed urgently in the United States because of the high education, technical training, specialized experience, or exceptional ability of such immigrants, and to be substantially beneficial prospectively to the national economy, cultural interests, or welfare of the United States;

(v) Aliens classifiable as nonquota immigrants under the provisions of sections 101 (a) (27) (B), (F), and (G) of the act.

(g) *Aliens likely to become public charges; Physically defective persons.*

(1) Any conclusion that an immigrant is ineligible to receive a visa under the provisions of section 212 (a) (15) of the act shall be predicated upon the existence of facts or circumstances which indicate a reasonable probability that the immigrant will become a charge upon the public after entry into the United States;

(2) Persons likely to become a public charge as referred to in section 212 (a) (15) of the act, or physically defective persons as referred to in section 212 (a) (7) of the act, shall not be ineligible to receive an immigrant visa under the provisions of section 212 (a) (7) or 212 (a) (15) of the act, respectively, if the consular officer has been notified by the Department that a bond or other undertaking has been furnished as provided in section 213 of the act.

(3) In the case of an immigrant in whose behalf a relative petition has been approved the consular officer shall consider the approval of the petition as establishing prima facie for a period of one year thereafter that the petitioner is able and willing to support the immigrant, unless the consular officer has reason to believe that the petitioner has no knowledge of the alien's physical defects or other circumstances which would indicate the likelihood of the alien requiring hospitalization at public expense or otherwise becoming a public charge.

(h) *Aliens deported or removed from the United States.* (1) An alien who was excluded and deported from the United States within the meaning of section 212 (a) (16) of the act shall be required to obtain permission from the Attorney General to reapply for admission if he applies for a visa within one year from the date of his deportation;

(2) An alien who was arrested and deported from the United States, or who was removed from the United States, within the meaning of section 212 (a) (17) of the act shall be required to obtain permission from the Attorney General to reapply for admission into the United States, regardless of the period of time which may have elapsed since his deportation or removal;

(3) No alien who is required to obtain permission from the Attorney General to reapply for admission, as provided in sections 212 (a) (16) and (17) of the act, shall be considered eligible to receive an immigrant visa until such alien shall have obtained the necessary permission to reapply for admission, and shall have been found to be otherwise eligible to receive an immigrant visa under the act and the regulations contained in this part.

(i) *Fraud and misrepresentation.* (1) An alien shall be found to be ineligible to receive an immigrant visa under the provisions of section 212 (a) (19) of the act if the consular officer, after reviewing the evidence, knows or has reason to believe that such alien committed an act, regardless of the time of commission, which would constitute fraud or a willful misrepresentation of a material fact for the purpose of gaining admission into the United States: *Provided,* That the provisions of this subparagraph shall not be applicable in the case of a bona fide refugee, if such act was committed in connection with the alien's entry into, or sojourn in, a foreign country and consisted of (i) obtaining travel documents by fraud or by willfully misrepresenting a material fact, or (ii) a willful misrepresentation regarding his place of birth, and the alien was in fear of being repatriated to his former homeland if he had exposed the facts in his case: *Provided further,* That such act or misrepresentation was not committed for the purpose of evading quota restrictions of the United States immigration laws, or investigation of his record at the place of his former residence or elsewhere in connection with an application for a United States visa. The fact that an alien may be or may have been a bona fide refugee shall not be considered as sufficient in itself to remove the alien from any excludable class.

(2) Subject to the conditions stated in subparagraph (1) of this paragraph, an alien who, upon review of his case, is found by the consular officer to have made a willful misrepresentation within the meaning of section 10 of the Displaced Persons Act of 1948, as amended (62 Stat. 1013, 64 Stat. 225; 50 U. S. C. 1950) for the purpose of gaining admission into the United States as an eligible displaced person, shall be considered ineligible to receive an immigrant visa.

(j) *Subversives*—(1) *Prejudicial activity.* The provisions of section 212 (a) (27) of the act shall be considered to relate to the ineligibility of aliens to receive visas because of their purpose, plan, intention, or design, whether solely, principally, or incidentally, to engage in activities after arrival in the United States which would be prejudicial to the public interest, or which would endanger the welfare, safety, or security of the United States.

(2) *Subversive activity.* The provisions of section 212 (a) (29) of the act shall be considered to relate to the ineligibility of aliens to receive visas on the basis of their past activities which indicate that they probably would engage, after arrival in the United States, in one or more of the activities specified in section 212 (a) (29), regardless of their actual or ostensible purposes, plans, intentions, or designs in coming to the United States. An alien who was convicted of being a war criminal, or who was properly charged as such but who escaped trial or punishment by departing the jurisdiction, or an alien who was guilty of, or who advocated or acquiesced in, activities or conduct contrary to civilization and human decency on behalf of a power which was at war with the United States during World War II may be considered ineligible to receive a visa under the provisions of section 212 (a) (29) of the act.

(3) *Members or affiliates.* The provisions of section 212 (a) (28) of the act shall be considered to relate to the ineligibility of aliens to receive visas because of their present or former voluntary membership in, or affiliation with, the classes described therein, including voluntary membership in, or affiliation with, certain proscribed parties, oragnizations, and groups as specified therein, regardless of the purpose of such aliens in coming to the United States;

(i) The term "affiliate", as used in section 212 (a) (28) of the act with reference to an organization, means an organization substantially directed, dominated, or controlled by one of the parties within the statutory proscription, which is or was used or operated by such party to help maintain its control over the country, or to help disseminate its economic and governmental doctrines or ideology.

(ii) Service, whether voluntary or not, in the armed forces of any country shall not be regarded, of itself, as constituting or establishing an alien's membership in, or affiliation with, any proscribed party or organization, and shall not, of itself, constitute a ground of ineligibility to receive a visa.

(iii) Voluntary service in a political capacity, such as a political commissar with the armed forces of any country, shall constitute affiliation with the political party or organization in power at the time of such service.

(iv) Membership or affiliation, whether voluntary or not, which ended before an alien reached his sixteenth birthday shall not constitute a ground of ineligibility to receive a visa. If an alien continues or continued his membership or affiliation beyond his sixteenth birthday, the question whether his membership or affiliation after his sixteenth birthday is or was voluntary shall be determined as in the case of any other alien. In that connection, the facts relating to his activities only after his sixteenth birthday may be considered in determining whether the continuation of his membership or affiliation is or was voluntary.

(v) The term "operation of law", as used in section 212 (a) (28) (I) of the act, shall include any case wherein the alien without his acquiescence automatically becomes or became a member or affiliate of a proscribed party or organization by official act, proclamation, order, edict, or decree.

(4) *Totalitarianism.* In accordance with the definition of "totalitarian party" contained in section 101 (a) (37) of the act, former or present voluntary members of, or aliens who were, or are, voluntarily affiliated with a noncommunist party, organization, or group, or of any section, subsidiary, branch, affiliate or subdivision thereof, which during the time of its existence did not or does not advocate the establishment in the United States of a totalitarian dictatorship, shall not be considered ineligible under the provisions of section 212 (a) (28) of the act to receive visas, unless such aliens are known or believed by the consular officer to advocate, or to have advocated, personally, the establishment in the United States of a totalitarian dictatorship or totalitarianism; as defined in the act. Aliens who are, or have been, voluntary members of, or voluntarily affiliated with, the Communist party, or any of its sections, subsidiaries, branches, affiliates, or subdivisions, in any country, shall be considered, as specifically declared by the act, to be ineligible to receive visas, except as provided in subparagraph (5) of

this paragraph. If any other party is found to be a "totalitarian party", as defined in section 101 (a) (37) of the act, former or present voluntary membership in or affiliation with such party, or any of its sections, subsidiaries, branches, affiliates, or subdivisions, shall render an alien ineligible to receive a visa, except as provided in subparagraph (5) of this paragraph.

(5) *Defectors.* The term "defector" includes an alien who was a voluntary member of, or was voluntarily affiliated with, a proscribed party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, which exists, as well as a proscribed party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, which no longer exists but which did exist within the period of the last 5 years prior to the date of the application for a visa. The five-year period of defection required by the provisions of section 212 (a) (28) (I) of the act, shall be considered as having begun to run from the established date of an alien's cessation of voluntary membership or affiliation or from the date such party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, ceased or ceases to exist. The words "actively opposed", as used in section 212 (a) (28) (I) of the act shall be considered as embracing speeches, writings, and other overt or covert activities, during a period of at least 5 years prior to the application for a visa, in opposition to the doctrine, program, principles, and ideology of the party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof, of which the alien was formerly a member or affiliate. An alien shall not be required, except in questionable circumstances, to show that he has actively opposed the doctrine, program, principles, and ideology of a proscribed party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof during the time it did not exist. However, such alien shall be required to show that during the period of non-existence of the party or organization, or the section, subsidiary, branch, or affiliate or subdivision thereof he did not personally advocate the doctrine, program, principles, and ideology of such party or organization, or of the section, subsidiary, branch, or affiliate or subdivision thereof, within the meaning of the act.

(6) *Public interest with regard to visas.* Consular officers shall maintain a coordinated and uniform interpretation and appraisal of what constitutes the public interest in issuing or refusing visas to defectors. Such coordination and uniformity shall be accomplished by a reference of the consular officer's opinion to the Secretary of State for possible consultation with the Attorney General.

(7) *War criminals.* No alien who was convicted of being a war criminal or was properly charged as such but escaped trial or punishment by departing the jurisdiction, or who was guilty of, or who advocated or acquiesced in, activities or conduct contrary to civilization and human decency on behalf of a power which was at war with the United States during World War II shall be considered as a defector under the provisions of section 212 (a) (28) (I) (ii) of the act or the regulations contained in this part.

(k) *Failure of application to comply with act.* An immigrant's visa application shall be considered as failing to comply with the provisions of the act if:

(1) The applicant fails to furnish the information to be included in such application as required by the act and the regulations contained in this part;

(2) Such application contains a false or incorrect statement;

(3) Such application is not supported by the necessary documents required under the provisions as of the act or the regulations contained in this part;

(4) The applicant refuses to be fingerprinted as required by the act;

(5) The necessary fee is not paid for such application or for the immigrant visa;

(6) The alien fails to swear to, or affirm, the application before the consular officer; or

(7) The visa application otherwise fails to meet the specific requirements of the act for reasons for which the alien is responsible.

(Sec. 212 and 221, 66 Stat. 182, 192; 8 U. S. C. 1182, 1201)

REFUSAL AND REVOCATION OF IMMIGRANT VISAS

§ 42.43 *Procedure in refusing immigrant visas.* (a) No immigrant visa, quota or nonquota, shall be issued to an alien if the consular officer is prohibited under the provisions of section 221 (g) of the act, from issuing a visa to such alien.

(b) When an immigrant visa is refused, a memorandum of refusal shall be prepared on Form 290 and retained in the appropriate consular file. The action of refusing an immigrant visa shall be reviewed by the consular officer in charge of visa work at the post, and if he concurs in the refusal he shall countersign the memorandum of refusal. If the consular officer in charge of visa work or the principal officer at the post does not concur in the refusal, he shall refer the case to the Department for an advisory opinion.

(c) If upon preliminary examination and after being informed of the consular officer's determination of his ineligibility to receive a visa an applicant decides not to execute a formal visa application, such a circumstance shall, for the purposes of this part, constitute an informal refusal of an immigrant visa. If an applicant has executed a formal application for an immigrant visa on Form 256 and has paid the application fee, a determination by the consular officer of the applicant's ineligibility to receive a visa shall, for the purposes of this part, constitute a formal refusal of an immigrant visa.

(d) In formally refusing an immigrant visa the consular officer shall write or stamp diagonally across the visa side of Form 256a and Form 256b in red ink the words "Visa refused under authority of ----------" (insert specific provision or provisions of law or regulation on which refusal is based). This notation shall be signed and dated by the consular officer refusing the visa. The application fee stamp shall be mutilated. Form 256a shall be delivered to the alien and Form 256b shall be retained in the consular file. The original of any supporting document submitted by the alien with his application may be returned to him if not required to be attached to Form 256.

§ 42.44 *Revocation of immigrant visas*—(a) *Grounds for revocation.* Consular officers are authorized to revoke an immigrant visa under the following circumstances:

(1) The consular officer knows, or after investigation is satisfied, that the visa was procured by fraud, a willfully false or misleading representation, the willful concealment of a material fact, or other unlawful means; or

(2) The consular officer obtains information establishing the alien was otherwise ineligible to receive the particular visa at the time it was issued.

(b) *Notice of revocation.* (1) Notice of revocation shall, if practicable, be given to the alien at his last known address prior to his departure for the United States. Whenever circumstances permit, an alien shall be given an opportunity to show why he believes revocation to be, or to have been, unwarranted.

(2) Notice of revocation shall be given to the master, commanding officer, agent, owner, charterer, or consignee of the carrier or transportation line on which the alien is known or believed to intend to travel to the United States.

(c) *Report of revocation.* A full report concerning the revocation of an immigrant visa shall be communicated to the Department for transmission to the Attorney General. A copy of such report shall be sent to the consular office which issued the visa if the revocation is effected by any other consular office upon its own initiative, upon instruction of the issuing office, or upon instructions from the Department. If it is not practicable to give the alien notice of revocation prior to his departure for the United States, the full report shall explain the circumstances and shall be submitted promptly to the Department for transmission to the Attorney General.

(d) *Surrender of revoked visa.* Upon receiving notice of revocation of his immigrant visa, the alien shall be requested to surrender Form 256a to the consular office indicated in the notice, for cancellation of the visa. The word "revoked" shall be written plainly on the visa by the consular officer, who shall sign and date such notation. Appropriate notation of the action taken, including a statement of the reason therefor, shall be made on Form 256b or on an appended memorandum. Any notation in the alien's passport concerning the issuance of the visa shall be cancelled.

(e) *Disposition of revoked visa quota number.* A quota number which has been used in issuing an immigrant visa may not be used again in issuing an immigrant visa to another alien, and such number need not be returned to the Department even if the immigrant visa is

revoked, lost, stolen, destroyed, or expires without being used.

(Sec. 221, 66 Stat. 192; 8 U. S. C. 1201)

§ 42.45 *Disposition of supporting documents.* (a) Documents furnished in support of an application for an immigrant visa, other than those required to be permanently attached to Form 256, may, in the discretion of the consular officer, be returned to the person furnishing them. An alien shall not be given documents of a personal or confidential nature furnished to the consular officer directly by the alien's sponsor or other person, but such documents may be returned to the person furnishing them if they are irreplaceable. If such documents are returned, the consular officer shall prepare and attach to Form 256b a memorandum briefly summarizing the contents of the documents and the circumstances of their return.

(b) *Furnishing visa records for court proceedings.* Upon receipt by a consular officer of a request to furnish information from a visa file or record for use in court proceedings, as contemplated in section 222 (f) of the act, the consular officer shall submit such information with a full report to the Department.

(c) *Visa revoked, mutilated, or expired.* An immigrant visa which has expired, or which has been revoked or mutilated, shall, whenever practicable, be taken up, endorsed with an appropriate notation, and filed with the Form 256b at the consular office where the visa was originally issued. In the event such a visa is taken up at an office other than the issuing office, it shall be forwarded to such issuing office.

§ 42.46 *Refund of immigrant visa fee.* The fee of twenty dollars ($20.00) collected for the issuance of an immigrant visa shall not be refunded without specific authorization from the Department. In requesting such authorization the consular officer shall state in his communication the basis for the proposed refund, indicating clearly whether the visa was issued through some fault of the applicant or of the consular officer.

VALIDITY AND REVALIDATION

§ 42.47 *Validity of immigrant visa.* (a) The period of validity of an immigrant visa, quota or nonquota, shall not exceed four months, beginning with the date of issuance.

(b) If the visa was originally issued with a period of validity of less than four months, such period may be extended up to but not exceeding four months from the date of issuance of the visa. If an immigrant applies for an extension of the period of validity of his visa at a consular office other than the issuing office, the consular officer shall, unless he is satisfied beyond any doubt that the alien is eligible for the extension, communicate with the issuing office to ascertain if any objection is perceived to such extension. In extending the period of validity of an immigrant visa, the consular officer shall make appropriate notation of the new expiration date of the visa, affix his signature, indicate his title, and impress the seal of his office thereon.

(c) No fee shall be charged for extending the period of validity of an immigrant visa.

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

§ 42.48 *Issuance of new or replace immigrant visa—(a) Nonquota immigrant visa.* (1) A nonquota immigrant who establishes that his visa has been lost or mutilated, or has expired, may be issued a new nonquota immigrant visa at the same or any other consular office upon payment of the statutory application and visa fees: *Provided,* That the immigrant is again found to be qualified to receive such a visa under the immigration laws and regulations.

(2) Prior to issuing to an alien a new nonquota immigrant visa at a consular office other than that which issued the original visa, the consular officer shall communicate with the original visa-issuing office to ascertain if any reason is known why a new visa should not be issued.

(3) In the event a new nonquota immigrant visa is issued as provided in subparagraph (1) of this paragraph, such visa shall be given a new number in the series of nonquota immigrant visas issued at the consular office if that office numbers nonquota visas.

(b) *Replace quota immigrant visa.* (1) A quota immigrant who establishes that his visa has been lost or mutilated, or that he was otherwise unable to use it during the period of its validity because of reasons beyond his control and for which he was not responsible, may be issued a replace quota immigrant visa under the original quota number during the same quota year in which the original visa was issued, upon payment anew of the statutory application and visa fees: *Provided,* That the immigrant is otherwise qualified to receive such a visa under the immigration laws and regulations and the consular officer is in possession of the duplicate signed consular-file copy of the original visa.

(Sec. 221, 66 Stat. 191; 8 U. S. C. 1201)

(2) Prior to issuing a replace quota immigrant visa to an alien whose original immigrant visa was issued at a consular office other than the original issuing office, the consular officer shall communicate with such other office to ascertain if any reason is known why a replace visa should not be issued.

(3) In issuing a replace quota immigrant visa, as provided in subparagraph (1) of this paragraph, the word "REPLACE" shall be inserted on Forms 256a and 256b before the word "IMMIGRANT" in the title of the visa.

(4) An immigration visa issued before December 24, 1952 may not be replaced on or after that date, but the immigrant may be issued an immigrant visa under the act and the regulations contained in this part, under the same quota number before June 30, 1953, upon payment of the new application and visa fees.

TRANSFER OF JURISDICTION

§ 42.49 *Transfer of cases.* The case of an applicant for an immigrant visa which is pending at one consular office may be transferred at the applicant's request and risk to another consular office in accordance with the following procedure:

(a) An alien who is outside of the United States shall submit a written request to the receiving office in whose jurisdiction he is physically present.

(b) If the receiving office approves such request, it shall accept jurisdiction and forward a request to the transferring office for the complete file in the case.

(c) If the receiving office declines to take jurisdiction of the case under the provisions of § 42.30 (e), the alien shall be informed of the reasons for such refusal.

(d) Upon receipt by the transferring office of the request of the receiving office the complete file in the case shall be transferred to the receiving office.

(e) The transferring office shall include in the transfer, or as soon as possible thereafter shall forward to the receiving office, a report of clearance or nonclearance concerning the alien in the district of his former residence.

(f) The transfer of a case shall include any authorization by the Department to grant nonquota or preference-quota status based upon an approved petition, the alien's registration priority, and all documents in the alien's file. The transfer of an authorization based upon an approved petition shall be reported to the Department.

(g) In no case shall a quota number be transferred from one office to another. A quota number allotted by the Quota Control office for use in issuing an immigrant visa to an alien whose case is being transferred to another office shall be returned to the Department.

(h) Whenever a receiving office accepts jurisdiction of a case in accordance with the provisions of § 42.30 (e), the jurisdiction of any other consular office shall be automatically terminated and no waiver of jurisdiction shall be required.

(i) In the case of a bona fide crewman who, due to his calling, and the uncertainty of his sailing as a crewman, is unable to file his formal visa application at the consular office at which he is registered, such consular office shall transfer the crewman's file at his risk and upon his written request to another consular office designated by such crewman after having obtained the consent to such transfer from the consular office designated by the crewman.

(j) An alien who is in the United States may not have his case transferred from one consular office to another, unless such alien is required to be in the United States by reason of the inherent nature of his business, profession, occupation, or employment, or is unable to return to the country in which the consular office having his file is located.

