Part II begins on page 9765

PART I

FEDERAL REGISTER

VOLUME 22 NUMBER 236

Washington, Friday, December 6, 1957

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

FARM MANAGEMENT POSITIONS

Subparagraph (10) of § 24.36 (a) is revoked and § 24.137 is added as set out below.

§ 24.137 *Farm Management Supervisor, Farm Management Officer, and Farm Management Representative, CS-451-5-15*—(a) *Educational requirement.* (1) Applicants must have successfully completed one of the following:

(i) A full 4-year course of study in an accredited college or university leading to a bachelor's or higher degree with major study in farm management, livestock management or ranch management, or in agricultural economics, agronomy, horticulture, animal, dairy or poultry husbandry, agricultural education, agricultural engineering, general agriculture, or closely related fields. This course of study must have included at least 6 semester hours of course-work in any one or any combination of the following subjects: Agricultural economics, farm management, livestock management, or ranch management.

(ii) A total of at least 30 semester hours of course-work in the agricultural or related sciences such as farm, livestock or ranch management, agricultural economics, agronomy, horticulture, animal, dairy or poultry husbandry, agricultural education, agricultural engineering, general agriculture, or closely related fields. A least 6 semester hours of the 30 must have been course-work in any one or in any combination of the following subjects: agricultural economics, farm management, livestock management, or ranch management. In addition to the specified 30 semester hours of courses, candidates must show enough additional experience, or education, of an appropriate nature to total 4 years of experience and education or 4 years of education. The quality of this additional experience or education must have been such that, when combined with the required 30 semester hours in the agricultural or related sciences, it gives the applicant a technical knowledge comparable to that normally acquired through the successful completion of the full 4-year course of study described in subdivision (i) of this subparagraph.

This issue includes two parts bound together. Part II contains a republication of the regulations of the Immigration and Naturalization Service, Department of Justice, 8 CFR Ch. I, as of November 27, 1957.

(b) *Duties.* (1) Farm Management Supervisors perform professional work at the county office level in the field of supervised agricultural credit in connection with the making and servicing of farm loans. This involves the application of a professional knowledge of the basic principles, concepts, and practices of farm management, farm credit, crop and livestock production, soil conservation, and water management to local conditions on a day-to-day basis; and the application of sound credit principles in the servicing of loans, the obtaining of security on loans, and the effecting of collections on accounts.

(2) Farm Management Officers perform similar professional work at the state office level and are concerned with the planning, technical direction, coordination, and administration of state and county loan programs. They provide professional advisory, training and review services at the county office level; and apply a working knowledge of the scientific principles of farm, livestock, or ranch management to local, area or state-wide conditions.

(3) Farm Management Representatives perform similar professional work at the national office level and are concerned with the planning, developing, coordination and carrying out of program loan activities on an agency-wide basis. They develop, or assist in developing, basic operating instructions, provide professional advice and assistance, train field staffs, and observe and review program operations at the state and county

(Continued on next page)

CONTENTS

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

office level; and apply knowledges of the scientific and technical principles of farm, livestock, and ranch management to specific areas in carrying out program, planning, training, and advisory services.

(c) *Knowledges and training requisite for performance of duties.* The duties of these positions cannot be performed successfully without a sound basic knowledge of the agricultural sciences, the scientific principles, concepts and

methods which underlie the agricultural sciences, and scientific training in farm management. Appointees must have the ability to apply their professional and scientific knowledge to their work in order to solve specific problems, interpret and apply the results of research, both in the field of farm management and in related fields of agriculture. The knowledge and training required can only be acquired through the successful completion of a directed course of study in an accredited college or university which has scientific libraries, well-equipped laboratories, and throughly trained instructors, gives expert guidance, and evaluates progress competently.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-10103; Filed, Dec. 5, 1957; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

NOMINATIONS

Notice was published in the FEDERAL REGISTER issue of November 15, 1957 (22 F. R. 9111), that the Department was giving consideration to proposed amendment of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 922.100 et seq.), that are currently in effect pursuant to applicable provisions of the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which were submitted by the Valencia Orange Administrative Committee (established pursuant to the said marketing agreement and order as the agency to administer the provisions thereof), it is hereby found that the amendment, as hereinafter set forth, of the said rules and regulations is in accordance with the provisions of the said marketing agreement and order and will tend to effectuate the declared purposes of the Agricultural Marketing Agreement Act of 1937, as amended. Such amendment is hereby approved; and the said rules and regulations are hereby amended as follows:

1. Delete from the second sentence in paragraph (a) (3) of § 922.102 *Nomination procedure* the words "one grower member, one alternate grower member" and substitute therefor the words "not less than two grower members, two alternate grower members."

2. After § 922.102, add the following new section:

§ 922.103 *Changes in nomination and selection of grower members and alternate grower members of the Valencia Orange Administrative Committee.* (a) The number of grower members and alternate grower members to be nominated and selected pursuant to § 922.22 (c) and the second sentence of § 922.23, respectively, shall be one grower member and one alternate grower member.

(b) The number of grower members and alternate grower members to be nominated and selected pursuant to § 922.22 (d) and the third sentence of § 922.23, respectively, shall be two grower members and two alternate grower members.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: December 3, 1957, to become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] FRANK E. BLOOD,
Acting Deputy Administrator, Marketing Services.

[F. R. Doc. 57-10121; Filed, Dec. 5, 1957; 8:50 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Subchapter C—Military Personnel

PART 56—MEDICAL CARE FOR DEPENDENTS OF MEMBERS OF THE UNIFORMED SERVICES

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments to this Part 56 have been authorized by the Secretary of Defense and the Secretary of Health, Education, and Welfare:

1. New § 56.5–3 (a) (3) has been added to read as follows; redesignate present subparagraphs (3), (4), (5), and (6) as (4), (5), (6), and (7):

(3) *Ward accommodations.* The term "ward accommodations" signifies the presence of 5 or more beds in a room in which the patient is hospitalized. Where ward accommodations are furnished under the circumstances described herein, a portion of the cost will be borne by the Government in accordance with § 56.5–6 (a). Ward facilities may be used for pediatric cases whenever this is the normal medical practice. Further, when the attending physician admits his patient to a hospital in which all semi-private accommodations are occupied, care furnished therein shall be considered authorized care, but the patient should be transferred to a semi-private accommodation as soon as possible. Finally, when the patient is admitted to an otherwise eligible institution which furnishes only ward accommodations, care furnished therein shall be considered authorized care.

2. Section 56.5–6 (b) (3) has been amended by adding a note; § 56.5–6 (b) (3), as amended, now reads as follows:

§ 56.5–6 *Charges.* * * *
(b) * * *

(3) Twenty-five percent (25%) of the difference between private room charges and weighted average cost of semi-private room charges.

NOTE: For hospitals having only private rooms, the term "weighted average cost of semi-private room charges" is defined as 90 percent of the daily hospital charges for the room furnished the dependent or $15.00 per day, whichever is lesser.