(k) Any alien requesting the transfer of his record from one consular office to another shall agree to assume, and

may be required to sign a statement to the effect that he assumes, full responsibility for any loss or other damage resulting to him from such transfer in view of the inability of the consular officer to guarantee or insure the transfer of the original or irreplaceable documents in the case against the hazards of available transportation facilities. If the alien is not required to agree to such a signed statement, an appropriate notation of his verbal agreement shall be made by the consular officer for the consular files.

The regulations contained in this order shall become effective on December 24, 1952, at 12:01 a. m., e. s. t. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

[SEAL] DAVID BRUCE,
Acting Secretary of State.

[F. R. Doc. 52-13325; Filed, Dec. 18, 1952; 8:45 a. m.]

PART 43—VISAS: DOCUMENTATION OF ALIEN SEAMEN AND AIRMEN ENTERING THE UNITED STATES

PART 44—VISAS: WAIVER OR REDUCTION OF FEES FOR NONIMMIGRANTS

CROSS REFERENCE: For revocation of Parts 43 and 44, see Part 41 of this chapter, *supra*.

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION

REPORTS TO THE SECRETARY OF LABOR

The regulations contained in the part are hereby amended by revoking § 5.7 (c) and substituting therefor the following:

(c) Upon request, the Agency Head shall transmit to the Secretary of Labor such information available to the Agency with respect to contractors and subcontractors, their contracts, and the nature of the contract work as the Secretary may find necessary to the performance of his duties with respect to the labor standards provisions referred to in this part.

(63 Stat. 203, 64 Stat. 967; 5 U. S. C. 133z, 20 U. S. C. 251. Reorg. Plan No. 14, of 1950, 15 F. R. 3176)

Signed at Washington, D. C., this 11th day of December 1952.

MAURICE J. TOBIN,
Secretary of Labor.

[F. R. Doc. 52-13367; Filed, Dec. 18, 1952; 8:47 a. m.]

No. 247——17

TITLE 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

PART 1623—CLASSIFICATION PROCEDURE

PART 1624—APPEARANCE BEFORE LOCAL BOARD

PART 1626—APPEAL TO APPEAL BOARD

PART 1628—PHYSICAL EXAMINATION

PART 1632—DELIVERY AND INDUCTION

PART 1650—REGISTRATION, CLASSIFICATION, PHYSICAL EXAMINATION, SELECTION, AND INDUCTION OF PERSONS IN MEDICAL, DENTAL, AND ALLIED SPECIALIST CATEGORIES

PART 1660—CIVILIAN WORK IN LIEU OF INDUCTION

CROSS REFERENCE: For amendment of §§ 1622.12, 1622.14, 1622.16, 1624.2, 1626.11, 1626.13, 1626.14, 1628.3, 1632.5, 1650.11, 1650.30, 1660.21, 1660.31 and for revocation of § 1623.12, *see* Executive Order 10420, *supra*.

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 22, Supplementary Regulation 40]

CPR 22—MANUFACTURERS GENERAL CEILING PRICE REGULATION

SR 40—ADJUSTED CEILING PRICES FOR MANUFACTURERS OF ROLLED FIGURED, HEAT ABSORBING AND WIRE GLASS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation 40 to Ceiling Price Regulation 22 is hereby issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation establishes adjusted ceiling prices for manufacturers of rolled figured, heat absorbing and wire glass. The method provided is to apply a uniform adjustment factor of two percent to the General Ceiling Price Regulation (GCPR) ceiling prices of the industry. The adjustment was derived from an earnings survey of the industry.

At an Industry Advisory Committee meeting held on September 16, 1952, it was indicated that the level of earnings of this industry had fallen below the minimum prescribed by the "industry earnings standard." This standard provides that the level of ceiling prices for an industry shall normally be considered "fair and equitable" under the Defense Production Act of 1950, as amended, if the industry's dollar profits (computed before Federal income and excess profits taxes) amount to 85 percent of the average return on net worth for the industry's best three years during the period 1946–1949, inclusive, adjusted for changes in net worth.

A survey was undertaken by OPS and financial data were obtained from the four companies in the industry. Based upon the survey, the Director of Price Stabilization has determined that the dollar profits of the industry will meet the requirements of the industry standard, and that ceiling prices will therefore be generally fair and equitable, if ceiling prices for this industry are established at two percent above the level of GCPR ceiling prices.

In determining the two percent adjustment factor recognition was given, among other costs, to increased costs in crating materials. Crating is, therefore, treated by this regulation as a part of the glass commodities concerned. Increased costs of outbound transportion were also taken into consideration. For this reason, this regulation precludes manufacturers covered hereby from applying SR 35 to CPR 22, which permits adjustments to reflect increases in the costs of outbound transportation.

However, the increased cost of steel incurred by the industry as a result of the issuance of SR 100 to the GCPR on August 19, 1952, was not taken into account. The industry uses small amounts of steel such as running bar in processing the glass, wire in wire glass and nails for crating. The effect of the steel cost increase on these producers is very slight, amounting to less than one-tenth of one percent of the sales dollar of the industry.

Nevertheless, manufacturers covered by this SR may pass through such steel cost increases they individually experience in accordance with the provisions of GOR 35.

Because the four companies surveyed appear to comprise the entire industry covered by this action, its scope should be clearly and unmistakably defined.

In the formulation of this supplementary regulation, there has been consultation with industry representatives, including trade association representatives, and consideration has been given their recommendations.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Coverage.
3. Adjusted ceiling prices.
4. Relation to other regulations.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 805, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6104; 3 CFR 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation establishes adjusted ceiling prices for sales by manufacturers of rolled, figured, heat absorbing and wire glass. Such manufacturers are currently subject to Ceiling Price Regulation 22 (CPR 22). The method provided is to apply a uniform adjustment ratio to the GCPR ceiling prices of the industry.

SEC. 2. *Coverage*—(a) *Persons covered.* This supplementary regulation applies to you if you are a manufacturer of a commodity described in paragraph (b) of this section and establishes

your ceiling prices for your sales of such commodities. Except to the extent that they are inconsistent with the provisions of this supplementary regulation, all provisions of CPR 22 shall continue to be applicable to you.

(b) *Commodities covered.* This supplementary regulation covers the following types of flat glass, including packaging or crating supplied by the manufacturer in the shipment of the glass:

Wire glass (of a polished or roughened surface containing a metallic mesh embedded in the glass).

Heat absorbing glass (especially made to reduce glare and transmission of heat beyond these characteristics of ordinary glass; this does not include laminated or "automobile" glass.

Rolled figured glass (which because of a pattern embossed on its surface has the appearance of a roughened surface.)

SEC. 3. *Adjusted ceiling prices*—(a) *How to compute.* Your ceiling price for the sale of any commodity covered by this supplementary regulation is your ceiling price in effect under the GCPR increased by two (2) percent (i. e., 102 percent of your GCPR ceiling price.)

(b) *Rounding ceiling prices.* You may round your ceiling prices determined under this section in accordance with the provisions of section 25 of CPR 22.

(c) *Terms and conditions of sale.* Your ceiling prices under this supplementary regulation must be consistent in all respects with your ceiling prices under CPR 22; that is, they must carry all customary discounts, allowances, premium and extras, deductions, guarantees and other terms and conditions of sale.

SEC. 4. *Relation to other regulations*—(a) *GOR 35.* Nothing in this supplementary regulation precludes you from applying the provisions of General Overriding Regulation 35 (pass-through for steel, copper, pig-iron and aluminum cost increases). Note, however, that your adjustment under GOR 35 must be made after you apply section 3 of this Supplementary Regulation. If you have already made an adjustment under GOR 35 you must recalculate your ceiling prices as follows:

(1) Adjust your GCPR ceiling prices as provided in section 3 of this SR;

(2) Add your adjustment under GOR 35.

(b) *SR 17, SR 18 to CPR 22.* You may elect to apply the provisions of Supplementary Regulation 17 or Supplementary Regulation 18 to CPR 22 to establish your ceiling prices. If you do so elect, you may not use the provisions of this supplementary regulation.

(c) *SR 35 to CPR 22.* You may not employ the provisions of Supplementary Regulation 35 to CPR 22 (adjustments to reflect increased outbound transportation rates).

Effective date. This Supplementary Regulation 40 to Ceiling Price Regulation 22 is effective December 23, 1952.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

DECEMBER 18, 1952.

[F. R. Doc. 52-13485; Filed, Dec. 18, 1952; 4:00 p. m.]

[Ceiling Price Regulation 22, Supplementary Regulation 41]

CPR 22—MANUFACTURERS GENERAL CEILING PRICE REGULATION

SR 41—SALES OF DOMESTICALLY PROCESSED IMPORTED NUTS AND OF MIXED NUTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation 41 to Ceiling Price Regulation 22 is hereby issued.

STATEMENT OF CONSIDERATIONS

Ceiling prices of shelled, roasted, and salted nuts at the processing level are at present determined under CPR 22 and CPR 31. Thus, processors' ceiling prices for imported nuts are determined under the provisions of CPR 31, whereas their ceiling prices for domestic nuts are determined under CPR 22. Ceiling prices for mixed nuts containing imported nuts present problems as to whether they are subject to CPR 22 or 31. Increases in the costs of imported nuts may be passed through under CPR 31. Likewise, increases in costs for domestic nuts may be passed through in accordance with the provisions of section 21 of CPR 22. This regulation is issued to clarify the matter of cost increases of mixed nuts containing imported nuts and to simplify the determination of such ceiling prices by making the computation subject to only one regulation, that is, CPR 22.

The most important variety of imported nuts used by these processors is the cashew. The cost of cashew nuts has risen sharply since March 1951, due to a greatly expanded world demand, and the cost of these nuts is a very substantial part of the total costs of mixed nuts. The agency has concluded that the same provisions which now apply to domestic nuts and domestic nut mixes should also be made applicable to all nut mixes which include imported nuts. To this end, this supplementary regulation allows domestic processors of mixed nuts, which contain domestically processed imported nuts, to reflect a current net cost in determining their ceiling prices for such mixtures. This is accomplished by allowing them to treat imported nuts as if they were domestically produced and listed in Appendix C of CPR 22. However, a processor who wishes to avail himself of the right to increase his ceiling price for nut mixtures containing imported nuts, in order to reflect increases in his net costs for the imported nuts, is permitted to pass through only such increase in his net cost of these imported nuts as is not offset by a corresponding reduction in the net costs of the other imported or domestic nuts contained in that mixture.

In order to facilitate administration and to ease the calculating requirements of nut processors, CPR 31 is amended, simultaneously with the issuance of this supplementary regulation, so as to remove domestic processors of imported nuts from coverage under that regulation. As a result of this action, these processors now will be covered by CPR 22 and, since they may now regard imported nuts as Appendix C commodities, will arrive at substantially the same result as they did under CPR 31.

In the formulation of this supplementary regulation, the Director of Price Stabilization has, to the extent practicable, consulted with industry representatives, including trade association representatives, and has given consideration to their recommendations. In the judgment of the Director, this supplementary regulation is generally fair and equitable, is necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended, and complies with all the applicable standards of that act.

REGULATORY PROVISIONS

Sec.

1. What this supplementary regulation does.
2. Ceiling prices for domestically processed imported nuts and for mixed nuts.
3. Relationship of this supplementary regulation to Ceiling Price Regulation 22.
4. Reporting.
5. Definitions.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation is optional. You may avail yourself of its provisions if you are a processor of imported nuts or of mixed nuts. It establishes a method which will enable you to determine ceiling prices for your sales of imported nuts and of mixed nuts, processed by you. The terms "process," "processor," "mixed nuts" and "nut mixture" are defined in section 5 of this supplementary regulation.

SEC. 2. *Ceiling prices for domestically processed imported nuts and for mixed nuts.* (a) If you are a processor of imported or mixed nuts, you shall determine the ceiling prices for your sales of imported nuts processed by you and for the sales of mixed nuts processed by you, under the provisions of Ceiling Price Regulation 22, as amended. In determining your ceiling prices under CPR 22, you may treat the imported nuts as if they were listed in Appendix C of that regulation. But, if you avail yourself of the provision of this supplementary regulation for sale of a nut mixture, and there has been any reduction in your net cost per unit of any of the nuts used in that mixture you may increase your ceiling price therefor only by the dollar-and-cent amount by which the increase in your net cost per unit of any of the imported nuts used in that mixture is not offset by a corresponding reduction in net cost per unit of the other nuts (whether imported or domestic), used therein.

Example 1. Your present ceiling price for a certain nut mixture is $1.00 per pound. That mixture is composed of: Peanuts, ¼ pound; almonds, ½ pound; and cashews, ¼ pound. Between March 15, 1951, and the current date your net cost for cashews increased 20 cents per pound, or 5 cents per unit (¼ pound) used in the above mixture.

Between March 15, 1951, and the current date your net cost for peanuts remained unchanged, whereas your net cost for almonds decreased 8 cents per pound, or 4 cents per unit (½ pound). The 5-cent increase per unit in your net cost of cashews is partially offset, namely, by 4 cents per unit, by virtue of the decrease in your net cost for almonds. If you avail yourself of this supplementary regulation you may increase your ceiling price for the 1-pound mixture by 1 cent, or to $1.01 per pound.

Example 2. Your present ceiling price for a certain nut mixture is $1.00 per pound. That mixture is composed of: Peanuts, ½ pound; almonds, ¼ pound; and cashews, ¼ pound. Between March 15, 1951, and the current date your net cost for cashews increased 20 cents per pound, or 5 cents per unit (¼ pound) used in the above mixture. Between March 15, 1951, and the current date your net cost for almonds decreased 8 cents per pound, or 2 cents per unit (¼ pound), and your net cost for peanuts decreased 8 cents per pound, or 4 cents per unit (½ pound). The 5-cent increase per unit in your net cost of cashews is entirely offset, namely, by 6 cents per unit, by virtue of the total decrease (2 cents + 4 cents = 6 cents) in your net costs for the other nuts. Hence, you may not increase your ceiling price for the mixture. In this event you may elect not to avail yourself of this supplementary regulation and continue to determine your ceiling price for this nut mixture under CPR 22.

SEC. 3. *Relationship of this supplementary regulation to Ceiling Price Regulation 22.* If you avail yourself of this supplementary regulation, all provisions of Ceiling Price Regulation 22, as amended, shall continue to apply to you, except to the extent that they are modified by or are inconsistent with the provisions of this supplementary regulation.

SEC. 4. *Reporting.* In every case where you avail yourself of the provisions of this supplementary regulation and compute a new ceiling price, you shall comply with the reporting requirements of section 21 (h) of Ceiling Price Regulation 22, as amended.

SEC. 5. *Definitions.* (a) To "process" means to cook, roast, or salt nuts or cover them with an edible substance. You are a "processor" of nuts if you cook, roast, salt or cover them with an edible substance.

(b) "Mixed nuts" means mixed imported nuts which have been domestically processed, or domestically processed imported nuts when mixed with domestic tree-nuts, peanuts, or any combination thereof. "Nut mixture" means the same as mixed nuts.

Effective date. This supplementary regulation is effective December 18, 1952.

NOTE: The reporting requirements of this supplementary regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

DECEMBER 18, 1952.

[F. R. Doc. 52-13481; Filed, Dec. 18, 1952; 11:23 a. m.]

[Ceiling Price Regulation 34, Amdt. 1 to Supplementary Regulation 25]

CPR 34—SERVICES

SR 25—POWER LAUNDRIES IN PHILADELPHIA, PENNSYLVANIA

ADDITIONAL POWER LAUNDRIES IN THE PHILADELPHIA, PENNSYLVANIA AREA

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Ageny General Order No. 2, this Amendment 1 to Supplementary Regulation 25 to Ceiling Price Regulation 34 is hereby issued.

STATEMENT OF CONSIDERATIONS

Supplementary Regulation 25 to Ceiling Price Regulation 34, issued November 10, 1952 permitted an increase in ceiling prices for certain power laundry services and dry cleaning services supplied by power laundries located in the City of Philadelphia, Pennsylvania. An increase in ceiling prices was also given to independent routemen and stores, known in the laundry and dry cleaning industry as "bobtailers", in order that customary differentials between classes of power laundry service purchasers might be maintained. That supplementary regulation did not permit the increase to be applied to the diaper supply and linen supply services of such laundries. This amendment permits the same increase in ceiling prices for additional power laundries located in certain other areas close to Philadelphia namely, Camden, Gloucester, and Burlington Counties, New Jersey and the City of Hammonton in Atlantic County, New Jersey.

A study of the operating costs and profit margins of a representative number of the power laundries in Camden, Gloucester, and Burlington Counties, New Jersey and the City of Hammonton in Atlantic County, New Jersey which provide 90 percent of the total sales of services furnished by these laundries amounting to an estimated $2,350,000 in 1951, reveals that increased labor and material costs have impaired the pre-Korean earnings of such laundries. In addition, new wage contracts entered into with labor unions representing the employees of these laundries resulted in substantial wage increases. These wage increases are all within the formula of Wage Stabilization Board regulations or have received Wage Stabilization Board approval, with the result that earnings of these laundries will be further impaired. The price increase granted herein has been determined to be the minimum necessary to maintain the financial stability of these laundries in order to assure a continued supply of these essential services. The uniform increase has been determined in accordance with the standards for individual adjustments under Section 20 of Ceiling Price Regulation 34.

All other considerations which were set forth in the Statement of Considerations to Supplementary Regulation 25 to Ceiling Price Regulation 34 are equally applicable to the power laundries located in the areas included in this amendment.

In the formulation of this amendment, the Director has consulted insofar as practicable with representative suppliers of these services, including representatives of trade associations, and consideration has been given to their recommendations. In the judgment of the Director of Price Stabilization the increases permitted by this amendment are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

AMENDATORY PROVISIONS

Supplementary Regulation 25 to Ceiling Price Regulation 34 is amended in the following respects:

1. The title of Supplementary Regulation 25 is amended to read as set forth above.

2. Add the phrase "Camden, Gloucester and Burlington Counties, New Jersey and the City of Hammonton in Atlantic County, New Jersey," after the words Philadelphia, Pennsylvania, wherever they appear in sections 1 and 3.

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

Effective date. This amendment is effective December 18, 1952.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

DECEMBER 18, 1952.

[F. R. Doc. 52-13486; Filed, Dec. 18, 1952; 4:00 p. m.]

[Ceiling Price Regulation 34, Supplementary Regulation 31]

CPR 34—SERVICES

SR 31—LINEN SUPPLY SERVICES IN THE CITY OF PHILADELPHIA, PENNSYLVANIA

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation 31 to Ceiling Price Regulation 34 is hereby issued.

STATEMENT OF CONSIDERATIONS

This Supplementary Regulation 31 to Ceiling Price Regulation 34 permits an increase in the ceiling prices of linen supply services furnished by linen suppliers in the City of Philadelphia, Pennsylvania.

Increased costs of operation resulting from wage increases, replacement of worn out, obsolete equipment, and higher costs of materials used in processing have decreased the earnings of these suppliers and caused a substantial financial hardship to them. Certain of these linen suppliers also employ the services of power laundries in processing their fabrics. The ceiling prices of power laundries in the City of Philadelphia, Pennsylvania, have been increased by 9 percent under Supplementary Regulation 25 to Ceiling Price Regulation 34, increasing the costs incurred by those linen suppliers utilizing the services of such power laundries.

Under the provisions of this supplementary regulation, ceiling prices of linen suppliers in the City of Philadelphia, Pennsylvania, may be increased by 7 percent, such adjustment to be applied to the total amount of each invoice rendered to the customer and identified as the "OPS permitted price increase", or, at the option of the individual linen supplier, the established flat price for each article may be increased 7 percent. The adjusted flat price must, within ten days after determination, be filed with the appropriate Office of Price Stabilization District Office as required by section 18 of Ceiling Price Regulation 34, as amended.

The uniform increase has been determined in accordance with the standards for individual adjustments under section 20 of Ceiling Price Regulation 34, as amended.

Linen suppliers subject to this supplementary regulation may not, after the effective date of this supplementary regulation, obtain an adjustment of their ceiling prices under section 20 of Ceiling Price Regulation 34, as amended. In addition, adjustments previously granted under that section are automatically revoked upon the effective date of this supplementary regulation.

In the formulation of this supplementary regulation, the Director has consulted insofar as practicable with representative suppliers of these services, including representatives of trade associations, and consideration has been given to their recommendations. In the judgment of the Director of Price Stabilization the increases permitted by this supplementary regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.
1. Purpose.
2. Relationship to Ceiling Price Regulation 34.
3. Adjustment of ceiling prices.
4. Application of section 20 of Ceiling Price Regulation 34.
5. Definitions.

AUTHORITY: Sections 1 to 5, issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Supp. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Supp. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR 1950 Supp.

SECTION 1. *Purpose.* This supplementary regulation permits linen suppliers located in the City of Philadelphia, Pennsylvania to increase the ceiling prices of their linen supply services by 7 percent. This supplementary regulation shall not apply to any other services supplied by such linen suppliers.

SEC. 2. *Relationship to Ceiling Price Regulation 34.* All provisions of Ceiling Price Regulation 34, as amended, except as affected by the provisions of this supplementary regulation, shall remain in effect.

SEC. 3. *Adjustment of ceiling prices.* You may, to the extent you furnish linen supply services from locations in the City of Philadelphia, Pennsylvania, increase your ceiling prices by 7 percent for linen supply services thus supplied by either of the following methods:

(a) You may apply such adjustment to the total amount of each invoice rendered to the customer, provided you shall clearly write or stamp beside the adjustment on each invoice the words "OPS permitted price increase". If you use this method of applying your price increase you need not make the supplementary filing required by Section 18 (c) of Ceiling Price Regulation 34, as amended.

(b) You may in lieu of the method provided in paragraph (a) of this section, increase by 7 percent the flat price of each linen supply service article. You may not establish prices under paragraph (a) of this section once you have elected to establish prices under this paragraph. Within ten days after your prices are established under this paragraph, you must prepare and file with your district office of the Office of Price Stabilization a supplemental statement as required by section 18 of Ceiling Price Regulation 34. You may not establish prices under paragraph (a) of this section once you have elected to establish prices under this paragraph.

(c) If the increase calculated in paragraphs (a) and (b) of this section results in a fraction of a cent, the ceiling price must be decreased to the next lower cent if the fractional cent is less than one-half cent, or may be increased to the next higher cent if the fraction is one-half cent or more.

SEC. 4. *Application of section 20 of Ceiling Price Regulation 34.* (a) No seller of linen supply services subject to this supplementary regulation, may, after the effective date of this regulation, apply for an adjustment of any of his ceiling prices for linen supply services under section 20 of Ceiling Price Regulation 34, as amended. All orders establishing ceiling prices of any seller of linen supply services subject to this supplementary regulation issued under either section 20 (a), (b) or (c) of Ceiling Price Regulation 34, as amended, are hereby revoked, upon the effective date of this regulation.

SEC. 5. *Definitions.* (a) As used in this supplementary regulation the term:

(1) "Linen supply services" means the supplying to others, on a rental basis, of clean laundered linen or garments by the owner of these items. The term "linen", as used in this definition, is not confined to articles made of linen textiles, but includes articles consisting of any fabric which are commonly laundered as distinguished from being dry cleaned.

Effective date. This supplementary regulation is effective December 18, 1952.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

DECEMBER 18, 1952.

[F. R. Doc. 52-13482; Filed, Dec. 18, 1952; 11:24 a. m.]

[Ceiling Price Regulation 34, Supplementary Regulation 32]

CPR 34—SERVICES

SR 32—DIAPER SUPPLY SERVICES IN PHILADELPHIA AND DELAWARE COUNTIES, PENNSYLVANIA, AND CAMDEN COUNTY, NEW JERSEY

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation 32 to Ceiling Price Regulation 34 is hereby issued.

STATEMENT OF CONSIDERATIONS

This Supplementary Regulation 32 to Ceiling Price Regulation 34 permits an increase in the ceiling prices of the diaper supply services furnished by retail diaper suppliers in Philadelphia and Delaware Counties, Pennsylvania and Camden County, New Jersey.

Sharply increased costs of materials and supplies together with wage increases recently granted with Wage Stabilization Board approval have made repair and replacement of worn out and obsolete equipment virtually impossible. These factors have resulted in substantial financial hardship to these diaper service suppliers. Also, certain of these diaper service suppliers employ the services of power laundries in processing their fabrics. The ceiling prices of power laundries in Philadelphia, Pennsylvania have been increased by 9 percent, increasing the costs incurred by those diaper service suppliers using the services of power laundries.

Under the provisions of this supplementary regulation, ceiling prices of diaper service suppliers in Philadelphia and Delaware Counties, Pennsylvania and Camden County, New Jersey may be increased by 5 percent, such adjustment to be applied to the total amount of each invoice rendered to the customer and identified as the "OPS permitted price increase," or, at the option of the individual diaper service supplier, the established flat price for each article may be increased 5 percent. The adjusted flat price must, within ten days after determination, be filed with the appropriate Office of Price Stabilization District Office.

Provision is made to retain such services under Ceiling Price Regulation 34: *Provided however*, That diaper service suppliers subject to this supplementary regulation may not, after the effective date of this supplementary regulation, obtain an adjustment of their ceiling prices under section 20 of Ceiling Price Regulation 34, as amended. In addition, adjustments previously granted under that section are automatically revoked as of the effective date of this supplementary regulation.

In the formulation of this supplementary regulation, the Director has consulted insofar as practicable with representative suppliers of these services including representatives of trade associations, and consideration has been given to their recommendations. In the judgment of the Director of Price Stabilization the increases permitted by this sup-

plementary regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.
1. Purpose.
2. Relationship to Ceiling Price Regulation 34.
3. Adjustment of ceiling prices.
4. Application of section 20 of Ceiling Price Regulation 34.
5. Definitions.

AUTHORITY: Sections 1 to 5, issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Supp. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Supp. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR 1950 Supp.

SECTION 1. *Purpose.* This supplementary regulation permits diaper service suppliers in Philadelphia and Delaware Counties, Pennsylvania, and Camden County, New Jersey to increase the ceiling prices of their retail diaper supply services by 5 percent, in the manner provided in section 3. This supplementary regulation shall not apply to any other services supplied by such diaper service suppliers.

SEC. 2. *Relationship to Ceiling Price Regulation 34.* All provisions of Ceiling Price Regulation 34, as amended, except as affected by the provisions of this supplementary regulation, shall remain in effect.

SEC. 3. *Adjustment of ceiling prices.* You may, to the extent you furnish diaper supply services at retail from locations in Philadelphia and Delaware Counties, Pennsylvania and Camden County, New Jersey, increase your ceiling prices by 5 percent for diaper supply services thus supplied by either of the following methods:

(a) You may apply such an adjustment to the total amount of each invoice rendered to the customer, provided you shall clearly write or stamp beside the adjustment on each invoice the words "OPS permitted price increase". If you use this method of applying your price increase you need not make the supplementary filing required by section 18 (c) of Ceiling Price Regulation 34.

(b) You may, in lieu of the method provided in paragraph (a) of this section, increase by 5 percent the flat price of each diaper supply service article. Within ten days after your prices are established under this paragraph, you must prepare and file with your district office of Office of Price Stabilization a supplemental statement as required by section 18 of Ceiling Price Regulation 34. You may not establish prices under paragraph (a) of this section once you have elected to establish prices under this paragraph.

(c) If the increase calculated in paragraphs (a) and (b) of this section results in a fraction of a cent, the ceiling price must be decreased to the next lower cent if the fractional cent is less than one-half cent, or may be increased to the next higher cent if the fraction is one-half cent or more.

SEC. 4. *Application of section 20 of Ceiling Price Regulation 34.* (a) No seller of diaper supply services at retail subject to this supplementary regulation may, after the effective date of this regulation, obtain an increase in his ceiling prices for such diaper supply services under section 20 of Ceiling Price Regulation 34, as amended. All orders establishing ceiling prices of any seller of diaper supply services subject to this supplementary regulation issued under either section 20 (a), (b) or (c) of Ceiling Price Regulation 34 are hereby revoked, upon the effective date of this regulation.

SEC. 5. *Definitions.* (a) As used in this supplementary regulation the term:

(1) "Diaper supply services" means the supplying to retail customers on a rental basis, of clean laundered diapers by the owner of these items.

(2) The term "Retail" refers to the sale of diaper supply services directly to the ultimate consumer, except commercial, industrial, and governmental users.

Effective date. This Supplementary Regulation 32 to Ceiling Price Regulation 34 shall become effective December 18, 1952.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

DECEMBER 18, 1952.

[F. R. Doc. 52–13483; Filed, Dec. 18, 1952; 11:24 a. m.]

[Ceiling Price Regulation 134, Amdt. 8]

CPR 134—CEILING PRICES FOR EATING AND DRINKING ESTABLISHMENTS

ADJUSTMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 8 to Ceiling Price Regulation 134 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to CPR 134 sets up an adjustment procedure which will permit operators of eating and drinking establishments to apply to OPS for permission to increase their present ceiling prices of meals, food items and beverages. The amount of the increase in ceiling prices allowed will be based on the individual operator's dollar and cents increase in food costs and in wage rates. Only one adjustment based on increased food costs and wage rates will be permitted. The amendment also makes more specific the requirements governing ceiling price posters.

CPR 134 which became effective April 7, 1952, replaced CPR 11 as the tailored regulation for the restaurant industry and was issued in order to provide a more effective and enforceable method of controlling prices charged by eating and drinking establishments. The new regulation fixed individual dollars-and-cents ceiling prices on the basis of the highest prices charged by the operator during the week of February 3 through 9, 1952. At that time all of the available data indicated that the general level of prices of food had been fairly well stabilized. The Monthly Wholesale Food Price Index issued by the Bureau of Labor Statistics had not risen for several months prior to the issuance of the new regulation. In the judgment of the Director, therefore, the regulation was not likely to cause significant squeezes in the restaurant industry.

However, in anticipation of possible changes in economic conditions, particularly in regard to wholesale food and labor costs, provision was made in the regulation for issuance of adjustment factors from time to time. This, it was thought, would keep the regulation constantly attuned to changes in the principal factors affecting the operations of the restaurant industry.

Recently, wholesale food costs generally have risen above the level prevailing at the time restaurant prices were frozen and wage rates for public feeding establishments have risen in some parts of the country. The data now available are sufficient to establish the fact that increases in these two vital cost factors have occurred. They are not sufficient, however, to furnish a measure of the impact of those increases either on the industry as a whole or on any of its segments. As a result, there is no adequate factual basis at this time for a general adjustment which would at once deal equitably with the various types of sellers in the industry and properly protect the interest of consumers.

Because of these conditions, the Director has decided, in spite of the burden imposed on the Agency and the industry by such a technique, to make provision for an individual adjustment of ceiling prices on the basis of pass-throughs of higher food and labor costs. This adjustment is an interim measure only and studies already underway will be continued with a view to the development of a more desirable technique for the adjustment of ceiling prices in the light of changes in economic conditions.

Generally, in regard to food costs this amendment provides that the operator may increase his ceiling prices if his current ratio of food costs to dollar of sales for the three month period of July, August and September, 1952, is higher than his base period food cost per dollar of sales. This does not mean a return at this time to the use of the food cost ratio as a regulatory technique. The two ratios involved are used simply as instruments for measuring the particular operator's increase in food costs and of the amount of dollars which he should be allowed to pass-through by additions to his ceiling prices.

In addition, if an operator has had an increase in his wage rates since February 1952, he may apply for an adjustment based on the increase in wage rates of all categories of employees on his payroll during the week of February 3, 1952. That is the week, it will be recalled, which was used as the base period for the freeze of restaurant prices. It is anticipated that, while some operators will be entitled to adjust their prices on the basis of increases in both food costs and wage rates, many establishments of a

specialized nature such as taverns, fish, chicken and steak houses, will be able to adjust for higher labor costs alone because their food and beverage costs have not increased significantly.

If an operator's food costs per dollar of sales and his wage rates have both increased since February, 1952, the increases will be added together to provide a single adjustment factor. At the same time, if, as is possible for some establishments, one type of cost, e. g. food, has decreased, then an offset will be made against any increase in wage rates which may have occurred. The operator will be permitted to apply the allowable percentage increase equally across the board to all of his meals, food items and beverages or to apply a higher percentage to a limited number of items.

Although the operator will now be permitted to increase his present ceiling prices, the posting of his ceiling prices, as required by CPR 134, will be retained. He will be required to put up a new poster with the new ceiling prices as adjusted under this amendment before he may charge those new prices.

Ceiling price posters are essential to successful control of restaurant prices. Yet, effective use of the posters has not been fully achieved because some operators have not carried out the spirit of the posting requirements, and so, it has become necessary to make the requirements more specific in order to avoid any chance of misunderstanding. Thus, this amendment sets up more precise provisions pertaining to the way in which items must be shown on the poster. The lettering will have to be typed, printed, stamped or written so that both the names of the items and their ceiling prices will be legible to customers at four feet.

In the formulation of this amendment, there has been consultation to the extent practicable with industry representatives, including trade association representatives and consideration has been given to their recommendations. In the judgment of the Director of Price Stabilization, the provisions of this amendment are generally fair and equitable, are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950, as amended, and comply with all of the applicable standards of that act.

AMENDATORY PROVISIONS

Ceiling Price Regulation 134 is amended in the following respects:

1. Section 10 is amended to read as follows:

SEC. 10. *Adjustment in ceiling prices.* You may at any time before February 14, 1953, apply for permission to increase your ceiling prices by reason of actual increases in your direct costs. The following paragraphs set out the procedure for making your application and the rules which OPS will use in deciding whether you are entitled to adjust your ceiling prices and, if so, by what amount.

(a) *General basis for increase.* You will be permitted to increase your ceiling prices if your direct costs, that is, your food and labor costs, have increased. The increases allowed will be those required to pass through your higher costs. If, however, it should turn out that while either of your direct costs has increased, the other has decreased, then the decrease will be offset against the increase. If both have increased, your adjustment will, of course, be based on both factors.

(b) *Adjustment based on food costs.* You will be allowed an adjustment if your food cost per dollar of sales (including alcoholic beverages) for the three-month period of July, August, and September, 1952 (or, if that period is not one of your current periods as defined in section 27 (b) of CPR 134, your most recent current period ending before November 1, 1952), is higher than your base period food cost per dollar of sales (including alcoholic beverages). However, if you were not open for at least thirty days during your current period, use your most recent current period in which you were open for thirty days after January 31, 1952. Your base period for the purpose of this section is whichever of the following is applicable to you:

(1) The base period you established under CPR 11.

(2) The last three months of the first five consecutive months of operation if the establishment was not in operation prior to November 1, 1951, and you did not establish a base period under CPR 11.

(c) *Adjustment based on wage rates.* You will be allowed an adjustment if the wage rates of any of your categories of employees for the pay week immediately preceding the date of your application are higher than the wage rates in effect for those categories of employees during the week of February 3 through 9, 1952. You must follow the instructions appearing on OPS Public Form No. 156 to determine the categories of employees to be included and to make the computations necessary for an adjustment under this paragraph.

(d) *How to apply your increase.* You may apply the allowable percentage increase equally to all of your meals, food items and beverages or you may apply a higher percentage to a limited number of items. The amount of that higher percentage will depend on the proportion of your sales volume represented by the items you select and will be calculated to permit you to obtain the same amount of revenue as you would have been able to obtain by applying your increase across the board. If you decide to apply a higher percentage to a limited number of items you will not be allowed to increase the ceiling price of any item by more than 25 percent.

(e) *How and where to make your application.* In order to obtain an increase under this section, you must fill out OPS Public Form No. 156 in accordance with the instructions appearing on the form for each of your establishments separately and mail it to the OPS office for your area. If, however, you filed one base period report under CPR 11 for two or more establishments owned or operated by you, you may treat the establishments covered by the base period report as one establishment and mail a single application form to the OPS office with which you filed that report.

(f) *When you may charge your new ceiling prices.* You may not charge your new ceiling prices until twenty days after you have mailed your application to OPS. Thereafter, you may charge your new ceiling prices unless you are notified, either before or after the expiration of the twenty day waiting period, that your application has been disapproved. You may not, in any event, charge your adjusted ceiling prices until you have displayed a new poster showing your new ceiling prices for the items required to be listed on your poster. The poster must be displayed as provided in section 13.

2. Paragraph (b) of section 13 is amended by inserting between the first and second sentence of that paragraph a new sentence to read as follows: "The names of the items and the ceiling prices for each item which you list on the poster must be typed, printed, stamped or written so that they will be legible at four feet."

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

Effective date. This amendment 8 to Ceiling Price Regulation 134 is effective December 23, 1952.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

DECEMBER 18, 1952.

[F. R. Doc. 52-13487; Filed, Dec. 18, 1952; 4:00 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 129]

GCPR, SR 129—SUSPENSION FROM CEILING PRICES OF MANUFACTURERS' SALES OF HARDWOOD PLYWOOD PRODUCED EAST OF THE 105TH MERIDIAN

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation No. 129 to the General Ceiling Price Regulation, is hereby issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation suspends from ceiling price control manufacturers' sales of hardwood plywood produced east of the 105th meridian. Heretofore, these commodities have been controlled by the General Ceiling Price Regulation.

There are about 280 hardwood plywood plants, all of which are located east of the 105th meridian. Approximately 200 of these are integrated with furniture factories and do not normally sell on the open market. The eighty plants producing for open market sales are scattered throughout the area, with the greatest concentration in the Southeast.

Reports of the Bureau of Labor Statistics show that on the average hardwood plywood products have been selling approximately 10% below the GCPR level since early in 1952. Thus, in October 1952 the index number for hard-

wood plywood compiled by the U. S. Bureau of Labor Statistics was 101.1 as compared with 112.9 in February 1951 and 95.5 in June 1950.

The latest reports of the U. S. Bureau of the Census show that production in this industry during the second quarter of 1952 was nearly 22 percent below the level for the corresponding quarter in 1951. This decline appears to have been caused for the most part by competition from imported plywood, Douglas Fir plywood faced with hardwood veneer (which is made principally west of the 105th meridian), and from hardboard. Glue and veneer, the basic raw materials, as well as manpower appear to be plentiful in all production areas. Hence, there appears to be little likelihood of any marked increase in prices as a result of this action.

The Director may at any time terminate or modify this suspension if he determines that such action is necessary in the interests of the stabilization program. Similarly, the Director may terminate this suspension in case of significant price increase of important raw materials. In any event, the suspension will be terminated when the index number compiled by the U. S. Bureau of Labor Statistics for the plywood subgroup, hardwood class, reaches 109.5 (1947–49 average=100).

In the judgment of the Director of Price Stabilization the provisions of Supplementary Regulation 129 to the GCPR are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950, as amended.

So far as practicable, the Director of Price Stabilization has given due consideration to the national effort to achieve maximum production and the furtherance of the objectives of the Defense production Act of 1950, as amended.

In the formulation of this supplementary regulation special circumstances have rendered consultation with industry representatives impractical.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Suspension.
3. Records.
4. Definition.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* The purpose of this supplementary regulation is to suspend from the provisions of the General Ceiling Price Regulation, manufacturers' sales of hardwood plywood produced east of the 105th meridian.

SEC. 2. *Suspension.* On and after December 18, 1952, the provisions of the General Ceiling Price Regulation are suspended with respect to manufacturers' sales of hardwood plywood produced east of the 105th meridian. This suspension will continue unless and until the Director of Price Stabilization terminates or modifies it. The suspension effected by this supplementary regulation does not operate to place manufacturers' sales of hardwood plywood produced east of the 105th meridian under any other ceiling price regulation.

SEC. 3. *Records.* During the period of suspension, on sales covered by this supplementary regulation, you, and buyers from you, shall not be required to prepare and keep the records specified in section 16 (b) of the General Ceiling Price Regulation. However, you, and buyers from you, shall continue to preserve and make available for examination by the Office of Price Stabilization, in the manner and for the period set forth in section 16 (b) of the General Ceiling Price Regulation, all such records which you, and buyers from you, were required to have on December 17, 1952.

SEC. 4. *Definition.* As used in this supplementary regulation, the term "hardwood plywood" means any flat or curved assembly of two or more thicknesses of veneer, or of two or more thicknesses of veneer with a lumber core, which is laminated or glued together and in which at least one ply of veneer is a species of hardwood.

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

Effective date. This Supplementary Regulation 129 to the General Ceiling Price Regulation shall be effective December 18, 1952.