3. New § 56.5–6 (d) has been added to read as follows; redesignate present paragraphs (d), (e), and (f) as (e), (f), and (g):

(d) If hospital care in a private room is provided in a hospital which has only private rooms, the Government will pay 90 percent of the daily hospital charges for the room provided the dependent, or $15.00 per day, whichever is the lesser. The patient will be required to pay the hospital the greater of (1) or (2) and, in addition, (3) below:

(1) The first twenty-five dollars ($25.00) of the expense incurred.

(2) An amount determined by multiplying the number of days of hospitalization by the established per diem rate. (See § 56.4–8 (a))

(3) Ten percent (10%) of the daily hospital charges for the private room provided the dependent or the total daily hospital charges for such room, less $15.00 per day, whichever is the greater.

(4) New § 56.5–6 (h) has been added to read as follows; redesignate present paragraph (g) as (i):

(h) Patients who previously were admitted to a hospital for authorized care, who paid at least $25.00 of the hospital charges for that admission and who are readmitted to a civilian hospital within 14 days following discharge from the previous admission for authorized treatment of the original condition for which initially hospitallized, or direct complications thereof, will not be required to pay the first twenty-five dollars ($25.00) of subsequent hospitalizations, but will be required to pay an amount determined by multiplying the number of days of the current hospitalization by the established per diem rate (See § 56.4–8 (a)), plus any additional charges that might be specified elsewhere herein. Hospitals will be responsible for obtaining from the patient, physician, sponsor, or other hospital(s) satisfactory evidence that the patient is entitled to the lesser charge.

(Secs. 101–103, 201–204, 301–305, 70 Stat. 250–254; 37 U. S. C. 401–403, 411–414, 421–423, 404–405)

MAURICE W. ROCHE,
Administrative Secretary.

Dated: November 7, 1957.

Approved:

F. B. BERRY,
Assistant Secretary of Defense (Health and Medical).

Dated: November 20, 1957.

Approved:

M. B. FOLSOM,
Secretary of Health, Education, and Welfare.

[F. R. Doc. 57-10083; Filed, Dec. 5, 1957; 8:45 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 47]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

ALTERATION

The Automatic Direction Finding (ADF) Procedure No. 1 for Greater Rockford Airport, Rockford, Illinois, appearing in Amendment No. 43 and published in the FEDERAL REGISTER on November 20, 1957 (22 F. R. 9252) is hereby corrected to read: "If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, within 4.7 miles make right turn, climb to 2,000' proceed to RKF RBn" instead of "If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, within 4.7 miles make right turn, climb to 2,000' proceed to RFD 'H'."

This amendment shall become effective upon publication in the FEDERAL REGISTER.

(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)

[SEAL] WILLIAM B. DAVIS,
Acting Administrator of Civil Aeronautics.

NOVEMBER 27, 1957.

[F. R. Doc. 57-10084; Filed, Dec. 5, 1957; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 41—SERVICE IN POST OFFICES

PART 61—MONEY ORDERS

MISCELLANEOUS AMENDMENTS

In § 41.3 *Post office boxes* make the following changes:

1. In paragraph (g) (1) amend the caption to read *"Improper purposes"*.
2. In paragraph (g) (2) amend the caption to read *"Misuse"*.
3. Amend paragraph (g) (3) to read as follows:

(3) *Improper matter.* Only matter which has passed through the mail, or official postal notices, may be placed in a post office box. (See paragraph (a) of this section).

NOTE: The corresponding Postal Manual section is 151.37.

(R. S. 161, 396, as amended; 5 U. S. C. 22, 369. Interprets or applies 18 U. S. C. 1725)

In § 61.3 *How to cash a money order* amend paragraph (b) (3) to read as follows:

(3) Money orders issued at military post offices are payable only at military post offices and United States military banking facilities, or at post offices or banks located in the United States, its possessions or Territories, and countries with which the United States transacts domestic-international money order business. If the remitter or payee of a money order issued at a military post office transfers ownership by endorsement to another, the endorsee must cash the money order at either a military post office, a United States military banking facility, or a post office located in the United States, its possessions, or Territories.

NOTE: The corresponding Postal Manual section is 171.31c.

(R. S. 161, 396, as amended, 4027; 5 U. S. C. 22, 369, 39 U. S. C. 711)

[SEAL] HERBERT B. WARBURTON,
Acting General Counsel.

[F. R. Doc. 57-10099; Filed, Dec. 5, 1957; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Narcotics

[21 CFR Ch. II]

β-3-ETHYL-1-METHYL-4-PHENYL-4-PROPIONOXYPIPERIDINE, AN OPIATE

NOTICE OF PROPOSED RULE MAKING

By Proclamation No. 2851, dated August 26, 1949 (14 F. R. 5361, 63 Stat. 1290), the President proclaimed the finding by the Secretary of the Treasury, after due notice and opportunity for public hearing, that a drug described as NU-1932, β-1-methyl-3-ethyl-4-phenyl-4-propionoxypiperidine, had addiction-forming or addiction-sustaining liability similar to morphine. It was subsequently determined that said finding was based on tests made of the alpha rather than the beta isomer of the drug, and notice was published in the FEDERAL REGISTER of August 2, 1956 (21 F. R. 5779), of a proposed determination that the alpha isomer of the drug had addiction-forming or addiction-sustaining liability similar to morphine and was an opiate. Appropriate tests have now been completed with respect to a substance known to be the beta isomer of the drug, more correctly described chemically as β-3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine.

Therefore, notice is hereby given, pursuant to the provisions of the act of March 8, 1946 (60 Stat. 38; 26 U. S. C. 4731), section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003), and by virtue of the authority vested in me by the Secretary of the Treasury (12 F. R. 1480), that a determination is proposed to be made that the following-named new drug has an addiction-forming or addiction-sustaining liability similar to morphine and is an opiate:

β - 3 - ethyl - 1 - methyl - 4 - phenyl - 4-propionoxypiperidine.

Consideration will be given to any written data, views or arguments, pertaining to the addiction-forming or addiction-sustaining liability of the above-named drug, which are received by the Commissioner of Narcotics prior to January 9, 1958. Any person desiring to be heard on the addiction-forming or addiction-sustaining liability of the above-named drug will be accorded the opportunity at a hearing in the office of the Commissioner of Narcotics, 1300 E Street NW., Washington 25, D. C., at 10:00 o'clock a. m., January 9, 1958, provided that such person furnishes written notice of his desire to be heard, to the Commissioner of Narcotics, Washington 25, D. C., not later than 20 days from the publication of this notice in the FEDERAL REGISTER. If no written notice of a desire to be heard shall be received within 20 days from the date of publication of this notice in the FEDERAL REGISTER, no hearing shall be held, but the Commissioner of Narcotics shall proceed to make a recommendation to the Secretary of the Treasury for a finding under section 1 of the act of March 8, 1946.