JOSEPH H. FREEHILL,
Acting Director of Price Stabilization.

DECEMBER 18, 1952.

[F. R. Doc. 52-13484; Filed, Dec. 18, 1952; 11:24 a. m.]

Chapter IV—Salary and Wage Stabilization, Economic Stabilization Agency

Subchapter B—Wage Stabilization Board

WAGE STABILIZATION COMMITTEE RESOLUTION NO. 1

In order to provide for continuity in wage stabilization, and in conformance with the provisions of ESA General Order 19, the Wage Stabilization Committee hereby ratifies, confirms, and adopts as its own all policies, regulations, resolutions, interpretations, rulings, orders, decisions, rules, directives, applications, and other actions heretofore taken in the name of the Wage Stabilization Board created under section 403 (b) of the Defense Production Act, as amended, and Executive Orders 10377 and 10390, or of any of its agents or agencies or the Economic Stabilization Administrator, except that, while any tripartite "Board agency" is rendered inoperative, it shall be composed of three members representative of the general public.

CHARLES C. KILLINGSWORTH,
Chairman,
Wage Stabilization Committee.

[F. R. Doc. 52-13490; Filed, Dec. 18, 1952; 11:54 a. m.]

WAGE STABILIZATION COMMITTEE RESOLUTION NO. 2

In order to provide for continuity in wage stabilization, and in conformance with the provisions of ESA General Order 19, the Wage Stabilization Committee hereby resolves that all actions which may hereafter be taken in the name of the Wage Stabilization Board created under section 403 (b) of the Defense Production Act, as amended, and Executive Orders 10377 and 10390, or of any of its agents or agencies, shall have the full force and effect of actions of this Committee or of any of its agents or agencies.

CHARLES C. KILLINGSWORTH,
Chairman,
Wage Stabilization Committee.

[F. R. Doc. 52-13491; Filed, Dec. 18, 1952; 11:54 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Ch. IX]

[Docket No. AO-244]

HANDLING OF MILK IN MIDDLE AND SOUTHEAST MISSISSIPPI MARKETING AREA

NOTICE OF HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Assembly Room, Woolfolk State Office Building, Second Floor, Jackson, Mississippi, beginning at 10:00 a. m., c. s. t., on January 6, 1953.

The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk for the Middle and Southeast Mississippi marketing area and to the issuance of a marketing agreement and order regulating the handling of milk in the said marketing area. The proposed marketing agreement and order proposals set forth below have not received the approval of the Secretary of Agriculture, and at the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposals or any modifications thereof.

Marketing agreement and order proposed by the Central Sales Committee, Jackson, Mississippi:

DEFINITIONS

SECTION 1. *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement of 1937, as amended (7 U. S. C., 601 et seq.).

SEC. 2. *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

SEC. 3. *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal Agency authorized to perform the price reporting functions specified in this subpart.

SEC. 4. *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

SEC. 5. *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

SEC. 6. *Middle and Southeast Mississippi marketing area.* "Middle and Southeast Mississippi marketing area" hereinafter called "marketing area" means all the territory within the boundaries of the counties of Hinds, Madison, Rankin, Warren, Jones, Forrest, Marion, all within the State of Mississippi, and shall be divided into two districts:

(a) The territory within the boundaries of the counties of Hinds, Madison, Rankin and Warren shall be district number I; and

(b) The territory within the boundaries of the counties of Jones, Forrest and Marion shall be district number II.

SEC. 7. *Fluid milk plant.* "Fluid milk plant" means any milk plant, except that of a producer-handler, approved by the appropriate health authority in the marketing area, and used during the month for (a) the processing and packaging of producer milk, all or a portion of which is disposed of as Class I milk in the marketing area to wholesale or retail outlets, including plant stores; or (b) the receipt and cooling of producer milk for shipment to a plant described under paragraph (a) of this section, of more than 35 percent of its total receipts of producer milk during the months of September, October, November and December, and 20 percent for the months of January through August.

SEC. 8. *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, processing, or bottling plant other than a fluid milk plant.

SEC. 9. *Handler.* "Handler" means: (a) Any person in his capacity as the operator of a fluid milk plant(s); (b) a producer-handler; or (c) any cooperative association with respect to milk of producers diverted by it from a fluid milk plant to a nonfluid milk plant for the account of such cooperative association.

SEC. 10. *Producer.* "Producer" means any person, except a producer-handler, who produces milk under a dairy farm inspection permit issued by the appropriate health authority in the marketing area and whose milk is permitted to be used for consumption as milk in the marketing area, which milk is: (a) Received at a fluid milk plant, or (b) customarily received at a fluid milk plant but diverted by a Cooperative Association or the operator of such fluid milk plant directly from the farm to a nonfluid milk plant: *Provided*, That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

SEC. 11. *Producer milk.* "Producer milk" means all skim milk and butterfat produced by a producer and received at a fluid milk plant.

SEC. 12. *Other source milk.* "Other source milk" means all skim milk and butterfat received at a fluid milk plant other than that skim milk and butterfat contained in producer milk.

SEC. 13. *Producer-handler.* "Producer-handler" means any person who produces milk under a dairy farm permit issued by the appropriate health authority in the marketing area and who processes milk from his own production, and distributes all or a portion of such milk within the marketing areas as Class I milk, but who receives no milk from producers.

MARKET ADMINISTRATOR

SEC. 20. *Designation.* The agency for the administration covered by this subpart shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

SEC. 21. *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violation;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend to the Secretary amendments to the terms and provisions contained in this subpart.

SEC. 22. *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering every employee who handles funds entrusted to the market administrator.

(d) Pay out of the funds provided by section 95 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under section 94, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 3 days after the date upon which he is required to perform such acts, has not made reports pursuant to section 30 and section 31 or payments pursuant to section 90;

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing on or before the 6th day of each month, the minimum price for Class I milk computed pursuant to section 51 (a), (b), (c) (1) (2) (3) and (d) and the Class I butterfat differential computed pursuant to section 54 (a), both for the current month, and the minimum price for Class II milk computed pursuant to section 53 and the Class II butterfat differential computed pursuant to section 54 (b), both for the previous month;

(j) Notify each handler in writing on or before the 11th day of each month the amount of the net obligation of such handler for milk received from producers during the previous month. Such notification shall show the amount and the value of milk in each class; the amount and the value of overage; and the amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months;

(k) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and notify each handler in writing;

(1) On or before the 13th day after the end of each of the months of September through February, the uniform price for each handler computed pursuant to section 71 and the butterfat differential computed pursuant to section 92; and

(2) On or before the 13th day after the end of each of the months of March through August, the uniform prices for base milk and for excess milk for each handler computed pursuant to section 72 and the butterfat differential computed pursuant to section 92, and

(3) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

SEC. 30. *Reports of receipts and utilization.* On or before the 8th day after the end of each month each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and for the months of March through August the aggregate quantities of base and excess milk;

(b) The quantities of skim milk and butterfat contained in receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(e) Such other information with respect to receipts and utilization as the market administrator may prescribe.

SEC. 31. *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler shall report to the market administrator in detail and on forms prescribed by the market administrator, as follows:

(1) On or before the 8th day after the end of the month, the correct name and address of each producer, the total pounds of milk received from each producer, the number of days on which milk was received from each producer, the amount of any deductions authorized in writing by the producer to be made in making payments to such producer, and the average butterfat content of the milk received from each producer.

(2) Upon request of the market administrator, the information described in subparagraph (1) of this paragraph together with such other information as the market administrator may prescribe for prior calendar months included in the period beginning with _____ to the effective date of this order.

(3) On or before the first day other source milk is received, such handler's intention to receive such milk and on or before the last day such milk is received, his intention to discontinue receipt of such milk.

SEC. 32. *Records and facilities.* Each handler shall maintain and make available to the market administrator or his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each month; and

(d) Payments to producers.

SEC. 33. *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

SEC. 40. *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to section 30 shall be classified by the market administrator pursuant to the provisions of section 41 through section 46.

SEC. 41. *Classes of utilization.* Subject to the conditions set forth in section 43 and section 44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks (including eggnog), yogurt, cream, cultured sour cream, any mixture of cream and milk or skim milk other than ice cream and ice cream mixes, (2) used to produce concentrated (including frozen) milk, (3) any other product required by the appropriate health authority in the marketing area to be made from Grade A milk, and all skim milk and butterfat not specifically accounted for as Class II milk.

(b) Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those specified in paragraph (a) of this section, (2) disposed of for livestock feed, (3) in shrinkage up to 2 percent of receipts from producers, and (4) in shrinkage of other source milk.

SEC. 42. *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for such handler; and

(b) Prorate the resulting amounts between such handler's receipts of skim milk and butterfat in milk from producers and in other source milk.

SEC. 43. *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified as Class II milk.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

SEC. 44. *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion from a fluid milk plant shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a fluid milk plant of another handler unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 8th day after the end of the month within which such transaction occurred: *Provided*, That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to section 46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *Provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred to a producer-handler in the form of milk, skim milk, or cream.

(c) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to a nonfluid milk plant, except that of a producer-handler, unless the following conditions are met:

(1) The handler claims classification in Class II;

(2) The market administrator is permitted to audit the books and records showing the utilization of all skim milk and butterfat received at such nonfluid milk plant, for the purpose of verification; and

(3) An amount of skim milk and butterfat not less than that so transferred or diverted was used in Class II: *Provided*, That the skim milk and butterfat so assigned to Class II shall be limited to the amount thereof in Class II in such nonfluid milk plant, and any additional amounts of skim milk and butterfat so

transferred or diverted shall be assigned to Class I.

SEC. 45. *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

SEC. 46. *Allocation of skim milk and butterfat classified.* After making the computations pursuant to section 45 the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to section 41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classification as determined pursuant to section 44 (a);

(4) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of the Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

SEC. 50. *Minimum prices.* Subject to the appropriate butterfat differential computed pursuant to section 54 each handler shall pay in the manner set forth in section 90 through section 94 for milk received at his plant from producers at not less than the prices per hundredweight set forth in section 51, section 52, and section 53.

SEC. 51. *Class I milk.* Class I price shall be an amount calculated as follows:

(a) Multiply the formula index computed pursuant to section 52 by $6.00 and divide by 100;

(b) Adjust the price calculated pursuant to paragraph (a) of this section so that it will not be less than 1.5 times nor more than 1.75 times the price calculated pursuant to paragraph (d) of this section: *Provided,* That for each of the months of September, October, November and December, such price shall not be less than that for the preceding month, and that for each of the months April, May, and June, such price shall not be more than that for the preceding month.

(c) Add to or subtract from the foregoing price, as the case may be, as follows:

(1) Divide for each district the total receipts of producer milk in the two immediate preceding delivery periods of all handlers by the total pounds of Class I milk of all handlers (except interhandlers transfers and sales by producer-handlers) for such period, multiply the result by 100, and round to the nearest whole number. The result shall be known as Class I utilization percentage;

(2) Compute for each district a "net utilization percentage" by algebraically subtracting from the Class I utilization percentage computed pursuant to subparagraph (1) of this paragraph, the standard utilization percentage shown below:

Month for which price applies	Months used in computation	Standard utilization percentage
January	November-December	110
February	December-January	118
March	January-February	126
April	February-March	130
May	March-April	130
June	April-May	137
July	May-June	136
August	June-July	135
September	July-August	130
October	August-September	120
November	September-October	114
December	October-November	110

(3) For each minus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be increased 3 cents in January, February, March, July and August; 2 cents in April, May and June; 4 cents in September, October, November, and December; and for each plus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be decreased 3 cents in January, February, March, July and August; 4 cents in April, May, and June; and 2 cents in September, October, November, and December: *Provided,* That in no event shall an adjustment made pursuant to this subparagraph exceed 50 cents per hundredweight.

(d) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the preceding month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture, divided by 3.5 and multiplied by 4.0;

Present Operator and Location

Borden Co., Mt. Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Bordon Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

SEC. 52. *Formula index.* Based on the latest data available on the 28th day of each month, or the first business day thereafter if the 28th is not a business day the market administrator shall calculate a formula index for the following month as follows:

(a) Divide the monthly wholesale price index for all commodities as announced by the Bureau of Labor Statistics, U. S. Department of Labor, by the average of such index for the years 1947 through 1949 and multiply by 100.

(b) Take the average of the three latest indexes of business activities in the affected areas as computed by the Business Research Station of Mississippi State College, State College, Mississippi, using the years 1947 through 1949 as the base period.

(c) Compute a labor-feed index as follows:

(1) Divide by 0.0325 the daily farm wage rate without board or room for the State of Mississippi as reported by the U. S. Department of Agriculture and multiply by 0.3;

(2) Divide by 0.04239 the average price paid per hundredweight for all mixed dairy feed of under 29 percent protein in the State of Mississippi as reported by the U. S. Department of Agriculture and multiply by 0.7;

(3) Add together the amounts determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Add the amounts determined pursuant to paragraphs (a), (b), and (c) of this section, divide by 3 and round to the nearest one tenth.

SEC. 53. *Class II milk.* The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture.

Present Operator and Location

Kraft Cheese Co., Newton, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Brookhaven Creamery, Brookhaven, Miss.
Pet Milk Co., Kosciusko, Miss.

SEC. 54. *Butterfat differential to handlers.* If the average butterfat content of producer milk allocated to any class pursuant to section 46 is more or less than 4.0 percent there shall be added to the respective class price computed pursuant to section 51 for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92

score) bulk creamery butter at Chicago, as reported by the Department of Agriculture during the period listed below by the applicable factor so listed and dividing the result by 10;

(a) *Class I milk.* Multiply such price reported for the preceding month by 1.25;

(b) *Class II milk.* Multiply such price reported for the current month by 1.20.

APPLICATION OF PROVISIONS

SEC. 60. *Producer-handlers.* Section 40 through section 46, section 50 through section 52, section 70 through section 72, section 80 through section 83 and section 90 through section 96 shall not apply to a producer-handler.

DETERMINATION OF UNIFORM PRICE

SEC. 70. *Net obligation of each handler.* The net obligation of each handler for milk received during each month from producers shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price, (b) add together the resulting amounts, (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price, and (d) add or subtract, as the case may be an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

SEC. 71. *Computation of the uniform price for each handler.* For each of the months of September through February the market administrator shall compute for each handler the uniform price for milk received from producers as follows:

(a) Add to the amount computed pursuant to section 70 the amount of location differential pursuant to section 91;

(b) Subtract, if the average butterfat content of milk received from producers by such handler is more than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential to producers, and multiply the result by the total hundredweight of such milk;

(c) Add the amount represented by any deductions made pursuant to paragraph (d) of this section for fractions of a cent in computing the uniform price for the preceding month;

(d) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, less any fraction of a cent per hundredweight shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. the fluid milk plant.

SEC. 72. *Computation of the uniform price for base milk and for excess milk for each handler.* For each of the months of March through August, the market administrator shall compute for each handler the uniform price for base milk and for excess milk received from producers as follows:

(a) Add to the amount computed pursuant to section 70 the amount of location differential pursuant to section 91;

(b) Subtract, if the average butterfat content of milk received from producers by such handler is more than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential to producers, and multiply the result by the total hundredweight of such milk;

(c) Add the amount represented by any deductions made pursuant to section 71 (a) or paragraphs (f) and (g) of this section for fractions of a cent in computing such uniform prices for the preceding month;

(d) Subject to the conditions set forth in paragraph (e) of this section, compute the value of excess milk by multiplying the quantity of such milk by the Class II price;

(e) Compute the value of base milk received by such handler from producers by subtracting the value obtained pursuant to paragraph (d) of this section from the value obtained pursuant to paragraphs (a) through (c) of this section: *Provided*, That if such resulting value is greater than an amount computed by multiplying the pounds of base milk delivered by producers by the Class I price computed pursuant to section 51 such value in excess thereof shall be added to the value computed pursuant to paragraph (d) of this section to the extent that the excess price shall not exceed the base price as calculated in this section. Any additional value remaining shall be prorated on a volume basis between excess and base milk.

(f) Divide the result obtained in paragraph (e) of this section by the quantity of base milk received by such handler from producers. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price per hundredweight for such handler for "base milk" of 4.0 percent butterfat content f. o. b. the marketing area; and

(g) Divide the result obtained in paragraph (d) of this section by the quantity of excess milk received by such handler from producers. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price per hundredweight for such handler for "excess milk" of 4.0 percent butterfat content.

SEC. 73. *Notification of handlers.* On or before the 10th day after the end of each delivery period, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals thereof;

(b) For the months of March through August the amounts and value of his base and excess milk respectively, and the totals thereof; and

(c) The uniform price(s) computed pursuant to section 71 and section 72, and the butterfat differential computed pursuant to section 92.

BASE RATING

SEC. 80. *Base operating period.* The base operating period shall be the months of March through August.

SEC. 81. *Base forming period.* The base forming period for each year shall be the months of September through February, immediately preceding the base operating period.

SEC. 82. *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator, as follows: Divide the total pounds of milk received by a handler(s) from such producer during the base forming period by the number of days in such period.

SEC. 83. *Computation of base.* The base of each producer to be applied during the base operating period shall be a quantity of milk calculated, by the handler who receives milk from such producer, in the following manner, subject to verification by the market administrator: Multiply the daily base of such producer with such handler by the number of days for which such producer's milk was delivered to such handler during the delivery period.

SEC. 84. *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be moved from one handler to another handler.

SEC. 85. *Announcement of established bases.* On or before April 1, of each year, the market administrator shall notify each producer and the handler receiving milk from such producers the daily base established by such producer.

PAYMENTS

SEC. 90. *Payments to producers.* Each handler shall make payment to each producer for milk received from such producer by such handler as follows:

(a) On or before the last day of each delivery period for milk received during the first 15 days of the delivery period at not less than the price per hundredweight for Class II milk for the preceding delivery period.

(b) On or before the 15th day after the end of each of the delivery periods of September through February for milk received during such delivery period at not less than the uniform price per hundredweight computed for such handler

pursuant to section 71, subject to the location and butterfat differentials computed pursuant to section 91 and section 92, less payment made pursuant to paragraph (a) of this section.

(c) On or before the 15th day after the end of each of the delivery periods of March through August, after deducting the amount of payment made pursuant to paragraph (a) of this section, for milk received during the delivery period as follows:

(1) At not less than the uniform price per hundredweight for base milk computed pursuant to section 72 for the quantity of base milk received from such producer, subject to the butterfat differential computed pursuant to section 92, and the location differential as provided in section 91.

(2) At not less than the uniform price per hundredweight for excess milk computed pursuant to section 72 for the quantity of excess milk received from such producer, subject to the butterfat differential computed pursuant to section 92.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section each handler shall furnish each producer with supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and average butterfat test of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to such producer.

SEC. 91. *Location differentials.* Each handler, in making payments prescribed in section 90 may deduct 10 cents per hundredweight from the uniform price of base and excess milk during the delivery periods of March through August and for all milk during the delivery periods of September through February for each producer with respect to all such milk received from such producer at a plant as defined in section 7 (b), located more than 40 miles from a plant defined in section 7 (a).

SEC. 92. *Producer butterfat differential.* In making payments pursuant to section 90 there shall be added to the uniform price for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or there may be deducted from the uniform price for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: Multiply by 1.2 the simple average computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the United States Department of Agriculture during the month, divide the result by 10 and round to the nearest one-tenth of a cent.

SEC. 93. *Adjustment of accounts.* Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

SEC. 94. *Marketing service.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to section 90, shall deduct 10 cents per hundredweight or such amount not exceeding 10 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month and pay such deduction to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to section 90 (d).

SEC. 95. *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

SEC. 96. *Termination of obligations.* The provision of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the amount for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

SEC. 100. *Effective time.* The provisions of this subpart or any amendment hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to section 101.

SEC. 101. *Suspension or termination.* The Secretary may suspend or terminate

this subpart or any provision of this subpart whenever he finds this subpart or any provision of this subpart obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

SEC. 102. *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

SEC. 103. *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

SEC. 110. *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions of this subpart.

SEC. 111. *Separability of provisions.* If any provision of this subpart, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

Proposed by the Hattiesburg Creamery, Hattiesburg, Mississippi:

The "Middle and Southeast Mississippi, marketing area", shall be defined as follows:

"Middle and Southeast Mississippi, marketing area", hereinafter called "marketing area," means all the territory within the boundaries of the Counties of Washington, Humphreys, Sharkey, Issaquena, Yazoo, Warren, Hinds, Madison, Rankin, Scott, Newton, Clarke, Jasper, Smith, Simpson, Copiah, Claiborne, Lawrence, Jefferson Davis, Covington, Jones, Wayne, Greene, Perry, Forrest, Lamar, Marion, Walthall, Stone and George, all within the State of Mississippi.

Proposed by the Blue Ribbon Creamery, Jackson, Mississippi:

The "Middle and Southeast Mississippi, marketing area," shall be defined as follows:

"Marketing area" means all the territory within the boundaries of the Counties of Washington, Sharkey, Issaquena, Warren, Claiborne, Jefferson, Adams, Lincoln, Copiah, Hinds, Yazoo, Humphreys, Attala, Madison, Rankin, Simpson, Lawrence, Walthall, Jefferson Davis, Covington, Smith, Scott, Leake, Neshoba, Newton, Jasper, Clarke, Jones, Wayne, Marion, Lamar, Forrest, Perry, Greene, George and Stone.

Copies of this notice of hearing may be procured from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: December 12, 1952.

[SEAL] GEORGE A. DICE,
Acting Assistant Administrator.

[F. R. Doc. 52-13358; Filed, Dec. 18, 1952; 8:47 a. m.]

[7 CFR Part 908]

[Docket No. AO-243]

HANDLING OF MILK IN CENTRAL ARKANSAS MARKETING AREA

NOTICE OF HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Public Service Commission Hearing Room, State Capitol Building, Little Rock, Arkansas, beginning at 10:00 a. m., c. s. t., January 13, 1953.

The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk for the Central Arkansas marketing area and to the issuance of a marketing agreement and order regulating the handling of milk in the said marketing area. The proposed marketing agreement and order provisions set forth below have not received the approval of the Secretary of Agriculture. At the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposals and any modification thereof.

Marketing agreement and order proposed by the Central Arkansas Milk Producers' Association:

DEFINITIONS

§ 908.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 908.2 *Secretary.* "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 908.3 *Department.* "Department" means the United States Department of Agriculture or other Federal agency authorized to perform the price reporting functions specified in this subpart.

§ 908.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 908.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines (a) to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," (b) to have full authority in the sale of milk of its members, and (c) to be engaged in making collective sales or marketing milk or its products for its members.

§ 908.6 *Central Arkansas marketing area.* "Central Arkansas marketing area," hereinafter called the marketing area, means all territory within the limits of Pulaski County, Jefferson County, White County, Faulkner County, Clark County and Garland County, all within the State of Arkansas.

§ 908.7 *Approved plant.* "Approved plant" means any milk plant approved by any health authority having jurisdiction in the marketing area from which milk, skim milk, buttermilk, flavored milk, flavored milk drinks, or cream are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores).

§ 908.8 *Unapproved plant.* "Unapproved plants" means any milk processing or distributing plant other than an approved plant.

§ 908.9 *Handler.* "Handler" means (a) any person in his capacity as the operator of an approved plant; or (b) any cooperative association with respect to the milk of any producer which it causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 908.10 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which is received at an approved plant: *Provided*, That such milk is produced under a dairy farm inspection permit or inspection rating issued by any health authority having jurisdiction in the marketing area for the production of milk to be disposed of for consumption as fluid milk. "Producer" shall include any such person whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted. "Producer" shall not include a person with respect to milk produced by him which is received at a plant operated by a handler who is subject to another Federal marketing order and who is partially exempt from the provisions of this subpart pursuant to § 908.61.

§ 908.11 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler either directly from producers or from other handlers.

§ 908.12 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 908.13 *Producer-handler.* "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

§ 908.14 *Base milk.* "Base milk" means milk received from a producer by a handler during any of the months of April through June which is not in excess of such producer's daily average base computed pursuant to § 908.90 multiplied by the number of days in such month for which the handler received milk from the producer.

§ 908.15 *Excess milk.* "Excess milk" means milk received from a producer by a handler during any of the months of April through June which is in excess of base milk received from such producer during such month, and shall include all milk received during such months from any producer for whom no daily average base has been established pursuant to § 908.90.

MARKET ADMINISTRATOR

§ 908.20 *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 908.21 *Powers.* The market administrator shall have the following powers with respect to this subpart.

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 908.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 908.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 908.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 908.30 through 908.32;

(2) Maintained adequate records and facilities pursuant to § 908.33; or

(3) Made payments pursuant to §§ 908.80 through 908.87;

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this subpart, the milk received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum prices for Class I milk pursuant to § 908.51 (a) and the Class I butterfat differential pursuant to § 908.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 908.51 (b) and the Class II butterfat differential pursuant to § 908.52 (b) both for the preceding month; and

(2) On or before the 12th day of each month, the uniform price(s) computed pursuant to § 908.71 or § 908.72, as applicable, and the butterfat differential computed pursuant to § 908.81, both applicable to milk delivered during the preceding month; and

(k) Prepare and disseminate to the public such statistics and other information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 908.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator, as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and, for the months of April through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on route(s) wholly outside the marketing area; and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 908.31 *Reports of payments to producers.* On or before the 20th day of each month, each handler shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show:

(a) The total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producers, including for the months of April through June such producer's deliveries of base and excess milk;

(b) The amount of payment to each producer or cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 908.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, of his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

§ 908.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all receipts of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 908.34 *Retention of records.* All books and records required under this order to be made available to the mar-

ket administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (a) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 908.40 *Basis of classification.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 908.30 shall be classified by the market administrator pursuant to the provisions of §§ 908.41 through 908.46.

§ 908.41 *Classes of utilization.* Subject to the conditions set forth in §§ 908.43 and 908.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cottage cheese, cream, yogurt, cultured sour cream and any mixtures of cream and milk or skim milk (except bulk ice cream mix), eggnog, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified in paragraph (a) of this section; (2) disposed of for livestock feed; (3) in shrinkage allocated to receipts of milk from producers, but not in excess of 2 percent of such receipts of skim milk and butterfat respectively; (4) in shrinkage allocated to receipts of other source milk; and (5) in inventory variations of milk, skim milk, cream or any Class I product.

§ 908.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 908.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified in one class (except that transferred to a producer-handler) shall be reclassified if used or reused by such handler or by another handler in another class.

§ 908.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to the approved plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided*, That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 908.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in the form of milk or skim milk to an unapproved plant located more than 185 miles from the approved plant by the shortest highway distance as determined by the market administrator.

(d) As Class I milk if transferred in the form of cream under Grade A certification to an unapproved plant located more than 185 miles from an approved plant by the shortest highway distance as determined by the market administrator, and as Class II milk if so transferred without Grade A classification.

(e) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located not more than 185 miles from the approved plant, and from which fluid milk is disposed of on wholesale or retail routes unless the market administrator is permitted to audit the records of receipts and utilization at such unapproved plant, in which case the classification of all skim milk and butterfat received at such unapproved plant shall be determined and the skim milk and butterfat transferred or diverted from the approved plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at such unapproved plant directly from dairy farmers who the market administrator determines constitute the regular source of supply for fluid usage of such unapproved plant in markets supplied by such plant.

(f) As Class II milk if transferred or diverted in the form of milk, skim milk, or cream to an unapproved plant located not more than 185 miles from the approved plant and from which fluid milk is not disposed of on wholesale or retail routes.

§ 908.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 908.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 908.45, the market administrator shall determine the classification of milk received by each handler from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 908.41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in a form other than milk, skim milk or cream according to its classification pursuant to § 908.41;

(3) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided*, That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(4) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream according to its classification as determined pursuant to § 908.44 (a);

(5) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 908.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section and § 908.51 (b) for the preceding month.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market

administrator or to the Department, divided by 3.5 and multiplied by 4.0:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof, and multiply by 4.0.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

§ 908.51 *Class prices.* Subject to the provisions of § 908.52 the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.95 for the months of May, June and July plus $2.15 for all other months of the year: *Provided,* That for each of the months of October, November, and December, such price shall not be less than that for the preceding month, and that for each of the months of May, June and July, such price shall not be more than that for the preceding month.

(1) Divide the total receipts of producer milk in the first and second months preceding by the total gross volume of Class I milk (excluding interhandler transfers and sales by producer-handlers and handlers partially exempt from this order pursuant to § 908.60) for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the Class I utilization percentage;

(2) Compute a "net utilization percentage" by algebraically subtracting from the Class I utilization percentage computed pursuant to subparagraph (1) of this paragraph, the standard utilization percentage shown below:

Month for which price applies	Months used in computation	Standard utilization percentage
January	November-December	110
February	December-January	112
March	January-February	114
April	February-March	120
May	March-April	128
June	April-May	130
July	May-June	132
August	June-July	127
September	July-August	120
October	August-September	110
November	September-October	105
December	October-November	108

(3) For each minus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be increased 3 cents in January, February, March, April, and August; 2 cents in May, June and July; 4 cents in September, October, November and December; and for each plus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be decreased 3 cents in January, February, March, April and August; 4 cents in May, June and July; and 2 cents in September, October, November, and December: *Provided,* That in no event shall an adjustment made pursuant to this subparagraph exceed 50 cents per hundredweight.

(b) *Class II milk.* The price for Class II milk shall be the price computed pursuant to the provisions of § 908.50.

§ 908.52 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 908.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to § 908.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month specified below by the applicable factor listed and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25;

(b) *Class II milk.* Multiply such price for the current month by 1.20.

APPLICATION OF PROVISIONS

§ 908.60 *Producer-handlers.* Sections 908.40 through 908.46, 908.50 through 908.52, 908.70 through 908.72, 908.80 through 908.87, 908.90 and 908.91, shall not apply to a producer-handler.

§ 908.61 *Milk priced under other Federal orders.* In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by a milk marketing agreement or order issued pursuant to the act, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject for skim milk and butterfat which would be classified as Class I milk under this order is less than the price provided by this subpart, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat computed pursuant to this subpart.

§ 908.62 *Handlers doing less than 20 percent of their business in the marketing area.* In the case of any handler (except a handler who would be covered under § 908.61) who the Secretary determines disposes of less than 20 percent of his milk, qualified for distribution as Grade A milk in the marketing area, as Class I milk in the marketing area, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator shall require and shall allow verification of such reports by the market administrator pursuant to § 908.33;

(b) Pay to the market administrator for deposit into the producer-settlement fund, with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area, an amount equal to the difference between the Class I and Class II value of such skim milk or butterfat as computed pursuant to this subpart;

(c) As his pro rata share of the expense of administration of this subpart, such handler shall pay to the market administrator on each hundredweight of milk disposed of as Class I in the marketing area the amount per hundredweight in the manner specified in § 908.87.

DETERMINATION OF UNIFORM PRICE

§ 908.70 *Computation of value of milk.* The value of milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices, adding together the resulting amounts and adding an amount computed by multiplying the pounds of any overage deducted from each class pursuant to § 908.46 by the applicable class prices.

§ 908.71 *Computation of uniform prices.* For each of the months of July through March the market administrator shall compute the uniform prices per hundredweight for milk of 4.0 per-

cent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 908.70 for all handlers who made the reports prescribed in § 908.30 and who made the payments pursuant to §§ 908.80 and 908.83 for the preceding month;

(b) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 908.84.

(c) Subtract, if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 908.81 and multiplying the resulting figure by the total hundredweight of such milk;

(d) Divide the resulting amount by the total hundredweight of milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for milk of 4.0 percent butterfat content received from producers.

§ 908.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 908.70 for all handlers who made the reports prescribed in § 908.30 and who made the payments pursuant to §§ 908.80 and 908.83 for the preceding month;

(b) Add not less than one-half of the cash balance in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 908.84;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 4.0 percent, or add if such average butterfat content is less than 4.0 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 908.81 and multiplying the resulting figure by the total hundredweight of such milk;

(d) Compute the total value on a 4.0 percent butterfat basis of excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 4.0 percent butterfat content, and adding together the resulting amounts;

(e) Divide the total value of excess milk obtained in paragraph (d) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers;

(f) Subtract the value of excess milk obtained in paragraph (d) of this section from the value of all milk obtained pursuant to paragraphs (a), (b) and (c) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk included in these computations; and

(h) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (g) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

PAYMENTS

§ 908.80 *Time and method of payment.* Each handler shall make payment to producers as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer except as provided in paragraph (c) of this section, (1) at not less than the uniform price computed pursuant to § 908.71 for all milk received from such producer if such preceding month was any of the months of July through March, (2) at not less than the uniform price for base milk computed pursuant to § 908.72 (h), with respect to base milk received from such producer, and at not less than the uniform price for excess milk computed pursuant to § 908.72 (e) with respect to excess milk received from such producer, if such preceding month was any of the months of April through June, in each case adjusted by the butterfat differential computed pursuant to § 908.81 and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if such handler has not received full payment for such month pursuant to § 908.84, he may reduce his total payments to all producers uniformly by not more than the amount of the reduction in payments from the market administrator; and the handler shall after receipt of such payment from the market administrator complete the payments to those producers not later than the date for making payments pursuant to this paragraph next following after receipt of the balance from the market administrator.

(b) On or before the last day of each month, each handler shall make payment for milk received from producers during the first 15 days of the month to each producer, except as provided in paragraph (c) of this section, at not less than the Class II price for the preceding month.

(c) On or before the 13th and the third from the last day of each month, in lieu of payments pursuant to paragraphs (a) and (b) respectively of this section, each handler shall make payment to a cooperative association which so requests, with respect to producers for which such cooperative association is authorized to collect payment, in an amount equal to the sum of the individual payments otherwise payable to such producers.

§ 908.81 *Producer butterfat differential.* In making payments pursuant to § 908.80, there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 4.0 percent, an amount computed by multiplying by 1.2 the simple average as computed by the market administrator of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 908.82 *Producer-settlement funds.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 908.61 (b), 908.83 and 908.85, and out of which he shall make all payment to handlers pursuant to §§ 908.84 and 908.85.

§ 908.83 *Payments to the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator (a) the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 908.70 is greater than the amount required to be paid producers by such handlers pursuant to § 908.80, and (b) any amount required pursuant to § 908.61 (b).

§ 908.84 *Payments out of the producer-settlement fund.* On or before the 13th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 908.70 is less than the amount required to be paid producers by such handler pursuant to § 908.80: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 908.85 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly

notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which error occurred.

§ 908.86 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 908.80, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month and pay such deduction to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions, and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 908.31.

§ 908.87 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 908.88 *Termination of obligation.* The provisions of this section shall apply to any obligations under this subpart for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of paragraphs (b) and (c) of this section, terminates two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representative all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

DETERMINATION OF BASE

§ 908.90 *Computation of daily average base for each producer.* For the months of May, June and July of each year the market administrator shall compute a daily average base for each producer as follows, subject to the rules set forth in § 908.91:

(a) Divide the total pounds of milk received by a handler(s) from such producer during the months of September 1st through February 28th (29th) immediately preceding by the number of days in such period or 120 whichever is more.

§ 908.91 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing on or before the last day of any applicable base paying month that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy herd operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(c) A producer who ceases to deliver milk to a handler for more than 45 consecutive days shall forfeit his base.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 908.100 *Effective time.* The provisions of this subpart or any amendment to this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 908.101.

§ 908.101 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds this subpart or any provision of this subpart obstructs or does not tend to effectuate the declared policy of the act. This subpart shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 908.102 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 908.103 *Liquidation.* Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 908.110 *Agents.* The Secretary may, by designation in writing, name any offi-

cer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 908.111 *Separability of provisions.* If any provision of this subpart, or its application to any person or circumstances, is held invalid, the application of such provision and the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

Modifications of the aforesaid proposed marketing agreement and order proposed by:

Coleman Dairy, Inc.:

1. Amend § 908.6 to include the county of Saline, Arkansas.

Terry Dairy Products Company, Inc.:

2. Under § 908.6 include the counties of Saline, and Hot Springs, Arkansas.

Copies of this notice of hearing may be procured from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: December 12, 1952.

[SEAL] GEORGE A. DICE,
Acting Assistant Administrator.

[F. R. Doc. 52-13357; Filed, Dec. 18, 1952; 8:46 a. m.]

NOTICES

CIVIL AERONAUTICS BOARD

[Docket No. 1102 et al.]

EASTERN AIR LINES, INC., ET AL.; REOPENED SOUTHERN SERVICE TO THE WEST CASE

NOTICE OF HEARING

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 401, 408, 412 and 1002 of the act, that a hearing in the above-entitled proceeding is assigned to be held on January 6, 1953, at 10:00 a. m., e. s. t., in Conference Room "B", Departmental Auditorium, between Twelfth and Fourteenth Streets on Constitution Avenue, Washington, D. C.

Without limiting the scope of the issues presented in this proceeding, particular attention will be directed to the following matters:

(1) The application (Docket No. 5050) of Eastern, Braniff and TWA for through service by interchange between Miami, Houston, and Amarillo, and points west thereof on route No. 2.

(2) The application (Docket No. 2148) of Eastern, insofar as it involves the issue of amendment of one or more of Eastern's certificates of public convenience and necessity, so as to authorize trans-Gulf operations between Miami and Tampa on the one hand, and Houston on the other, solely for the operation of through interchange flights in conjunction with Braniff and TWA.

(3) An investigation (Docket No. 5720) to determine:

(a) Whether the public convenience and necessity require the establishment of through service by equipment interchange between Houston, Texas, and Miami, Florida, by Eastern and National via New Orleans, La.;

(b) The terms and conditions under which such through service shall be operated; and

(c) Whether the Board shall order or direct, pursuant to section 1002 (i) of the act, the establishment of such through service.

(4) To what extent will the interchange services and the Eastern route extension provide improved service in air transportation?

(5) What adverse effect, if any, will they have on any other air carriers?

(6) Are the terms of the Eastern-Braniff-TWA agreement just and reasonable with respect to each air carrier party and the public interest?

(7) If approved, should the Board impose any terms and conditions to protect the public interest?

For further details of the services proposed, the route modifications requested, and the interchange operations to be investigated, interested parties are referred to the prehearing conference reports of the Examiner, the Board's orders, the applications and other pleadings which are on file with the Civil Aeronautics Board.

Notice is further given that any person other than parties on record desiring to be heard in this proceeding must file with the Civil Aeronautics Board on or before January 6, 1953, a statement setting forth the issues of fact or law he desires to controvert.

Dated at Washington, D. C., this 16th day of December 1952.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 52-13378; Filed, Dec. 18, 1952; 8:50 a. m.]

DEPARTMENT OF DEFENSE

Department of the Army

MCKINLEY BRIDGE, MISSISSIPPI RIVER, BETWEEN ST. LOUIS, MO., AND VENICE, ILL.

APPROVAL OF BRIDGE TOLLS

The Secretary of the Army, pursuant to the authority conferred upon him by section 4 of the General Bridge Act, approved March 23, 1906 (33 U. S. C. 494) is considering the following schedule of tolls to supersede all previous schedules, as the legal rates which shall be demanded and received for the transit of the following classes of traffic over the bridge, commonly called McKinley Bridge, across the Mississippi River between St. Louis, Missouri, and Venice, Illinois:

Motorcycle and driver	$0.10
Bicycle and rider, motor scooter and driver	.20
Passenger automobile and driver	.20
Passenger automobile and driver, with light commercial or house trailer attached	.35
Books containing 50 tickets, each good for single passage of passenger automobile and driver, light commercial trailer or house trailer	6.50
Passenger bus and driver	$0.50
Truck, freight or commercial, self-propelled and driver and 1 helper (see Note 1). (Each pickaback truck attached $0.15 additional)	.50
Truck-towing-pulling automobile or truck with all wheels suspended and driver and 1 helper	.50
Truck-towing-pulling automobile with 4 wheels on ground, and driver and 1 helper	.70
Truck-towing-pulling truck with 4 wheels on ground and driver and 1 helper	1.00
Books containing 20 tickets, each good for single passage of freight or commercial truck, and driver and 1 helper	7.00
Truck or other equipment, too large for clearance permitted only by advance arrangements, and driver and 1 helper (Any expense incurred to permit clearance will be charged in addition to rate shown above.)	1.50
Tractor, agricultural implement, bulldozer, ditcher, grader and like equipment moving on wheels, and driver (see Note 2). (Each trailer attached $0.50 additional)	.50
Personally propelled vehicles, carts, animal drawn vehicle (1 or 2 animals) and driver (extra vehicle or wagon attached $0.15 additional)	.20
Equestrian or single animal (sheep, hog, horse, or similar animal)	.20
Each extra passenger carried in any of the above vehicles in addition to driver, or driver and helper authorized above	.05

NOTE 1: License plate designation will determine, for toll assessment purposes, whether passenger automobile or freight or commercial truck classification governs.