(60 Stat. 38; 26 U. S. C. 4731)

[SEAL] H. J. ANSLINGER,
Commissioner of Narcotics.

[F. R. Doc. 57-10105; Filed, Dec. 5, 1957; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

STANDARDS FOR GRADES OF FROZEN PEAS

ADDITIONAL TIME FOR FILING DATA, VIEWS, OR ARGUMENTS

On May 1, 1957, a notice of proposed rule making was published in the FEDERAL REGISTER (22 F. R. 3072) regarding a proposed revision of the United States Standards for Grades of Frozen Peas.

In consideration of comments and suggestions received indicating the need for further study of the proposal by industry, notice is hereby given of an additional period of time until March 15, 1958, within which written data, views, or arguments may be submitted.

All persons who desire to submit written data, views or arguments for consideration with the proposed standards should file same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington 25, D. C.

Dated: December 3, 1957.

[SEAL] FRANK E. BLOOD,
Acting Deputy Administrator, Marketing Services.

[F. R. Doc. 57-10122; Filed, Dec. 5, 1957; 8:50 a. m.]

[7 CFR Part 917]

[Docket No. AO-248-A2]

MILK IN BLACK HILLS, S. DAK., MARKETING AREA

RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Black Hills, South Dakota, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Rapid City, South Dakota, on July 9, 1957, pursuant to notice thereof which was issued June 18, 1957 (22 F. R. 4396).

The material issues on the record of the hearing related to:

1. Expansion of the marketing area;
2. Qualifications for attaining pool plant status;
3. Revision of the producer-handler definition;
4. Classification of skim milk and butterfat in inventory;
5. Application of location differentials on class prices and in paying producers;
6. Payments on unpriced milk disposed of in the marketing area from nonpool plants; and
7. Miscellaneous administrative and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The marketing area should include all the territory within the boundaries of Custer, Fall River, Lawrence and Pennington Counties, the cities of Belle Fourche and Sturgis, the Ellsworth Air Base and the Veterans Administration Hospital at Fort Meade, all in the State of South Dakota. At the present time, the marketing area is limited to Lawrence County, the cities of Belle Fourche, Custer, Rapid City and Sturgis, the Ellsworth Air Base and the Veterans Administration Hospital at Fort Meade. The change herein recommended would add to the present marketing area all the territory in Pennington County outside Rapid City, the territory in Custer County outside the city of Custer, and all the territory in Fall River County.

Rapid City is the largest city in the present marketing area. Its population, which was 25,000 in 1950, is estimated to be 40,000 at present. The population of Hot Springs in Fall River County, the largest city which would be added by explansion of the marketing area, was 5,000 in 1950. Population of the proposed marketing area was approximately 70,000 in 1950.

From May through September of each year the inflow of vacationers and tourists to the many popular attractions and resort areas in the Black Hills tends to increase the demand for milk during these months as much as 25 percent above that for other months. Besides the sales to the customary retail and wholesale outlets, substantial quantities of milk are sold throughout the year to the many governmental and other institutional establishments in the area, which include the Ellsworth Air Base, Veteran's Administration Hospitals at Fort Meade and at Hot Springs, State Soldiers Home at Hot Springs, the State Tuberculosis Hospital at Sanator in Custer County and the Army installation at Igloo in Fall River County.

Handlers now regulated by the order are the principal distributors throughout the proposed enlarged marketing area. Other handlers who sell milk in the territory proposed to be added to the present marketing area are the Kilmer Dairy of Lust, Wyoming, the Hot Springs Milk Company of Hot Springs, and Staska Dairy of Chadron, Nebraska. It is expected that sales by the Kilmer Dairy and Hot Springs Milk Company in the marketing area would qualify them as pool plants fully subject to the provisions of the order. The limited sales now made by Staska Dairy in the marketing area would not qualify it as a pool plant, but would subject it to partial regulation as a nonpool plant because some milk is distributed in the proposed marketing area.

Although a large part of its distribution business is in Wyoming, the Kilmer Dairy disposes of Class I milk on routes in various places in the proposed marketing area, including the cities of Hot Springs, Custer, Edgemont and Igloo. This handler has become an important competitor of regulated handlers for markets in Custer and Fall River Counties, and at the time of the hearing held the contract for supplying Grade A milk and milk products to the Veteran's Administration Hospital in Hot Springs.

The Hot Springs Milk Company, from whose plant milk is distributed in Hot Springs, Edgemont and in various smaller communities throughout the Fall River County, receives milk from two independent producers and the balance of its supply from producer members of the Black Hills Milk Producers Cooperative of Rapid City.

The only distribution in the proposed marketing area from the plant of the Staska Dairy in Chadron, Nebraska, is in Oelrichs in Fall River County.

The marketing area herein recommended is the same as that proposed by producers. Handlers now regulated by the order testified at the hearing in support of the enlarged marketing area. The owner of Hot Springs Milk Company, the principal handler in the new territory to be added to the marketing area, presented testimony in support of adding Fall River County to the marketing area. No testimony was presented in opposition to the proposal to enlarge the marketing area.

Handlers now regulated by the order are at a disadvantage in competing with unregulated handlers in the various places throughout the area wherein they are, and have been, the principal distributors. While regulated handlers are required to pay the order's Class I prices for milk for fluid use and maintain an adequate supply of milk for the market on a year-round basis, unregulated handlers may frequently obtain milk at prices approximating the blend prices or manufacturing prices under the order for milk disposed of for Class I uses. This is possible especially during the periods of flush production. During such periods milk from the plants of unregulated handlers may displace producer milk by underbidding on contracts to supply the Grade A milk requirements of the expanded summer resort business, governmental establishments, and other institutions. The loss of such sales to handlers who generally supply the various contracts on a year-round basis and who maintain supplies of producer milk on an annual basis in order to serve the needs of summer resort business results in local producer milk being displaced from its usual Class I markets.

At the time producers requested a hearing to consider regulation, which resulted in promulgation of the present order, Grade A ordinances were not consistently prevalent throughout the area. Hot Springs, for example, had no Grade A ordinance at that time and it is for this reason that producers then had not requested the larger marketing area herein recommended. At the present time no ungraded milk for human consumption may be sold throughout the proposed marketing area.

Grade A milk products sold for fluid consumption throughout the proposed area must be approved by health authorities who are governed by health ordinances, practices and procedures patterned after the United States Public Health Milk Ordinance and Code. Movements of milk both in bulk and packaged form between various localities in the marketing area take place through reciprocal approval of the respective health authorities. Ratings by the United States Public Health Service are recognized as a basis for approval of outside sources of milk. The degree of similarity of minimum health standards throughout the area justifies uniform regulation for milk marketed throughout the area.