NOTE 2: Equipment or vehicles moving on own wheels, equipped with lugs, will not be allowed passage.

Any interested party may participate in the proposed rule making by submitting in writing in duplicate such data, views, or arguments pertaining thereto as he may desire to the District Engineer, St. Louis District, Corps of Engineers, U. S. Army, 420 Locust Street, St. Louis 2, Missouri, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 52-13368; Filed, Dec. 18, 1952; 8:48 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Ceiling Price Regulation 32, Supplementary Regulation 2, Section 3, Special Order 39]

PENWELL ELLENBURGER FIELD, ECTOR COUNTY, TEXAS

CRUDE PETROLEUM CEILING PRICES ADJUSTED ON AN IN-LINE BASIS

Statement of considerations. This special order adjusts the ceiling price for the purchase of crude petroleum produced from the Penwell-Ellenburger Field, Ector County, Texas.

The Office of Price Stabilization has been requested to eliminate the differentials heretofore imposed upon crude petroleum produced from the Penwell-Ellenburger Field, Ector County, Texas. During the base period there was a lack of available pipeline transportation for the segregation of this sweet crude and as a result it was commingled with sour crude and was sold at a lower price than that paid for crude petroleum of comparable quality produced in this same general area. With the extension of new pipelines to this field this condition has been eliminated and these differentials should no longer be imposed.

From the information available to this office, it appears that the requested price of $2.65 per barrel for 40° API gravity and above with a 2-cent differential less for each degree of gravity below 40°, down to $2.23 per barrel for below 20° API gravity does not exceed the ceiling price of comparable crude petroleum produced in this same area.

Special provisions. For the reasons set forth in the Statement of Considerations and pursuant to the provisions of section 3 of Supplementary Regulation 2 to Ceiling Price Regulation 32, *it is ordered:*

1. That the ceiling price at the lease receiving tank for crude petroleum produced from the Penwell-Ellenburger Field, Ector County, Texas shall be: $2.65 per barrel for 40° API gravity and above with a 2-cent differential less for each degree of gravity below 40°, down to $2.23 per barrel for below 20° API gravity.

2. All provisions of Ceiling Price Regulation 32, except as inconsistent with the provisions of this order, shall remain in full force and effect as to the commodities covered by this order.

3. This order may be amended, modified or revoked by the Director of Price Stabilization at any time.

Effective date. This special order shall become effective on December 16, 1952.

JOSEPH H. FREEHILL,
Director of Price Stabilization.

DECEMBER 15, 1952.

[F. R. Doc. 52-13327; Filed, Dec. 15, 1952; 4:48 p. m.]

[Ceiling Price Regulation 32, Supplementary Regulation 2, Section 3, Special Order 40]

BLOCK 7, DEVONIAN POOL, MARTIN COUNTY, TEXAS

CRUDE PETROLEUM CEILING PRICES ADJUSTED ON AN IN-LINE BASIS

Statement of considerations. This special order adjusts the ceiling price for the sale of crude petroleum produced from the Block 7, Devonian Pool, Martin County, Texas.

The Office of Price Stabilization has been requested to eliminate the differentials heretofore imposed upon crude petroleum produced from the Block 7, Devonian Pool, Martin County, Texas. During the base period, due to a lack of competitive factors, this sweet crude was commingled with sour crude and was sold at a lower price than that paid for crude petroleum of comparable quality produced in the same general area. This condition has now been eliminated and these differentials should no longer be imposed.

From the information available to this Office, it appears that the requested price of $2.58 per barrel for 40° API gravity and above with a 2-cent differential less for each degree of gravity below 40° does not exceed the ceiling price of comparable crude petroleum produced in this same area.

Special provisions. For the reasons set forth in the Statement of Considerations and pursuant to the provisions of Section 3 of Supplementary Regulation 2 to Ceiling Price Regulation 32, *It is ordered:*

1. That the ceiling price at the lease receiving tank for crude petroleum produced from the Block 7, Devonian Pool, Martin County, Texas shall be: $2.58 per barrel for 40° API gravity and above with a 2-cent differential less for each degree of gravity below 40°.

2. All provisions of Ceiling Price Regulation 32, except as inconsistent with the provisions of this order, shall remain in full force and effect as to the commodities covered by this order.

3. This order may be amended, modified or revoked by the Director of Price Stabilization at any time.

Effective date. This special order shall become effective on December 17, 1952.

JOSEPH H. FREEHILL,
Director of Price Stabilization.

DECEMBER 16, 1952.

[F. R. Doc. 52-13362; Filed, Dec. 16, 1952; 11:35 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6455]

SIERRA PACIFIC POWER CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF SECURITIES

DECEMBER 15, 1952.

Notice is hereby given that on December 9, 1952, the Federal Power Commission issued its order entered December 9, 1952, authorizing issuance of securities in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-13351; Filed, Dec. 18, 1952; 8:45 a. m.]

[Docket Nos. G-1573, G-1614]

TENNESSEE GAS TRANSMISSION CO. AND UNITED NATURAL GAS CO.

NOTICE OF ORDER DISMISSING MOTION TO AMEND ORDER ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

DECEMBER 15, 1953.

In the matters of Tennessee Gas Transmission Company, Docket No. G-1573; Tennessee Gas Transmission Company, and United Natural Gas Company, Docket No. G-1614.

Notice is hereby given that on December 11, 1952, the Federal Power Commission issued its order entered December 10, 1952, dismissing motion to amend order (17 F. R. 5919) issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-13352; Filed, Dec. 18, 1952; 8:45 a. m.]

[Docket No. G-2039]

COLORADO INTERSTATE GAS CO.

NOTICE OF FINDINGS AND ORDER

DECEMBER 15, 1952.

Notice is hereby given that on December 11, 1952, the Federal Power Commission issued its order entered December 9, 1952, issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-13353; Filed, Dec. 18, 1952; 8:45 a. m.]

[Project No. 1248]

ARIZONA POWER CORP.

NOTICE OF ORDER ACCEPTING SURRENDER OF LICENSE (TRANSMISSION LINE)

DECEMBER 15, 1952.

Notice is hereby given that on December 11, 1952, the Federal Power Commission issued its order entered December 9, 1952, accepting surrender of license (Transmission Line) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-13354; Filed, Dec. 18, 1952; 8:46 a. m.]

[Project No. 1651]

STAR VALLEY POWER AND LIGHT CO.

NOTICE OF ORDER FURTHER AMENDING LICENSE (MAJOR)

DECEMBER 15, 1952.

Notice is hereby given that on October 29, 1952, the Federal Power Commission issued its order entered October 28, 1952, further amending license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-13355; Filed, Dec. 18, 1952; 8:46 a. m.]

[Project No. 1862 (Nisqually)]

CITY OF TACOMA, WASH.

NOTICE OF ORDER APPROVING DETERMINATION OF ACCRUED DEPRECIATION AND NET INVESTMENT

DECEMBER 15, 1952.

Notice is hereby given that on December 11, 1952, the Federal Power Commission issued its order entered December 9, 1952, approving determination of accrued depreciation and net investment in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-13356; Filed, Dec. 18, 1952; 8:46 a. m.]

FEDERAL TRADE COMMISSION

[File No. 21-250]

MILLINERY INDUSTRY

NOTICE OF HOLDING OF TRADE PRACTICE CONFERENCE

Notice is hereby given that a trade practice conference under the auspices of the Federal Trade Commission will be held for the Millinery Industry in Room 332, Federal Trade Commission Building, Sixth and Pennsylvania Avenue NW., Washington, D. C., on January 15, 1953, commencing at 10 a. m., e. s. t.

All persons, firms, and corporations engaged in the importation, production, distribution, or marketing of millinery products are considered members of the industry and are cordially invited to attend and participate in this industry meeting.

The conference and further proceedings in the matter will be directed toward the eventual establishment and promulgation by the Commission of trade practice rules for the industry under which unfair methods of competition, unfair or deceptive acts or practices, and other trade abuses, may be eliminated and prevented.

After the conference on January 15, and before any final rules are approved by the Commission, a draft of proposed rules in the form deemed appropriate will be made available to all interested and affected parties, including consumers, upon public notice affording them opportunity to present their views, including such criticisms or other suggestions they may desire to make respecting the proposed rules, and to be heard at a public hearing.

Issued: December 16, 1952.

By direction of the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 52-13465; Filed, Dec. 18, 1952; 8:59 a. m.]

OFFICE OF DEFENSE MOBILIZATION

[RC 88]

BAY CITY, MICH., AREA

DECERTIFICATION OF A CRITICAL DEFENSE HOUSING AREA

DECEMBER, 18, 1952.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that one or more of the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, no longer exist in the area designated as: Bay City, Michigan, area.

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is no longer a critical defense housing area.

WILLIAM C. FOSTER,
Acting Secretary of Defense.
HENRY H. FOWLER,
Director of Defense Mobilization.

[F. R. Doc. 52-13492; Filed, Dec. 18, 1952; 11:56 a. m.]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

STATEMENT OF ORGANIZATION

DECEMBER 17, 1952.

Effective as of December 24, 1952, the following statement of organization supersedes Part 1 and §§ 60.1, 60.2, 90.1, 90.17, 90.49 and 90.50 of Chapter I, Title 8 of the Code of Federal Regulations, the codification of which has been discontinued (13 F. R. 6760, November 19, 1948).

Sec.
1.1 Introduction.

ORGANIZATION

1.10 Organization of the Immigration and Naturalization Service.
1.11 Central Office; the Commissioner.
1.12 Central Office; the Deputy Commissioner; Director of Personnel; Operations Advisors.
1.13 Central Office; the Assistant Commissioner, Inspections and Examinations Division.
1.14 Central Office; the Assistant Commissioner, Investigations Division.
1.15 Central Office; the Assistant Commissioner, Border Patrol, Detention and Deportation Division.
1.16 Central Office; the Assistant Commissioner, Administrative Division.
1.17 Central Office; the Assistant Commissioner, Citizenship Services and Instructions Division.
1.18 Central Office; the General Counsel.
1.19 Field Service; District Directors.
1.20 Field Service; Officers in Charge.

STATEMENT OF DELEGATIONS OF FINAL AUTHORITY

1.30 Final authority; delegation to Commissioner.
1.31 Final authority; delegation to Assistant Commissioner, Inspections and Examinations Division.
1.32 Final authority; delegation to Assistant Commissioner, Investigations Division.
1.33 Final authority; delegation to Assistant Commissioner, Border Patrol, Detention and Deportation Division.
1.34 Final authority; delegation to General Counsel.
1.35 Final authority; delegation to Chief, Records Administration Branch.
1.36 Final authority; delegation to district directors.
1.37 Final authority; delegation to officers in charge.
1.38 Final authority; delegation to district enforcement officers.
1.39 Final authority; delegation to special inquiry officers.
1.40 Final authority; delegation to immigration officers.
1.41 Final authority; delegation to district officers and assistant district officers in charge of investigations.

PLACES AND MANNER OF SECURING INFORMATION

1.50 Places where, and methods whereby, information may be secured or submittals or requests made.
1.51 Field districts.

PROCEDURES

1.60 General.
1.61 Rule making.

AVAILABILITY OF OPINIONS, ORDERS, AND RECORDS

1.70 Opinions, orders, and records of the Immigration and Naturalization Service regarded as confidential.
1.71 Administrative decisions under immigration and nationality laws.
1.72 Inspection of records by attorneys.
1.73 Copies of records.
1.74 Intra-Service manuals and instructions.

SECTION 1.1 *Introduction.* The following sections describe the organization of the Immigration and Naturalization Service, contain statements of delegations of final authority, indicate the established places at which, and methods whereby, the public may secure information, direct attention to the regulations relating to the general course and method by which its functions are channeled and determined and refer to the availability of its opinions, orders, and records.

ORGANIZATION

SEC. 1.10 *Organization of the Immigration and Naturalization Service.* The organization of the Immigration and Naturalization Service—exclusive of that part of its organization handling matters pertaining solely to its internal management—is shown in sections 1.10 to 1.20, inclusive, by stating the titles and general functions of its principal officers.

SEC. 1.11 *Central Office; the Commissioner.* Under the general direction of

the Attorney General, the Commissioner of Immigration and Naturalization supervises and directs the administration of the Immigration and Naturalization Service.

SEC. 1.12 *Central Office; the Deputy Commissioner; Director of Personnel; Operations Advisors*—(a) *The Deputy Commissioner.* The Deputy Commissioner assists the Commissioner generally. In the absence of the Commissioner, the Deputy Commissioner is the Acting Commissioner.

(b) *Director of Personnel.* Under the executive direction of the Deputy Commissioner, the Director of Personnel is responsible for administering the personnel programs, policies, and procedures of the Service.

(c) *Operations Advisors.* Under the executive direction of the Deputy Commissioner, Operations Advisors serve as liaison officers between Central Office and field offices; conduct regular surveys of field offices and, as directed, of the Central Office divisions, covering organization, methods, procedures, manpower need and utilization; and coordinates Service functions to assure integration of programs and compliance with laws, regulations, established procedures, and over-all Service policy.

SEC. 1.13 *Central Office; the Assistant Commissioner, Inspections and Examinations Division.* Under the executive direction of the Commissioner, the Assistant Commissioner, Inspections and Examinations Division, is responsible for the management of the inspections, examinations, and hearing programs of the Service.

SEC. 1.14 *Central Office; the Assistant Commissioner, Investigations Division.* Under the executive direction of the Commissioner, the Assistant Commissioner, Investigations Division, is responsible for the management of the investigation programs of the Service.

SEC. 1.15 *Central Office; the Assistant Commissioner, Border Patrol, Detention and Deportation Division.* Under the executive direction of the Commissioner, the Assistant Commissioner of the Border Patrol, Detention and Deportation Division, is responsible for the management of the border patrol, detention and deportation, and parole programs of the Service.

SEC. 1.16 *Central Office; the Assistant Commissioner, Administrative Division.* Under the executive direction of the Commissioner, the Assistant Commissioner, Administrative Division, is responsible for the management of the budget, fiscal control, services and supplies, records administration, and statistics programs of the Service.

SEC. 1.17 *Central Office; the Assistant Commissioner, Citizenship Services and Instructions Division.* Under the executive direction of the Commissioner, the Assistant Commissioner, Citizenship Services and Instructions Division, is responsible for the management of the citizenship services and instructions programs of the Service.

SEC. 1.18 *Central Office; the General Counsel.* Under the executive direction of the Commissioner, the General Counsel serves as chief law officer of the Service, and acts as advisor and counsel to the Commissioner, other officers of the Service, and, at their request, the Attorney General and other officers of the Department.

SEC. 1.19 *Field Service; District Directors.* Under the general direction of the Commissioner, a district director supervises and directs the work of the Service within his district. In the absence of a district director, the officer designated by the district director shall act in his stead.

SEC. 1.20 *Field Service: Officers in Charge.* Under the general direction of a district director, an officer in charge performs assigned duties within a designated part of a district.

STATEMENT OF DELEGATIONS OF FINAL AUTHORITY

SEC. 1.30 *Final authority; delegation to Commissioner.* The Commissioner has been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Applications for copies of immigration and naturalization records, or for information therefrom; certifications that any official file, document, or record in the custody or control of the Service is a true file, document, or record, or that a copy of such a file, document, or record is a true copy, and the designation of other officers of the Service to decide such applications under 8 CFR 2.1;

(b) Designation and appointment of special inquiry officers under 8 CFR 9.1;

(c) Waiver or deferral of the surrender of Forms 257a and I–94C by departing aliens and requests for return of Forms 257a under 8 CFR 221.2 and 221.3;

(d) Exclusion of aliens on grounds relating to safety and security of the United States under 8 CFR 235.15;

(e) Contracts with transportation lines and contracts and bonding agreements for certain transit aliens under 8 CFR 238.2 and 238.3;

(f) Designation of and withdrawal of airports as international airports for entry of aliens under 8 CFR 239.4;

(g) Release from custody of aliens within the purview of section 242 (f) of the Immigration and Nationality Act under 8 CFR 242.72;

(h) Requests for stay of deportation if alien alleges he would be subject to physical persecution if deported to the country designated by the district director under 8 CFR 243.3;

(i) Designation of registration officers under 8 CFR 264.2;

(j) Designation of persons or agencies to receive information from registration and fingerprint records under 8 CFR 264.4;

(k) The fixing of boundary distances of more than 100 air miles from any external boundary of the United States under 8 CFR 287.1;

(l) Permission to practice by counsel if applications and appearances concurrently filed, by certain individuals appearing without monetary remuneration, and by licensed attorneys abroad under 8 CFR 292.1;

(m) Welfare photographic studios under 8 CFR 332c.1;

(n) Review of certain designated examiner recommendations as to final disposition of petitions for naturalization by courts under 8 CFR 335.12; and

(o) Designation of United States employees to take depositions outside the United States under 8 CFR 335b.12.

SEC. 1.31 *Final authority; delegation to Assistant Commissioner, Inspections and Examinations Division.* The Assistant Commissioner, Inspections and Examinations Division, has been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Designation of officer to represent the Service before the Board of Immigration Appeals under 8 CFR 6.1;

(b) Permission to prosecute appeals without prepayment of fees under 8 CFR 7.16;

(c) Petitions for immigrant status pursuant to the provisions of sections 204 and 205 of the Immigration and Nationality Act and 8 CFR Parts 204, 205 and 206;

(d) Applications to import nonimmigrants pursuant to the provisions of section 214 of the Immigration and Nationality Act and 8 CFR Parts 214h and 206;

(e) Admission of immigrants pursuant to the provisions of section 211 (c) and (d) of the Immigration and Nationality Act;

(f) Nonresident aliens' border crossing identification cards as provided by section 101 (a) (6) of the Immigration and Nationality Act and 8 CFR Part 212;

(g) Applications for permission to reapply for admission after arrest and deportation, exclusion and deportation, removal because alien fell into distress, removal as alien enemy, or removal at government expense in lieu of deportation as provided by section 212 (a) (16) and (17) of the Immigration and Nationality Act and 8 CFR Part 212;

(h) Applications for waiver of ground of inadmissibility of certain resident or nonresident aliens as provided in section 212 (c) or (d) (3) of the Immigration and Nationality Act and 8 CFR Part 212;

(i) Parole of aliens into the United States, and the conditions thereof as provided in section 212 (d) (5) of the Immigration and Nationality Act and 8 CFR Part 212;

(j) Admission on bond of aliens excludable because likely to become public charges or because of certain physical defects as provided in section 213 of the Immigration and Nationality Act and 8 CFR Part 213;

(k) Determinations as to the time for which, and conditions under which, nonimmigrants may be admitted to the United States, and on applications for extension of their temporary stay, as provided in section 214 (a) of the Immigration and Nationality Act, Title V of

the Agricultural Act of 1949, as amended, and section 201 of the United States Information and Educational Exchange Act of 1948, as amended, and 8 CFR Parts 214 to 214j, inclusive, and 475;

(l) Petitions for approval of schools and the withdrawal of such approval as provided in section 101 (a) (15) (F) of the Immigration and Nationality Act and 8 CFR Part 214f;

(m) Applications for waiver of ground of inadmissibility for certain immigrant laborers as provided in section 212 (a) (14) of the Immigration and Nationality Act and 8 CFR Part 212a;

(n) Applications for reentry permits, and the extension of such permits, as provided in section 223 of the Immigration and Nationality Act and 8 CFR Part 223;

(o) Exclusion of aliens on grounds relating to safety and security of the United States and determinations in connection with such cases as provided in section 235 (c) of the Imigration and Nationality Act and 8 CFR Part 235;

(p) Adjustment of status from nonimmigrant to immigrant, as provided in section 245 of the Immigration and Nationality Act and 8 CFR Part 245;

(q) Rescission of adjustment of status as provided in section 246 of the Immigration and Nationality Act and 8 CFR Part 246;

(r) Adjustment of status of lawful permanent resident aliens to that of certain nonimmigrant classes as provided in section 247 of the Immigration and Nationality Act and 8 CFR Part 247;

(s) Change of status of alien from one nonimmigrant class to another nonimmigrant class as provided by section 248 of the Immigration and Nationality Act and 8 CFR Part 248;

(t) Creation of record of lawful admission for permanent residence as provided by section 249 of the Immigration and Nationality Act and 8 CFR Part 249;

(u) Removal of aliens who have fallen into distress as provided in section 250 of the Immigration and Nationality Act and 8 CFR Part 250;

(v) Designation of certain Great Lakes vessels as international ferries as provided in section 251 (a) of the Immigration and Nationality Act and 8 CFR Part 251;

(w) Consent to discharge or paying off of alien crewmen in the United States as provided in section 256 of the Immigration and Nationality Act and 8 CFR Part 256;

(x) Applications for residence and physical presence benefits for naturalization under section 316 of the Immigration and Nationality Act and 8 CFR Parts 316a and 317;

(y) Recognition of American institutions of research under 8 CFR 319.2;

(z) Applications for exception from the classification of alien enemy under section 331 of the Immigration and Nationality Act and 8 CFR Part 331;

(aa) Applications for waiver of the 90 days' notice in alien enemy cases under 8 CFR Part 331;

(bb) Applications for transfer of petitions for naturalization under section 335 (i) of the Immigration and Nationality Act and 8 CFR Part 334;

(cc) Consent to the withdrawal of a petition for naturalization or dismissal for want of prosecution under section 335 (e) of the Immigration and Nationality Act and 8 CFR Part 334;

(dd) Designation of employees of the Service to conduct preliminary examinations upon petitions for naturalization under section 335 (b) of the Immigration and Nationality Act and 8 CFR Part 335;

(ee) Assignment of examining officers at preliminary examinations upon petitions for naturalization under 8 CFR Part 335;

(ff) Waivers of personal investigation of petitioners for naturalization under section 335 (a) of the Immigration and Nationality Act and 8 CFR Part 335c;

(gg) Applications for corrections of certificates of naturalization under 8 CFR Part 338;

(hh) Applications for certificates of citizenship under section 341 of the Immigration and Nationality Act and 8 CFR Parts 341 and 341a;

(ii) Applications for certificates of naturalization and repatriation under section 343 (a) of the Immigration and Nationality Act and 8 CFR Part 343;

(jj) Applications for naturalization and citizenship papers replaced under section 343 (b) of the Immigration and Nationality Act and 8 CFR 343a;

(kk) Applications for special certificates of naturalization under section 343 (c) of the Immigration and Nationality Act and 8 CFR Part 343b;

(ll) Appeals from decisions of district directors determining that a condition of a bond has been violated as provided in 8 CFR 3.1;

(mm) Appeals from decisions of district directors on petitions filed in accordance with section 204 or 214 (c) of the Immigration and Nationality Act or from decisions revoking the approval of such petitions in accordance with section 206 of that Act, as provided in 8 CFR 204.11, 214h.41 and 206.21;

(nn) Appeals from decisions of district directors on applications for consent to reapply for admission to the United States under section 212 (a) of the Immigration and Nationality Act, as provided in 8 CFR 212.61;

(oo) Appeals from decisions of district directors on applications for permission for aliens to enter the United States notwithstanding section 212 (a) (14) of the Immigration and Nationality Act, as provided in 8 CFR 212a.12;

(pp) Appeals from decisions of district directors on applications for the approval of schools or from decisions of district directors revoking the approval of schools, in accordance with section 101 (a) (15) (F) of the Immigration and Nationality Act, as provided in 8 CFR 214f.51 and 214f.71;

(qq) Appeals from decisions of district directors on applications for reentry permits under section 223 of the Immigration and Nationality Act, as provided in 8 CFR 223.11;

(rr) Appeals from decisions of district directors on applications for adjustment of status under section 245 of the Immigration and Nationality Act, as provided in 8 CFR 245.17;

(ss) Appeals from decisions of district directors rescinding adjustment of status under section 246 of the Immigration and Nationality Act, as provided in 8 CFR 246.13;

(tt) Appeals from decisions of district directors adjusting status under section 247 of the Immigration and Nationality Act, as provided in 8 CFR 247.13;

(uu) Appeals from decisions of district directors on applications to change status under section 248 of the Immigration and Nationality Act, as provided in 8 CFR 248.16;

(vv) Appeals from decisions of district directors on applications for the creation of a record of admission under section 249 of the Immigration and Nationality Act, as provided in 8 CFR 249.16;

(ww) Appeals from decisions of district directors on applications filed under 8 CFR 316a.21 and 317.21 for residence or physical presence benefits for naturalization purposes;

(xx) Appeals from decisions of district directors on applications for exception from the classification of alien enemy as provided in 8 CFR 331.13;

(yy) Appeals from decisions of district directors on applications for certificates of citizenship under section 341 of the Immigration and Nationality Act, as provided in 8 CFR 341.16;

(zz) Appeals from decisions of district directors revoking certificates, documents or records under section 342 of the Immigration and Nationality Act, as provided in 8 CFR 5.13;

(aaa) Appeals from decisions of district directors on applications for certificates of naturalization or repatriation under 8 CFR 343.13;

(bbb) Appeals from decisions of district directors on applications for replacement of certificates of naturalization or citizenship under 8 CFR 343a.14;

(ccc) Appeals from decisions of district directors on applications for special certificates of naturalization under section 343 of the Immigration and Nationality Act, as provided in 8 CFR 343b.13, and

(ddd) Appeals from decisions of the district director, Honolulu, on applications for Certificate of Citizenship—Hawaiian Islands, under 8 CFR 341a.14.

SEC. 1.32 *Final authority; delegation to the Assistant Commissioner, Investigations Division.* The Assistant Commissioner, Investigations Division, has been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Issuance of warrants of arrest, and cancellation of warrants of arrest prior to commencement of hearings thereunder as provided in section 242 of the Immigration and Nationality Act and 8 CFR Part 242, and

(b) Voluntary departure of aliens prior to issuance of warrant of arrest, or after issuance of warrant of arrest and prior to hearing as provided in sections 242 (b) and 244 (e) of the Immigration and Nationality Act and 8 CFR Parts 242 and 244.

SEC. 1.33 *Final authority: delegation to the Assistant Commissioner, Border Patrol, Detention and Deportation Division.* The Assistant Commissioner,

Border Patrol, Detention and Deportation Division, has been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following:

(a) Determinations whether escorts shall accompany aliens in transit through the United States as provided in section 214 of the Immigration and Nationality Act and 8 CFR Part 214c;

(b) Authority to detain and designate the place of detention of aliens as provided by sections 232 and 233 of the Immigration and Nationality Act and 8 CFR Parts 232 and 233;

(c) Determinations whether an attendant is required for the care and attention of aliens as provided in section 235 of the Immigration and Nationality Act and 8 CFR Part 235;

(d) Determinations whether an admitted alien may remain at an immigration station as provided in section 235 of the Immigration and Nationality Act and 8 CFR Part 235;

(e) Authority to stay the deportation of excluded aliens as provided in section 237 of the Immigration and Nationality Act and 8 CFR Part 237;

(f) Authority to continue in, detain or release aliens from custody as provided in section 242 of the Immigration and Nationality Act and 8 CFR Part 242;

(g) Detention, conditions of release and revocation of bond or parole of aliens as provided in section 242 of the Immigration and Nationality Act and 8 CFR Part 242;

(h) Voluntary departure of aliens prior to issuance of warrant of arrest, or after issuance of warrant of arrest and prior to hearing as provided in sections 242 (b) and 244 (e) of the Immigration and Nationality Act and 8 CFR Parts 242 and 244;

(i) Designation of the countries to which and at whose expense aliens shall be deported and whether an attendant is required as provided in section 243 of the Immigration and Nationality Act and 8 CFR Part 243;

(j) Stay of execution of warrants and orders of deportation as provided in section 243 of the Immigration and Nationality Act and 8 CFR Part 243;

(k) Removal from the United States of aliens who have fallen into distress as provided in section 250 of the Immigration and Nationality Act and 8 CFR Part 250, and

(l) The fixing of boundary distances as provided in section 287 of the Immigration and Nationality Act and 8 CFR Part 287.

SEC. 1.34 *Final authority; delegation to General Counsel.* The General Counsel has been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Applications for copies of immigration and naturalization records or for information therefrom; certifications that any official file, document, or record in the custody or control of the Service is a true file, document, or record, or that a copy of such a file, document, or record is a true copy under 8 CFR 2.1, and

(b) Bonds and appurtenant instruments forwarded to the Commissioner for approval under 8 CFR 3.1.

SEC. 1.35 *Final authority; delegation to Chief, Records Administration Branch.* The chief of the Records Administration Branch may certify as to the nonexistence in the records of the Service of an official file, document, or record pertaining to a specified person or subject under 8 CFR 2.2.

SEC. 1.36 *Final authority; delegation to district directors.* The district directors have been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Applications for copies of immigration and naturalization records, or for information therefrom; certifications that any official file, document, or record in the custody or control of the Service is a true file, document, or record or that copy of such file, document, or record in a true copy as provided in 8 CFR 2.1;

(b) Approval of certain immigration bonds on forms approved by the Commissioner, extensions of liability, and powers of attorney authorizing the delivery of collateral security; cancellation of bonds; and determinations that conditions of bonds have been violated as provided in 8 CFR 3.1;

(c) Revocation of certificates, documents, or records under section 342 of the Immigration and Nationality Act as provided in 8 CFR 5.13;

(d) Permission to prosecute motions to reopen or reconsider without prepayment of fees as provided in 8 CFR 8.11.

(e) Petitions for immigrant status pursuant to the provisions of sections 204 and 205 of the Immigration and Nationality Act as provided in 8 CFR 204.11 and 205.12;

(f) Extensions of approvals of petitions for issuance of visas under section 203 (a) (1) (A) of the Immigration and Nationality Act as provided in 8 CFR 204.12;

(g) Revocation of approvals of petitions made under sections 204, 205, or 214 (c) of the Immigration and Nationality Act as provided in 8 CFR 206.2;

(h) Admission of immigrants pursuant to the provisions of section 211 (c) and (d) of the Immigration and Nationality Act as provided in 8 CFR 211.2, 211.3 and 211.4;

(i) Applications for consent to reapply for admission to the United States under section 212 (a) of the Immigration and Nationality Act as provided in 8 CFR 212.61;

(j) Parole of aliens into the United States and return of paroled aliens to custody as provided in 8 CFR 212.9 and 212.91;

(k) Advance requests by certain resident aliens for permission to reenter the United States under section 212 (c) of the Immigration and Nationality Act as provided in 8 CFR 212.72;

(l) Applications for permission for aliens to enter the United States notwithstanding section 212 (a) (14) of the Immigration and Nationality Act as provided in 8 CFR 212a.12;

(m) Admission on bond of aliens excludable because likely to become public charges or because of certain physical defects under section 213 of the Immigration and Nationality Act as provided in 8 CFR 213.1;

(n) Applications of nonimmigrants to engage in any employment or activity inconsistent with and not essential to nonimmigrant status as provided in 8 CFR 214.2;

(o) Admission of nonimmigrants under bond as provided in 8 CFR 214.3;

(p) Authorizing the granting of extensions of stay permitting aliens to remain in the United States for a period exceeding one year after arrival as provided in 8 CFR 214.4;

(q) Applications for extension of temporary stay as provided in 8 CFR 214.41;

(r) Determinations whether escorts shall accompany aliens in transit through the United States as provided in 8 CFR 214c.3;

(s) Determinations as to whether treaty traders or dependents are complying with the terms of their admissions, and applications by such traders to change from the activities specified in clause (i) to those specified in clause (ii) of section 101 (a) (15) (E) of the Immigration and Nationality Act or vice versa as provided in 8 CFR 214e.4 and 214e.61;

(t) Petitions for approval as established institutions of learning and revocations of such approvals as provided in 8 CFR 214f.5;

(u) Applications by aliens admitte under section 101 (a) (15) (F) of the Immigration and Nationality Act to enroll in institutions other than the ones to which destined at the time of entry and applications for permission to accept employment as provided in 8 CFR 214f.1 and 214f.4;

(v) Admission, including exaction of bonds, for nonimmigrants of the classes described in section 101 (a) (15) (H) of the Immigration and Nationality Act as provided in 8 CFR 214h.1 and 214h.2;

(w) Petitions for nonimmigrant status pursuant to the provisions of section 214 (c) of the Immigration and Nationality Act as provided in 8 CFR 214h.41;

(x) Applications to change information medium or employer pursuant to the provisions of section 101 (a) (15) (I) of the Immigration and Nationality Act as provided in 8 CFR 214l.3;

(y) Applications for and extensions of reentry permits as provided in 8 CFR 223.11 and 223.12;

(z) Applications for waiving the filing of Forms I–434 and I–435 for cruise passengers as provided in 8 CFR 231.31;

(aa) Detention of aliens for observation and examination as provided in 8 CFR 232.2;

(bb) Applications to assume responsibility for the safekeeping of aliens as provided in 8 CFR 233.2;

(cc) Exclusion of crewmen on grounds relating to safety and security of the United States as provided in 8 CFR 235.15;

(dd) Examinations of aliens believed to be suffering from disabilities as provided in 8 CFR 235.2;

(ee) Whether an admitted alien may remain at an immigration station as provided in 8 CFR 235.4;

(ff) Preexamination in certain parts of the United States as provided in 8 CFR 235.5;

(gg) Stays of deportation of excluded aliens as provided in 8 CFR 237.1;

(hh) Cost of alien's maintenance as provided in 8 CFR 237.2;

(ii) Issuance of and cancellation of warrants of arrest as provided in 8 CFR 242.1;

(jj) Continuation in, detention or release of aliens from custody as provided in 8 CFR 242.2;

(kk) Detention, conditions of release and revocations of bonds or parole of aliens as provided in 8 CFR 242.3;

(ll) Assignment of immigration officers to act as examining officers as provided in 8 CFR 242.53;

(mm) Consolidations of hearings as provided in 8 CFR 242.53;

(nn) Issuance of warrants of deportation, designations of the countries to which and at whose expense aliens shall be deported and whether attendants are required as provided in 8 CFR 243.1;

(oo) Stays of deportation, and permission to depart voluntarily under orders of deportation as provided in 8 CFR 243.3;

(pp) Voluntary departure of aliens prior to issuance of warrants of arrest, or after issuance of warrants of arrest and prior to hearings and revocations of voluntary departure as provided in 8 CFR 244.1 and 244.13;

(qq) Adjustment of status from nonimmigrant to immigrant as provided in 8 CFR 245.1;

(rr) Rescission of adjustment of status as provided in 8 CFR 246.1;

(ss) Adjustment of status of lawful permanent resident aliens to that of certain nonimmigrant classes as provided in 8 CFR 247.1;

(tt) Change of status of aliens from one nonimmigrant class to another nonimmigrant class as provided in 8 CFR 248.1;

(uu) Creation of records of lawful admission for permanent residence as provided in 8 CFR 249.1;

(vv) Removals of aliens who have fallen into distress as provided in 8 CFR 250.1;

(ww) Designation of and revocation of certain Great Lakes vessels as international ferries as provided in 8 CFR 251.32;

(xx) Consent to pay off or discharge alien crewmen admitted under section 252 (a) (1) of the Immigration and Nationality Act as provided in 8 CFR 262.2;

(yy) Registration of aliens confined in institutions or who are aged, infirm, or incapacitated as provided in 8 CFR 263.3 and 264.3;

(zz) Replacement of alien registration receipt cards as provided in 8 CFR 264.51;

(aaa) Notices of intention to administratively fine for violation of any of the provisions of the Immigration and Nationality Act as provided in 8 CFR 280.1;

(bbb) Mitigation or remission of administrative fines as provided in 8 CFR 280.51;

(ccc) Seizure of aircraft as provided in 8 CFR 280.2;

(ddd) The fixing of boundary distances as provided in section 287 of the Immigration and Nationality Act as provided in 8 CFR 287.1;

(eee) Issuance of subpenas as provided in 8 CFR 287.4;

(fff) Permission to practice by counsel where application and appearance filed concurrently, by certain individuals appearing without monetary remuneration, and by licensed attorneys abroad as provided in 8 CFR 292.1;

(ggg) Applications for residence and physical presence benefits for naturalization under section 316 of the Immigration and Nationality Act as provided in 8 CFR 316a.21 and 317.21;

(hhh) Applications for exception from classification of alien enemy under section 331 of the Immigration and Nationality Act as provided in 8 CFR 331.13;

(iii) Objections to final hearings on petitions for naturalization of alien enemies, and waivers of 90-day notice as provided in 8 CFR 331.11 and 331.12;

(jjj) Establishment of welfare photographic studies as provided in 8 CFR 332c.1;

(kkk) Spoiled petitions, transfer, withdrawal, and dismissal of petitions as provided in 8 CFR 334.15, 334.17 and 334.18;

(lll) Designation of Service employees to conduct preliminary examinations upon petitions for naturalization under section 335 (b) of the Immigration and Nationality Act as provided in 8 CFR 335.11;

(mmm) Assignment of examining officers at preliminary examinations upon petitions for naturalization as provided in 8 CFR 335.11;

(nnn) Taking of depositions in the United States as provided in 8 CFR 335b.12;

(ooo) Waivers of personal investigations of petitioners for naturalization under section 335 (a) of the Immigration and Nationality Act as provided in 8 CFR 335c.1;

(ppp) Waivers of the 30-day notice to Service by clerks of courts as provided in 8 CFR 336.11;

(qqq) Requests for waivers of 30-day periods by petitioners as provided in 8 CFR 336.16;

(rrr) Corrections of certificates of naturalization as provided in 8 CFR 338.16;

(sss) Certificates of citizenship under section 341 of the Immigration and Nationality Act as provided in 8 CFR 341.16;

(ttt) Original and lost, mutilated, or destroyed certificates of citizenship—Hawaiian Islands by district director, Honolulu, T. H., as provided in 8 CFR 341a.14 and 341a.21;

(uuu) Certificates of naturalization and repatriation under section 343 (a) of the Immigration and Nationality Act as provided in 8 CFR 343.12;

(vvv) Citizenship papers replaced under section 343 (b) of the Immigration and Nationality Act as provided in 8 CFR 343a.14;

(www) Special certificates of naturalization under section 343 (c) of the Immigration and Nationality Act as provided in 8 CFR 343b.12;

(xxx) Immediate revocation of temporary admission of agricultural workers as provided in 8 CFR 475.2;

(yyy) Extensions of agricultural worker's stay as provided in 8 CFR 475.5, and

(zzz) Recontracting of agricultural workers in the United States as provided in 8 CFR 475.23.