Many of the sales outlets in the proposed enlarged marketing area are in neither incorporated towns nor municipalities. The many resort areas in the Black Hills, such as Wind Cave National Park, State Game Lodge, Sylvan Lake Hotel, and Coolidge Inn, which accommodate many thousands of people during the summer vacation period, are in local-

ities that are rural in character. The stability of the market would be impaired if these important outlets for Class I milk in the Black Hills area were not included in the marketing area. The only practical way for including these sales outlets in the marketing area is by defining the marketing area to designate the entire county in which are located these widely scattered users of a substantial proportion of the fluid milk distributed in the Black Hills. The marketing area herein recommended gives consideration to this factor.

It was urged at the hearing that the order provide specifically that any territory within the boundaries of the designated marketing area which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions or other establishments should be considered as within the marketing area. It is clearly intended that all such territory be included in the marketing area. However, so that there will be no doubt as to the intent of the marketing area definition, it should be indicated that the designated places in the Black Hills marketing area shall include territory within such boundaries which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions, or other establishments.

2. Provision should be made for a plant which supplies milk to a distributing plant which is a pool plant to qualify as a pool plant. The present order makes no provision for supply plants to qualify as pool plants. At the time of the inception of the order no supply plants were serving milk to Black Hills handlers as a major part of their operations. Neither are any such plants now on the market. With the enlargement of the marketing area, as is proposed in this decision, there is greater likelihood than heretofore that such plants may become associated with the market. Accordingly, provision should be made to qualify as a pool plant a plant supplying a major part of its receipts of Grade A milk from dairy farmers to distributing plants which are pool plants under the Black Hills order.

Essential to the operation of a marketwide pool is the establishment of performance standards to apply uniformly to all plants. Any plant, regardless of its location, should have equal opportunity to comply with the standards and thereby participate in the marketwide pool and have its producers share in the Class I sales of the market. Any dairy farmer who meets the necessary health department requirements should not be prohibited by the order from selling his milk to plants meeting the standards of qualification. Whether or not plants and producers choose to supply the Black Hills market will depend on the economic circumstances with which they are confronted, such as prices, transportation, costs, and alternative outlets.

Because of the difference in marketing practices and functions between distributing plants and supply plants, different performance standards must be provided. A "distributing plant" should be defined as a plant in which milk is processed or packaged and from which any fluid milk products (as hereinafter defined) are disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area. "Supply plant" should be defined to mean a plant from which milk, skim milk, or cream which is acceptable to the appropriate health authorities for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant which is qualified as a pool plant.

As now provided in the order, a distributing plant may qualify as a pool plant by disposing of at least 20 percent of its Grade A receipts during the month as Class I milk on routes to retail or wholesale outlets in the marketing area. No evidence was presented to revise this requirement and this standard is appropriate for application in the proposed extended area.

The performance standards for supply plants to qualify for pool plant status should reflect the fact that currently the quantity of milk produced for the Black Hills market is adequate on an annual basis for the needs of the market. At times, especially during the months of seasonally high production, distributors in the market have not needed all the milk available from producers to keep their Class I outlets fully supplied. In order to insure that the producer milk which is pooled will be available for Class I and the plant supplying such milk is primarily associated with the market, supply plant standards should be set at levels which require that such milk will be available.

In order to qualify for pool plant status a supply plant should ship to distributing plants which are pool plants at least 50 percent of its receipts of milk from dairy farmers in the month in the form of supplemented supplies of fluid milk products. Unless more than half of the milk from such plant is disposed of in this manner a supply plant should not, under the present conditions in the Black Hills market, be considered as primarily associated with the regulated market.

It is recognized that if there is any demand for milk from supply plants it will be greatest during the season of low production. Under present conditions, however, during the months of flush production it is likely that supplies of milk received at plants in or near the marketing area will be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the country for manufacture and use local supplies for Class I use. The performance provisions should not force milk to be transported to distributing plants in the spring months of heavy production in order to maintain the eligibility of supply plants to pool.

To avoid this, provision should be made whereby a supply plant may maintain pool plant status during the months of heaviest production if it supplies a substantial portion of its producer milk to distributing plants during the months when milk production tends to be lowest. Accordingly, a supply plant which furnishes 50 percent of its receipts of "Grade A" milk directly from dairy farmers during the immediately preceding period of September through November to distributing plants which are pool plants should be allowed to attain automatic pool status for the months of March through June.

Any distributing plant which does not meet the standards for a pool plant is now required to file reports and submit to audits by the market administrator to verify the status of such plant.

3. It was proposed that the plant of a producer-handler from which more than an average of 400 pounds of milk daily is disposed of in the marketing area should be a pool plant. The order now exempts from pooling all milk produced on the farm of a producer-handler.

There are three producer-handlers in the area. The largest of these, Hooper Dairy, is located near Sturgis and distributes approximately 1,200 pounds of Grade A pasteurized milk daily in that city. From the Dale Farm Dairy, which is near Edgemont in Fall River County, approximately 60 to 80 gallons of Grade A raw milk are distributed daily. Relatively small quantities of milk are sold by the third producer-handler, who recently began making sales at his farm in the vicinity of the Ellsworth Air Base.

Proponents argued that producer-handlers have the benefit of a share of the Class I market without carrying their fair share of the burden of surplus for the market, but this was not shown in fact to be the case.

It was argued that unless the producer-handler definition is revised an additional number of producers would come on the market as producer-handlers, bringing about unstable and demoralized marketing conditions. It is not possible to justify this conclusion on the basis of the information contained in the hearing record.

In view of the above, it is concluded that no action should be taken at this time with respect to changing the producer-dealer definition in the order. Accordingly, the request therefor is denied.

4. Provision should be made for the classification and allocation of month end inventories of fluid milk products. Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. It has been the practice under the Black Hills order to classify in Class II the differences by which the pounds of butterfat and skim milk in fluid milk products at the end of the month exceed the inventories at the beginning of the month.

Inventories should include all the skim milk and butterfat in fluid milk products, whether in bulk or in packages. Since the disposition of skim milk and butterfat in non-fluid milk products had been accounted for when used to produce a manufactured dairy product (and classified as Class II milk), such skim milk and butterfat should not be included in inventories.

The accounting procedure will be facilitated by providing specifically that

month-end inventories of all fluid milk products be classified in Class II milk. Such inventories will be the beginning inventories the following month and subtracted from any available Class II milk under the allocation procedure prescribed on the order. The higher use value of any fluid milk products in inventory which are allocated to Class I milk in the following month should be reflected in returns to producers. The mechanics of the attached order provide for the reclassification of inventories on that basis. Inventories of fluid milk products at an approved plant at the beginning of any month during which such plant becomes a regulated plant for the first time should likewise be allocated to any available Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

5. Milk in packaged form from plants located at significant distances from the marketing area is distributed regularly in the proposed enlarged marketing area. Such distribution is made at various points in the marketing area from plants as far away as Denver, Colorado, which is 400 miles from Rapid City. In addition, such supplemental supplies of milk as might be needed by handlers on the market during periods of short supply would have to be obtained from sources located at substantial distances from the production area for the Black Hills market.