SEC. 1.37 *Final authority; delegation to officers in charge.* The officers in charge have been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Approval of certain immigration bonds on forms approved by the Commissioner, extensions of liability, and powers of attorney authorizing the delivery of collateral security as provided in 8 CFR 3.1;

(b) Admission of immigrants pursuant to the provisions of section 211 (c) and (d) of the Immigration and Nationality Act as provided in 8 CFR 211.2, 211.3 and 211.4;

(c) Parole of aliens into the United States and return of paroled aliens to custody as provided in 8 CFR 212.9 and 212.91;

(d) Admission on bond of aliens excludable because likely to become public charges or because of certain physical defects under section 213 of the Immigration and Nationality Act as provided in 8 CFR 213.1;

(e) Applications of nonimmigrants to engage in any employment or activity inconsistent with and not essential to nonimmigrant status as provided in 8 CFR 214.2;

(f) Admission of nonimmigrants under bond as provided in 8 CFR 214.3;

(g) Applications for extensions of temporary stay as provided in 8 CFR 214.41;

(h) Determinations whether escorts shall accompany aliens in transit through the United States as provided in 8 CFR 214c.3;

(i) Determinations as to whether treaty traders or dependents are complying with the terms of their admission as provided in 8 CFR 214e.61;

(j) Applications for waiving the filing of Forms I–434 and I–435 for cruise passengers as provided in 8 CFR 231.31;

(k) Detention of aliens for observation and examination as provided in 8 CFR 232.4;

(l) Applications to assume responsibility for the safekeeping of aliens as provided in 8 CFR 233.2;

(m) Examinations of aliens believed to be suffering from disabilities as provided in 8 CFR 235.2;

(n) Whether admitted aliens may remain at immigration stations as provided in 8 CFR 235.4;

(o) Preexamination in certain parts of the United States as provided in 8 CFR 235.5;

(p) Issuance of warrants of arrest as provided in 8 CFR 242.1;

(q) Continuation in, detention, or release of aliens from custody as provided in 8 CFR 242.2;

(r) Detention, conditions of release, and revocations of bonds or parole of aliens as provided in 8 CFR 242.3;

(s) Assignment of immigration officers to act as examining officers as provided in 8 CFR 242.53;

(t) Consolidation of hearings as provided in 8 CFR 242.53;

(u) Voluntary departure of aliens prior to issuance of warrants of arrest, or after issuance of warrants of arrest and prior to hearings, and revocations of voluntary departure as provided in 8 CFR 244.1 and 244.13;

(v) Consent to pay off or discharge alien crewmen under section 252 (a) (1) of the Immigration and Nationality Act as provided in 8 CFR 256.2;

(w) Notices of intention to administratively fine for violations of any of the provisions of the Immigration and Nationality Act as provided in 8 CFR 280.1;

(x) Seizure of aircraft as provided in 8 CFR 280.2;

(y) Issuance of subpenas as provided in 8 CFR 287.4;

(z) Permission to practice by counsel where application and appearance filed concurrently, by certain individuals appearing without monetary remuneration, and by licensed attorneys abroad as provided in 8 CFR 292.1;

(aa) Objections to final hearings on petitions for naturalization of alien enemies and waivers of 90-day notice as provided in 8 CFR 331.11, and 331.12;

(bb) Transfer of petitions, withdrawal of petitions, and dismissal of petitions as provided in 8 CFR 334.15, 334.17 and 334.18;

(cc) Assignment of examining officers at preliminary examinations upon petitions for naturalization as provided in 8 CFR 335.11;

(dd) Taking of depositions in the United States, as provided in 8 CFR 335b.12;

(ee) Waivers of the 30-day notice to Service by clerks of courts as provided in 8 CFR 336.11;

(ff) Requests for waivers of 30-day periods by petitioners as provided in 8 CFR 336.16; and

(gg) Extensions of agricultural workers' stay as provided in 8 CFR 475.5.

SEC. 1.38 *Final authority; delegation to district enforcement officers.* The district enforcement officers have been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Issuance of warrants of arrest as provided in 8 CFR 242.1;

(b) Continuation in, detention, or release of aliens from custody as provided in 8 CFR 242.2; and

(c) Detention, conditions of release and revocation of bonds or parole of aliens as provided in 8 CFR 242.3.

SEC. 1.39 *Final authority; delegation to special inquiry officers.* In addition to the powers granted to them under the provisions of the Immigration and Nationality Act, special inquiry officers have been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Admission of immigrants pursuant to the provisions of section 211 (c) and (d) of the Immigration and Nationality Act as provided in 8 CFR 211.2, 211.3 and 211.4;

(b) Admission on bond of aliens excludable because likely to become public charges or because of certain physical defects under section 213 of the Immigration and Nationality Act as provided in 8 CFR 213.1;

(c) Admission of nonimmigrants under bond as provided in 8 CFR 214.3;

(d) The exercising of the authority of the Attorney General contained in sections 242 (b) and 244 of the Immigration and Nationality Act as provided in 8 CFR 242.6;

(e) The exercising of the authority of the Attorney General contained in section 242 (f) of the Immigration and Nationality Act as provided in 8 CFR 242.7;

(f) Voluntary departure of aliens subsequent to the commencement of hearings under warrants of arrest as provided in 8 CFR 244.1;

(g) Issuance of subpenas as provided in 8 CFR 287.4; and

(h) Permission to practice by certain individuals without monetary remuneration as provided in 8 CFR 292.1.

SEC. 1.40 *Final authority; delegation to immigration officers.* In addition to the powers granted to them under the provisions of the Immigration and Nationality Act, immigration officers have been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matters:

(a) Nonresident aliens' border crossing identification cards under section 101 (a) (6) of the Immigration and Nationality Act as provided in 8 CFR 212.11, and

(b) Determinations of time and conditions of admission of nonimmigrants as provided in 8 CFR 214.1 and 214.2.

SEC. 1.41 *Final authority; delegation to district officers and assistant district officers in charge of investigations.* The district officers and assistant district officers in charge of investigations have been delegated final authority to take any action required or authorized to be taken by Chapter I, Title 8 of the Code of Federal Regulations, with respect to the following matter:

(a) Issuance of warrants of arrest as provided in 8 CFR 242.1.

PLACES AND MANNER OF SECURING INFORMATION

SEC. 1.50 *Places where, and methods whereby, information may be secured or submittals or requests made.* (a) Any person desiring information relative to a matter handled by the Immigration and Naturalization Service or any person desiring to make a submittal or request in connection with such a matter should communicate either orally or in writing with whichever of the following offices is most convenient for him:

(1) A district headquarters office of the Service. There are sixteen such offices located in the cities shown in section 1.51.

(2) A Class A port of entry shown in § 231.6, Chapter I, Title 8 of the Code of Federal Regulations.

(3) A United States immigration station located in Canada. Such offices are located in several of the large cities in Canada. They are shown in § 231.8, Chapter I, Title 8 of the Code of Federal Regulations.

(4) In addition to the places indicated in subparagraphs (1) and (2) of this paragraph, an Immigration and Naturalization Service application receiving office (8 CFR 2.6), one of which is located in most of the large cities of the United States including Hawaii.

(5) With respect to naturalization matters only—the office of the clerk of any United States District Court or of any other court exercising jurisdiction over naturalization.

(b) If the office receiving the communication is unable to handle the matter—because, for example, it does not have jurisdiction or facility—the communication, if written, will be forwarded to the proper office of the Service or, if oral, the person will be advised how to proceed. If the submittal or request consists of a formal application for one of the numerous documents, privileges, or other benefits provided for in the Immigration and Nationality Act or the regulations implementing that Act, the instructions on the form as to preparation and place of submission should be followed. In such cases, the part or section of Title 8, Chapter I, Code of Federal Regulations, dealing with the particular type of application may be consulted for regulatory provisions.

SEC. 1.51 *Field districts.* The territory within which officials of the Immigration and Naturalization Service are located is divided into districts which are designated by numbers, have fixed headquarters, and are defined as follows:

1. *St. Albans, Vermont.* Includes the State of Vermont; that part of the State of Maine lying north and east of the counties of York, Cumberland, Androscoggin, Kennebec, Lincoln, and Knox; the counties of Grafton and Coos in the State of New Hampshire; and that part of the State of New York lying north of the counties of Oswego, Oneida, Herkimer, Fulton, Saratoga, and Washington; also jurisdiction over the United States immigration stations located in Canada at Halifax, Nova Scotia; St. John, New Brunswick; Montreal, Quebec; and Quebec, Province of Quebec.

2. *Boston, Massachusetts.* Includes that part of the State of Maine lying south and west of the counties of Oxford, Franklin, Somerset, and Waldo; that part of the State of New Hampshire lying south of the counties of Grafton and Coos; and the States of Massachusetts, Rhode Island, and Connecticut; also jurisdiction over the United States immigration station located in Canada at Yarmouth, Nova Scotia.

3. *New York, New York.* Includes that part of the State of New York lying south of the counties of Essex, Warren, Hamilton, and St. Lawrence, and east of the counties of Lewis, Oneida, Madison, Chenango, and Broome; and that part of the State of New Jersey lying north of the

counties of Ocean, Burlington, and Mercer.

4. *Philadelphia, Pennsylvania.* Includes that part of the State of New Jersey lying south of the counties of Monmouth, Middlesex, Somerset, and Hunterdon; the State of Delaware; the State of Pennsylvania, except the counties of McKean, Warren, Erie, Crawford and Mercer; that part of the State of Ohio lying south of the counties of Mahoning, Stark, and Wayne, and east of the counties of Ashland, Knox, Licking, Perry, and Athens; and that part of the State of West Virginia lying north of the counties of Jackson, Roane, Clay, Braxton, Webster, and Pocahontas, and west of the counties of Pendleton and Grant.

5. *Baltimore, Maryland.* Includes the States of Maryland, Virginia, North Carolina; the District of Columbia; and that part of the State of West Virginia lying east of the counties of Tucker and Randolph.

6. *Miami, Florida.* Includes the States of Georgia, Florida, South Carolina, Tennessee, Alabama, Mississippi, Louisiana, and Arkansas; also Puerto Rico and Virgin Islands of the United States.

7. *Buffalo, New York.* Includes that part of the State of New York lying west of the counties of Delaware, Otsego, and Herkimer, and south of the counties of Lewis and Jefferson; the counties of McKean, Warren, Erie, Crawford, and Mercer in the State of Pennsylvania; and that part of the State of Ohio lying north of the counties of Columbiana, Carroll, Tuscarawas, Holmes, Knox, and Morrow, and east of the counties of Crawford, Huron, and Erie; also jurisdiction over the United States immigration station located in Canada at Toronto, Ontario.

8. *Detroit, Michigan.* Includes the State of Michigan, except Isle Royale, and the States of Indiana and Kentucky; that part of the State of Ohio lying west of the counties of Lorain, Ashland, Richland, Holmes, Coshocton, Muskingum, Morgan, and Washington; and that part of the State of West Virginia lying south of the counties of Wood, Wirt, Calhoun, Gilmer, Lewis, Upshur, and Randolph. Menominee, Michigan, is excluded from District No. 8 solely with respect to the inspection of seamen.

9. *Chicago, Illinois.* Includes that part of the State of Illinois lying north of the counties of Edgar, Douglas, Platt, De Witt, Logan, Mason, Schuyler, McDonough, and Hancock; Isle Royale, Michigan; and the States of Wisconsin, Minnesota, North Dakota, and South Dakota; also jurisdiction over the United States immigration station located at Winnipeg, Manitoba, Canada. Menominee, Michigan, is included in District No. 9 solely with respect to the inspection of seamen.

11. *Kansas City, Missouri.* Includes the States of Missouri, Iowa, Oklahoma, Kansas, Nebraska, Colorado, and Wyoming; and that part of the State of Illinois lying south of the counties of Henderson, Warren, Fulton, Tazewell, McLean, Champaign, and Vermilion.

12. *Seattle, Washington.* Includes the States of Idaho, Montana, Oregon, and Washington; and the Territory of Alaska; also jurisdiction over the United States immigration stations located at Sydney, Vancouver, and Victoria, British Columbia, Canada.

13. *San Francisco, California.* Includes that part of the State of California lying north of the counties of San Luis Obispo, Kern, and Inyo; the State of Nevada except the county of Clark; and the State of Utah.

14. *San Antonio, Texas.* Includes that part of the State of Texas lying east and south of the counties of Terrell, Pecos, Upton, Midland, Howard, Mitchell, Nolan, Fisher, Stonewall, King, Cottle, and Childress.

15. *El Paso, Texas.* Includes that part of the State of Texas lying west and north of the counties of Val Verde, Crockett, Reagan, Glasscock, Sterling, Coke, Taylor, Jones, Haskell, Knox, Foard, and Hardeman; the State of New Mexico; and the State of Arizona except the counties of Yuma and Mojave.

16. *Los Angeles, California.* Includes that part of the State of California lying south and east of the counties of Monterey, Kings, Tulare, Fresno, and Mono; the county of Clark in the State of Nevada; and the counties of Mojave and Yuma in the State of Arizona.

17. *Honolulu, T. H.* Includes the Territory of Hawaii, and Agana, Guam, as well as the port facilities at Apra Harbor, Guam.

PROCEDURES

SEC. 1.60 *General.* The regulations of the Immigration and Naturalization Service, published as Chapter I, Title 8 of the Code of Federal Regulations, contain information which, under the provisions of section 3 (a) (2) and (3) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1002), is required to be published. Any person desiring information with respect to a particular procedure (other than rule making) under the Immigration and Nationality Act should examine the part or section in Chapter I, Title 8 of the Code of Federal Regulations, dealing with such procedures as well as the section of the act implemented by such part or section. The list of part numbers and designations appearing at the beginning of Chapter I, Title 8 of the Code of Federal Regulations, and the explanation of the numbering system appearing at the beginning of Subchapters B and C should be used as a guide to the regulation dealing with any particular type of proceeding.

SEC. 1.61 *Rule making.* Section 103 (a) of the Immigration and Nationality Act requires the Attorney General to establish such regulations as he deems necessary for carrying out his authority under the provisions of that act. The authority of the Attorney General to establish regulations has not been delegated. The provisions of the Federal Register Act (49 Stat. 500, 50 Stat. 304, 56 Stat. 1045; 44 U. S. C. 301–314) and of the regulations thereunder (1 CFR—Administrative Committee of the Federal Register) as well as the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1002) governing the issuance of regulations are observed. After they are signed by the Attorney General, the regulations are filed with the Director, Federal Register Division, National Archives and Records Service, for publication in the FEDERAL REGISTER.

AVAILABILITY OF OPINIONS, ORDERS, AND RECORDS

SEC. 1.70 *Opinions, orders, and records of the Immigration and Naturalization Service regarded as confidential.* Under Order No. 3229 issued by the Attorney General on May 2, 1939 (11 F. R. 4920), all official files, documents, records, and information in the offices of the Immigration and Naturalization Service of the United States Department of Justice or in the custody or control of any officer or employee of the Immigration and Naturalization Service are to be regarded as confidential. No such officer or employee may permit the disclosure or use of the same for any purpose other than for the performance of his official duties, except in the discretion of the Attorney General, the Assistant to the Attorney General, an Assistant Attorney General acting for him, or the Commissioner of Immigration and Naturalization acting for the Attorney General pursuant to the provisions of § 9.1, Chapter I, Title 8 of the Code of Federal Regulations. Therefore, such official files, documents, records, and information shall not be published, opened to public inspection, or made available to the public in any other way, except if the Attorney General, The Assistant to the Attorney General, or the Commissioner, permits disclosure, either by the exercise of discretion in particular cases or, generally, through specific provisions of this section or of Chapter I, Title 8 of the Code of Federal Regulations.

SEC. 171 *Administrative Decisions under Immigration and Nationality Laws.* There may be purchased when available from the United States Government Printing Office, Washington 25, D. C., or inspected at a Service office indicated in § 1.50, a publication entitled "Administrative Decisions under Immigration and Nationality Laws". Periodic and cumulative supplements are published as required.

SEC. 1.72 *Inspection of records by attorneys.* Attorneys and representatives, and the persons whom they represent, may review and be lent copies of records, subject to the provisions of Part 292, Chapter I, Title 8 of the Code of Federal Regulations.

SEC. 1.73 *Copies of records.* In accordance with the provisions of this notice, Part 2, Chapter I, Title 8 of the Code of Federal Regulations, and all other applicable regulatory provisions and subject to all applicable statutory provisions relating to applications, fees, and other requirements, and where not prejudicial to the interests of the public or the Government, copies of and information from records of the Immigration and Naturalization Service may be furnished to persons who establish that they have a reasonable and legitimate need for them.

SEC. 1.74 *Intra-Service manuals and instructions.* Manuals and internal in-

structions are prepared solely for the guidance of the Immigration and Naturalization Service and the contents of such manuals and instructions are not published, opened to public inspection, or made available to the public in any way except in unusual cases in which the Commissioner specifically authorizes the furnishing of an excerpt from such manuals or instructions.

JAMES P. MCGRANERY,
Attorney General.

Recommended:

ARGYLE R. MACKEY,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 52-13438; Filed, Dec. 18, 1952; 8:46 a. m.]

Office of Alien Property

[Vesting Order 19093]

ALBERT HEIMANN

In re: Trust Agreement No. 4477 between Albert Heimann, Trustor and Pioneer Trust & Savings Bank, Trustee, dated December 22, 1939. File No. D-28-13128 G-1.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Public Law 181, 82d Congress, 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Lena Schuttler, Ferdinand Heimann, Clementz Heimann, Lena Bruehmann, Greta Johnes, Bertha Bruehmann, and Wilhelm Bruehmann, whose last known address is Germany, on or since December 11, 1941, and prior to January 1, 1947, were residents of Germany and are, and prior to January 1, 1947, were nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next-of-kin, legatees and distributees, names unknown, of Maria Huske, deceased, and of Theodore Heimann, deceased; and the children, names unknown, of Greta Johnes, of Bertha Bruehmann and of Wilhelm Bruehmann, who there is reasonable cause to believe are and, on or since December 11, 1941, and prior to January 1, 1947, were residents of Germany, are and prior to January 1, 1947, were nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof in and to and arising out of or under that certain trust agreement No. 4477 dated December 22, 1939, by and between Albert Heimann, trustor, and Pioneer Trust & Savings Bank, trustee, is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to or which is evidence of ownership or control by the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That the national interest of the United States requires that the persons identified in subparagraphs 1 and 2 hereof, be treated as persons who are and prior to January 1, 1947, were nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States, the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 15, 1952.

For the Attorney General.

[SEAL] ROWLAND F. KIRKS,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 52-13389; Filed, Dec. 18, 1952; 8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27626]

CRUDE SULPHUR FROM POINTS IN LOUISIANA AND TEXAS TO NASHVILLE, TENN.

APPLICATION FOR RELIEF

DECEMBER 16, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Crude sulphur, carloads.

From: Points in Louisiana and Texas.

To: Nashville, Tenn.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3862, Supp. 164.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-13369; Filed, Dec. 18, 1952; 8:48 a. m.]

[4th Sec. Application 27627]

ALCOHOLS FROM LONGVIEW, TEX., TO HOLSTON AND KINGSPORT, TENN.

APPLICATION FOR RELIEF

DECEMBER 16, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Butyl alcohol, ethyl alcohol, octyl alcohol, iso-octyl alcohol, butyraldehyde, and isobutyraldehyde, carloads.

From: Longview, Tex.

To: Holston and Kingsport, Tenn.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3721, Supp. 243.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-13370; Filed, Dec. 18, 1952; 8:48 a. m.]

[4th Sec. Application 27628]

SUGAR FROM POINTS IN WEST AND SOUTH TO TEXAS

APPLICATION FOR RELIEF

DECEMBER 16, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedules listed below.

Commodities involved: Sugar, beet or cane, carloads.

From: Points in Colorado, Idaho, Oregon, Utah, and Louisiana.

To: Points in Texas.

Grounds for relief: Competition with rail carriers, circuitous routes, and market competition.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3662, Supp. 104; F. C. Kratzmeir, Agent, I. C. C. No. 3865, Supp. 14.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-13371; Filed, Dec. 18, 1952; 8:48 a. m.]

[4th Sec. Application 27629]

FURNITURE FROM THE SOUTHWEST AND MEMPHIS, TENN., TO COLORADO

APPLICATION FOR RELIEF

DECEMBER 16, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedules listed below.

Commodities involved: Furniture and furniture parts, carloads.

From: Points in Arkansas, Oklahoma, and Texas, and Memphis, Tenn.

To: Denver, Colorado Springs, Pueblo, Trinidad, and Greeley, Colo.

Grounds for relief: Rail competition, circuity, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3886, Supp. 75; C. A. Spaninger, Agent, I. C. C. No. 1649, Supp. 140.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-13372; Filed, Dec. 18, 1952; 8:49 a. m.]

[4th Sec. Application 27630]

AUTOMOBILES FROM KANSAS CITY, MO.-KANS., TO FORT WORTH, TEX.

APPLICATION FOR RELIEF

DECEMBER 16, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Automobiles and parts, carloads.

From: Kansas City, Mo.-Kans.

To: Fort Worth, Tex.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3765, Supp. 49.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-13373; Filed, Dec. 18, 1952; 8:49 a. m.]

[4th Sec. Application 27631]

CORN FROM POINTS IN COLORADO, KANSAS, AND NEBRASKA TO COLORADO

APPLICATION FOR RELIEF

DECEMBER 16, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. J. Hennings, Alternate Agent, for carriers parties to schedule listed below.

Commodities involved: Corn and products taking same rates, carloads.

From: Points in Colorado, Kansas, and Nebraska.

To: Points in Colorado.

Grounds for relief: Rail and motor competition and circuitous routes.

Schedules filed containing proposed rates: D & RGW RR. tariff I. C. C. No. 918, Supp. 13.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 52-13374; Filed, Dec. 18, 1952; 8:49 a. m.]