It would be neither practicable nor economically justifiable to require each handler to pay the same minimum class prices for milk received from producers regardless of the location of his plant in relation to the marketing area. With the same class prices applicable, milk received at a plant outside the marketing area and moved to the marketing area for processing and packaging may be expected to be more costly to a handler than milk received directly from producers at his processing plant in the marketing area. In the same manner, additional transportation costs would be incurred by the operator of a plant from which packaged milk is moved a relatively long distance to the marketing area. Unless provision is made in the order for the application of location differentials, producers delivering milk to plants located at some distance from the marketing area would be paid the same uniform prices as producers delivering to plants in the marketing area.

It is economically more feasible to meet the needs of the market for fluid purposes from those farms or plants nearest the market before bringing in milk from more distant plants. The value of milk to the market for fluid purposes is greater at the location of a plant in the marketing area which packages it for distribution than at a plant from which milk must be moved to the marketing area for Class I uses. Recognition in the order through the medium of a location differential should be given to this difference in value.

So as to be equitable to all handlers, the minimum Class I price to be paid for producer milk should not be dependent upon the type of plant receiving the milk. However, to the extent that milk is received elsewhere from producers and brought to the marketing area by a handler, the handler has assumed a transportation cost which might otherwise be borne by producers. Accordingly, the Class I price should be adjusted downward in the case of a plant which assumes the cost of hauling milk to the marketing area.

It is customary, in both regulated and unregulated markets, for handlers to pay producers delivering milk to plants farther removed from the market a lesser price per hundredweight than is paid producers delivering directly to plants in the marketing area. To the extent that this represents a lower price because of the location of the milk, such difference of value should be recognized under the order.

Official notice is here taken of Order No. 105, regulating the handling of milk in the North Central Iowa marketing area, which order became effective October 1, 1937 (22 F. R. 6235). The location differential in that order reduces the price for Class I milk received from producers at a pool plant located more than 50 miles from the four principal cities in the marketing area by 10 cents for the first 61 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearest of the city halls in such cities.

Rapid City, Lead, Hot Springs, and Custer are the principal cities in the Black Hills marketing area. The post office in each of these cities would be an appropriate point from which the mileage used in applying the location differential adjustment might be measured. Such differential should be computed from the nearest of such cities. This will reflect the value of the milk in relation to the nearest potential outlet and it may reasonably be expected that milk which is moved for regular distribution or as a supplementary source of supply would be nearer to the city to which the shipments were made. This method of arriving at location differential adjustments will result in values for milk at plants at different locations in such a manner as to promote the economical allocation of available supplies in accordance with location of such supplies with respect to the major consuming centers in the marketing area.

Because the Black Hills marketing area is spread over a relatively large territory and because milk distributed in the marketing area is moved great distances, it would be inappropriate to have location differentials applicable at plants which are less than 100 miles from any of the principal cities in the marketing area. Accordingly, it is concluded that the Class I price under the Black Hills order should be reduced by 15 cents for the first 110 miles and 1.5 cents for each additional 10 miles or fraction thereof with respect to producer milk received at a plant which is not less than 100 miles from the nearest of the post offices of Rapid City, Lead, Hot Springs and Custer.

The location differential here recommended is economically sound and will be applicable to all handlers wherever located. The proposed rates are fundamentally the same as those contained in various other orders and are representative of the cost of hauling milk by an efficient means to the market.

Prices paid producers supplying plants to which location differentials supply should be reduced to reflect the lower value of such milk f. o. b. the point to which delivered.

No adjustment should be made in the Class II price because of the location of the plant to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with location of the plant receiving the milk. This is because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices paid for ungraded milk received at various sections of the milkshed do not indicate any difference in value associated with location.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk by the most advantageous possible method. Prices paid producers for such milk should not be made dependent upon the method employed by the handler in disposing of such milk. To do otherwise would remove part of the incentive for keeping handling costs at a minimum. To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant before any of the direct producer receipts are assigned to Class II milk at such plant.

6. The compensatory payment rates now applicable to other source milk should not be changed at this time.

Different rates of compensatory payments are now applied to Class I milk distributed in the marketing area from a nonpool plant and to other source milk allocated to Class I at a pool plant. The rate used with respect to the latter is the difference between the Class I price and the Class II price for the months of April, May and June and the differences between the Class I price and "the weighted average value of all producer milk" in other months. When milk is distributed in the marketing area from a nonpool plant, the operator of such plant is required to pay the producer-settlement fund the lesser of either the difference between the Class I value and Class II value of such milk or an amount by which the value of milk received from dairy farmers at such plant (which value would be computed as if such plant were a pool plant) exceeds the gross payments made by the handler to such dairy farmers for milk received during the month.

It was proposed by producers that the compensatory payment rate on unpriced milk distributed in the marketing area from a nonpool plant be the same as the rate now applicable to other source milk allocated to Class I at a pool plant.

Milk which is processed and packaged by the Lucerne Milk Division of Safeway Stores in Denver, Colorado, approximately 400 miles from Rapid City, is distributed in the marketing area through stores in Rapid City, Belle Fourche and Deadwood. Since the overall payment to dairy farmers from whom this milk is received is greater than the value of such milk computed on the basis of the class prices under the order, no compensatory payment is required. Kilmer Dairy of Lusk, Wyoming, is the other nonpool plant from which packaged milk is distributed in the marketing area. This handler has incurred obligations to the producer-settlement fund under the compensatory payment provision of the order. It is expected, however, that with the expansion of the marketing area, as is recommended elsewhere in this decision, the Kilmer Dairy, by reason of its total sales in the enlarged marketing area, would be a pool plant and fully regulated by the order.

It was not established at the hearing that the basis which is now being used for determining the compensatory payment obligation of a nonpool distributor to the producer-settlement fund is inequitable to or works an unjustice on either pool plant or nonpool plant operators. Neither was it shown that, with the enlargement of the marketing area, such basis would work out differently than at present. A nonpool distributor is now required to pay the difference between the Class I and Class II prices on milk distributed in the marketing area or to pay for milk received from his Grade A producers an amount not less than that which he would be required to pay if he were operating a pool plant. In this manner, a handler who, by reason of his limited sales in the marketing area, is not sufficiently associated with the market to qualify as a pool plant must pay as much for his milk as a fully regulated handler or pay a compensatory payment. Accordingly, under the conditions which prevail in this market, the present provision removes any economic advantage either in the procurement of milk or on sales of milk in the marketing area which might otherwise accrue to partially regulated handlers as compared with fully regulated handlers.

Producers argued that compensatory payments should be required on all milk distributed in the marketing area from nonpool plants irrespective of such factors as the actual cost of milk to the nonpool handler and the expense incurred in transporting milk to the marketing area. Milk from plants making limited sales in the marketing area, it was stated, displaces the milk of local producers for Class I use, gives the handler operating such nonpool plant the benefit of the stable market provided by the order and supported by regulated handlers, and places such nonpool handler in an advantageous position as against fully regulated handlers, especially in periods of flush production, in bidding on governmental and other institutional contracts.

There are various factors involved in the marketing of milk in the Black Hills area to justify different rates of compensatory payments between milk distributed from a nonpool plant in the marketing area and other source milk allocated to Class I at a pool plant. A nonpool handler distributing milk on routes in the marketing area does not do so on a seasonal basis but carries on such business as a regular part of his distribution. Consequently, a source of supply must be maintained by such handler on a year-round basis. Likewise, he is precluded (the same as a regulated handler) by the compensatory payment provisions from supplying his regular customers or seasonal business in the marketing area during periods of flush production with surplus milk from other markets which might be available at manufacturing prices. Moreover, the quantity of milk such a distributor may dispose of on routes in the marketing area is limited, since increasing such sales to 20 percent of his receipts from dairy farmers would automatically subject him to full regulation under the order. As a further safeguard to all handlers, the records of any distributor who disposes of Class I milk in the marketing area are subject to audit by the market administrator.

In the decision of the Assistant Secretary issued on June 9, 1954 (19 F. R. 3468) which was based on the record of the Black Hills order promulgation hearing, it was concluded that no compensatory payment should be required on milk classified and priced as Class I milk under another Federal milk marketing order. Although producers proposed that such milk should now be subject to the compensatory payment provisions of the Black Hills order, in the same manner as milk emanating from unregulated plants, no evidence was presented to indicate that marketing conditions had changed or that any other event had occurred since the inception of the order which would warrant such action.

It is not necessary to extend regulation under this order to plants from which the principal disposition is in other areas and which are subject to regulation by other orders. To do so would subject such plants to duplicate regulation. However, in order that the market administrator may be fully apprised of the continuing status of such a plant, the operator thereof should, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, 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.

7. The entire order should be redrafted to incorporate conforming and clarifying changes and to facilitate application of its various provisions.

(a) In designating which persons would be subject to regulation and application of order provisions to them, new or revised definitions are provided in the attached order, including those for "approved plant," "approved dairy farmer," "producer," "fluid milk product," "approved milk," "producer milk," "other source milk," and "Chicago butter price". The definitions for "pool plant," "distributing plant," and "supply plant" are discussed elsewhere in this decision.

"Approved plant" should be defined as a pool plant or a distributing plant which is not a pool plant, thereby included in one designation all plants for which reports are required to be submitted to the market administrator.

"Approved dairy farmer" should mean any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at an approved plant or diverted from an approved plant to a nonpool plant.

"Producer" should mean an approved dairy farmer whose milk is received at a pool plant.

"Fluid milk product" should mean milk, skim milk, buttermilk, milk drinks (plain or flavored) cream or any mixture in fluid form of skim milk and cream (except aerated cream products, yogurt, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers). The items included as fluid milk products are those products which when disposed of by handlers are considered as Class I milk under the present order.

"Approved milk" should mean only that skim milk and butterfat contained in milk received at an approved plant directly from approved dairy farmers or diverted from an approved plant to a nonpool plant. Milk transferred to an approved plant from the plant of another handler should not be included in the approved milk definition. When receipts at a shipping plant are from approved dairy farmers and from other sources, the milk is intermingled and it cannot always be ascertained whether the milk being moved is that from approved dairy farmers, from other sources or a mixture of the two.

"Producer milk" should mean approved milk which is received at a pool plant.

"Other source milk" should be defined as all skim milk and butterfat contained in or represented by fluid milk products utilized by the handler in his operations except approved milk, fluid milk products received from pool plants, and inventory at the beginning of the month. Thus, other source milk would represent skim milk and butterfat which is not subject to the pricing provisions of this order during the month. It would include all milk products from plants other than pool plants and all manufactured dairy products from any source which are reprocessed or converted into another product during the month. It would include those manufactured products from a plant's own production which are made and are reprocessed or converted into another product during the same or a latter month.

"Chicago butter price" should mean the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92 score) bulk creamery butter at Chicago as reported during the month by the Department.

(b) It has been the practice in the market to classify in Class II skim milk "dumped" at pool plants. Most of such dumping has been by a cooperative association, the principal handler of surplus in the market. During June 1957, when the cooperative handled 570,000 pounds of milk in its plant, 240,000 pounds of skim milk were dumped because no nearby markets were available and it was not economically feasible to move the skim milk the long distances necessary to obtain an outlet.

Since the plants other than the cooperative associations operate only 5 or 6 days a week, the cooperative is required on the other days to handle the milk customarily received elsewhere. It is these irregular shipments that tax the facilities of the cooperative plant, necessitating the dumping of skim milk. Until the producer organization is able to handle the large quantities of skim milk for manufacturing in its own plant or procures a sales outlet for the skim from which it would realize some return, it may be expected that substantial quantities of skim milk will continue to be dumped.

It would not be practicable to permit in an unlimited manner the dumping of skim milk by pool plant handlers. Neither would it be appropriate to classify such skim milk, for which no better outlet is available, in other than Class II. Accordingly, the order should clearly specify a Class II classification for skim milk dumped, with a proviso that the market administrator be notified in advance and be afforded the opportunity to verify the dumping.

(c) One of the formulas used in determining the basic formula price, which is used in calculating the Black Hills order Class I price, is the average of the prices paid for milk received from dairy farmers at specified plants in Wisconsin and Michigan, known as the "Midwestern Condenseries." Of the 15 plants now listed in the order, these (Carnation Company, Berlin, Wisconsin; Carnation Company, Chilton, Wisconsin; and Pet Milk Company, Hudson, Michigan) are no longer in operation. Accordingly, only the 12 plants of the original Midwestern Condensery group now operating are listed in the attached proposed order as the plants whose prices paid to dairy farmers shall be used in determining the basic formula price under the order.

(d) Since production of some producers shipping by bulk tank is picked up at their farms on alternate days, the total number of deliveries from such farms is not more than 16 days in any month. Although the market administrator in computing the daily base of such producers has been considering the number of days on which milk was produced as the number of days of delivery, the order does not now prescribe that this procedure be followed. It was proposed by producers that the wording of the order be revised to provide that for the purpose of calculating the daily base of a producer the number of days of production included in his producer milk deliveries shall be considered the number of days on which milk was received at a pool plant. Since such a change will make unequivocal the intent of the order with respect to determining the daily base of any producer, provision therefor should be made in the order.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of certain interested parties in the market. These briefs and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions set forth in the briefs are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. (a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Black Hills, South Dakota marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

DEFINITIONS

§ 917.1 *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.)

§ 917.2 *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.

§ 917.3 *Department.* "Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 917.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 917.5 *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.

§ 917.6 *Black Hills, South Dakota, marketing area.* "Black Hills, South Dakota, marketing area", hereinafter called the "marketing area", means all of the territory within the boundaries of Custer, Fall River, Lawrence and Pennington Counties, the cities of Belle Fourche and Sturgis, the Ellsworth Air Base, and the Veterans' Administration Hospital at Fort Meade, all in the State of South Dakota, including territory within such boundaries which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions, or establishments.

§ 917.7 *Approved dairy farmer.* "Approved dairy farmer" means any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at an approved plant, or (b) diverted from an approved plant to a nonpool plant for the account of either the operator of the approved plant or a cooperative association: *Provided,* That milk diverted pursuant to this section shall be deemed to have been received at the location of the plant from which diverted.

§ 917.8 *Producer.* "Producer" means an approved dairy farmer whose milk is received at a pool plant.

§ 917.9 *Distributing plant.* "Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 917.10 *Supply plant.* "Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 917.12 (a).

§ 917.11 *Approved plant.* "Approved plant" means a pool plant or a distributing plant which is not a pool plant.

§ 917.12 *Pool plant.* "Pool plant" means:

(a) A distributing plant from which a volume of Class I milk equal to not less than 20 percent of the Grade A milk re-

ceived at such plant from producers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) in the marketing area.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March, April, May, or June to be designated a nonpool plant for such month and for each subsequent month through June of the same year.

§ 917.13 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 917.14 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of one or more distributing or supply plants.

(b) Any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

§ 917.15 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers.

§ 917.16 *Approved milk.* "Approved milk" means the skim milk and butterfat contained in milk (a) received at an approved plant directly from approved dairy farmers or (b) diverted from an approved plant to a nonpool plant in accordance with the conditions set forth in § 917.7.

§ 917.17 *Producer milk.* "Producer milk" means aproved milk which is received at a pool plant.

§ 917.18 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of milk, skim milk and cream (except ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

§ 917.19 *Other source milk.* "Other source milk" means all skim milk and buterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) approved milk, or (3) inventory at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 917.20 *Base milk.* "Base milk" means milk received at a pool plant from a producer during any of the months of January through June which is not in excess of the amount obtained in multiplying such producer's daily base by the number of days in such month.

§ 917.21 *Excess milk.* "Excess milk" means milk received at a pool plant from a producer during any of the months of January through June which is in excess of the base milk received from such producer during such month.

§ 917.22 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 917.25 *Designation.* The agency for the administration of this part 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.

§ 917.26 *Powers.* The market administrator shall have the following powers with respect to this part:

(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.

§ 917.27 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, 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 his 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 each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 917.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses 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 part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, the name of any person who within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 917.30 and 917.31, or payments pursuant to §§ 917.62, 917.80, 917.84, 917.86, and 917.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit 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, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 917.51 (a) and the Class I butterfat differential pursuant to § 917.52 (a), both for the current month; and the minimum price for Class II milk pursuant to § 917.51 (b) and the Class II butterfat differential pursuant to § 917.52 (b), both for the preceding month;

(2) The 10th day after the end of the months of July through December, the uniform price pursuant to § 917.72 and the producer butterfat differential pursuant to § 917.81; and

(3) The 10th day after the end of the months of January through June, the uniform price for base milk pursuant to § 917.73 and the butterfat differential pusuant to § 917.81.

REPORTS, RECORDS AND FACILITIES

§ 917.30 *Reports of receipts and utilization.* On or before the 5th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator for such month for each of his approved plants in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in or represented by receipts of milk from approved dairy farmers and the aggregate quantities of base and excess milk;

(b) The quantities of skim milk and butterfat contained in or represented by fluid milk products received from pool plants;

(c) The quantities of skim milk and butterfat contained in or represented by other source milk;

(d) The quantities of skim milk and butterfat contained in or represented by approved milk diverted to nonpool plants pursuant to § 917.7;

(e) Inventories of fluid milk products on hand at the beginning and end of the month;

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a

separate statement of the disposition of Class I milk outside the marketing area; and

(g) Such other information with respect to his receipts and utilization of butterfat and skim milk as the market administrator may prescribe.

§ 917.31 *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, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(1) His name and address,

(2) The total pounds of milk received from such producer including for the months of January through June, the total pounds of base and excess milk,

(3) The number of days, if less than the entire month, for which milk was received from such producer,

(4) The average butterfat content of such milk, and

(5) The net amount of such handler's payment together with the price paid and the amount and nature of any deductions.

§ 917.32 *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 together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream and other milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to approved dairy farmers and cooperative associations.

§ 917.33 *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 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 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

§ 917.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat which are required to be reported pursuant to § 917.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 917.41 through 917.46.

§ 917.41 *Classes of utilization.* Subject to the conditions set forth in § 917.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product (except as provided in paragraph (b) (2) and (3) of this section), and (2) not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than a fluid milk product, (2) disposed of and used for livestock feed, (3) contained in skim milk dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping, (4) contained in inventory of fluid milk products on hand at the end of the month, (5) in shrinkage allocated to receipts of approved milk (except milk diverted to a nonpool plant pursuant to § 917.7) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and (6) in shrinkage of other source milk.

§ 917.42 *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 contained in approved milk and in other source milk.

§ 917.43 *Responsibility of handlers and reclassification of milk.* 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.

§ 917.44 *Transfers.* Skim milk or butterfat disposed of each month from an approved plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to a pool plant unless utilization as Class II milk is claimed for both plants on the reports submitted for the month to the market administrator pursuant to § 917.30: *Provided,* That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 917.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *Provided further,* That if the transferor plant is a nonpool plant the skim milk or butterfat transferred shall be classified as Class I milk and as Class II milk in the same ratio as other source milk at the transferee plant is allocated to each class pursuant to § 917.46 (a) (2) and the corresponding step in paragraph (b) thereof: *And provided further,* That if other source milk was received at either or both plants the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk at both plants;

(b) As Class I milk, if transferred to a producer-handler in the form of a fluid milk product; and

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 917.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) An equivalent amount of skim milk and butterfat has been used at the nonpool plant during the month in the indicated utilization.

§ 917.43 *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 reports of receipts and utilization for each approved plant and shall compute the pounds of butterfat and skim milk in each class at each such plant: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be in an amount equivalent to the nonfat milk solids contained in such product, plus all of the water reasonably associated with such solids in the form of whole milk.

§ 917.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 917.45 the market administrator shall determine the classification of approved milk received at each approved plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to approved milk pursuant to § 917.41 (b) (5);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing provisions of another order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products;

(4) Subtract from the remaining pounds of skim milk in each class in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products which are subject to the Class I pricing provisions of another order issued pursuant to the act;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from pool plants according to the classification of such products as determined pursuant to § 917.44 (a);

(6) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month; and

(7) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph and if the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in approved milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount of excess so subtracted shall be called "overage".

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of approved milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 917.50 *Basic formula price.* The basic formula price shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section.

(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 milk plants for which prices have been reported to the Department.

Present Operator and Location

Borden Company, Mount Pleasant, Mich.
Carnation Company, Sparta, Mich.
Pet Milk Company, Wayland, Mich.
Pet Milk Company, Coopersville, Mich.
Borden Company, Orfordville, Wis.
Borden Company, New London, Wis.
Carnation Company, Richland Center, Wis.
Carnation Company, Oconomowoc, Wis.
Pet Milk Company, New Glarus, Wis.
Pet Milk Company, Belleville, Wis.
White House Milk Company, Manitowoc, Wis.
White House Milk Company, West Bend, Wis.

(b) The sum of the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1) Subtract 6.5 cents from the Chicago butter price for the month and multiply the remainder by 4.2.

(2) From the simple average, as computed by the market administrator of the arithmetical average of the carlot prices per pound of nonfat dry milk solids, spray and roller process for human consumption delivered at Chicago as reported for the month by the Department, subtract 6.5 cents and multiply the remainder by 7.913: *Provided,* That if the Department does not publish the above stated price for nonfat dry milk solids there shall be used in lieu thereof the price of nonfat dry milk solids, spray and roller process for human consumption, f. o. b. manufacturing plants in the Chicago area as published by the Department for the period from the 26th day of the preceding month through the 25th day of the current month.

§ 917.51 *Class prices.* Subject to the provisions of §§ 917.52 and 917.53 the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus $2.15.

(b) *Class II milk price.* The Class II milk price shall be the price computed pursuant to § 917.50 (b).

§ 917.52 *Butterfat differentials to handlers.* For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 917.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Add 4.3 cents to the butterfat differential computed pursuant to paragraph (b) of this section for the preceding month.

(b) *Class II price.* Subtract 6.5 cents from the Chicago butter price for the current month and multiply the remainder by 0.120.

§ 917.53 *Location differentials to handlers.* For that milk which is received from approved dairy farmers at an approved plant located 100 miles or more from the Post Offices of each of the cities of Rapid City, Lead, Hot Springs and Custer, South Dakota, by the shortest hard surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 917.11 (a) shall be reduced by 15 cents for the first 110 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearer of the Rapid City, Lead, Hot Springs and Custer Post Offices: *Provided,* That for the purpose of calculating the location differentials adjustment applicable pursuant to this section, fluid milk products which are transfered between approved plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 917.46 (a) (4) and the comparable steps in § 917.46 (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable to each plant, beginning with the plant having the largest differential.

§ 917.54 *Use of equivalent prices.* If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 917.60 *Producer-handler.* Sections 917.40 through 917.46, 917.50 through 917.53, 917.70 through 917.77 and 917.80 through 917.83 shall not apply to a producer-handler.

§ 917.61 *Plants subject to other Federal orders.* The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant is qualified as a pool plant pursuant to § 917.12 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Black Hills marketing area than in the marketing area regulated pursuant to such other order: *Provided,* That the operator of a distributing plant or a supply plant which is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 917.30) and allow verification of such reports by the market administrator.

§ 917.62 *Handlers operating nonpool plants.* Unless payment for approved milk at such plant is made pursuant to § 917.80 (b), each handler in his capacity as the operator of a nonpool plant shall, on or before the 10th day after the end of each month pay to the market administrator for deposit into the producer-settlement fund an amount obtained by subtracting from the value, at the Class I price pursuant to § 917.51 (a), of the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by vendors and plant stores) in the marketing area during the month, the value of such skim milk and butterfat at the Class II price pursuant to § 917.51 (b).

§ 917.63 *Rate of payment on unpriced milk.* The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I milk shall be any plus amount obtained by subtracting from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant supplying such other source milk:

(a) During the months of April, May and June, the Class II price adjusted by the Class II butterfat differential; and

(b) During the months of July through March, the uniform price pursuant to §§ 917.72 and 917.73, adjusted by the Class I butterfat differential.

DETERMINATION OF UNIFORM PRICE

§ 917.70 *Computation of value of milk at each approved plant.* The value of approved milk received during each month at each approved plant shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 917.46 (a) (7) and the corresponding step of § 917.46 (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of (1) the hundredweight of approved milk classified in Class II less shrinkage during the preceding month or (2) the hundredweight of milk subtracted from Class I pursuant to § 917.46 (a) (6) and the corresponding step of § 917.46 (b);

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 917.46 (a) (2) and (3) and the corresponding step of § 917.46 (b) by the rate of payment on unpriced milk determined pursuant to § 917.63 at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided*, That if the source of any such fluid milk product received at an approved plant is not clearly established, or if such skim milk and butterfat is received or used in a form other than a fluid milk product, such product shall be considered to have been received from a source at the location of the approved plant where it is classified.

§ 917.71 *Computation of aggregate value used to determine uniform price.* For each month the market administrator shall compute an aggregate value from which to determine uniform prices per hundredweight for producer milk of 3.5 percent butterfat content, f. o. b. plants located within 100 miles of the Post Offices of Rapid City, Lead, Hot Spring, and Custer, South Dakota, as follows:

(a) Combine into one total the value computed pursuant to § 917.70 for all pool plants for which the reports prescribed in § 917.30 for such month were made, except those in default of payments required pursuant to § 917.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the hundredweight of such producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 917.82; and

(d) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund.

§ 917.72 *Computation of uniform price.* For each of the months of July through December, the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f. o. b. pool plants located within 100 miles of the Post Offices of Rapid City, Lead, Hot Springs, and Custer, South Dakota, as follows:

(a) Divide the aggregate value computed pursuant to § 917.71 by the total hundredweight of producer milk included in such computations; and

(b) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (a) of this section. The resulting figure shall be the uniform price for producer milk.

§ 917.73 *Computation of uniform price for base milk.* For each of the months of January through June, the market administrator shall compute the uniform price per hundredweight for base milk of 3.5 percent butterfat content f. o. b. pool plants located within 100 miles of the Post Offices of Rapid City, Lead, Hot Springs, and Custer, South Dakota, as follows:

(a) From the reports submitted by handlers pursuant to § 917.30 determine the aggregate classification of producer milk included in the computation of value pursuant to § 917.71 and the total hundredweight of such milk which is base milk and which is excess milk;

(b) Subtract from the aggregate value computed pursuant to § 917.71 the amount obtained by multiplying the hundredweight of such excess milk by the price for Class II milk of 3.5 percent butterfat content;

(c) Divide the remainder by the hundredweight of base milk; and

(d) Subtract not less than 4 cents nor more than 5 cents from the price thus computed. The resulting figure shall be the uniform price for base milk.

§ 917.74 *Notification of handlers.* On or before the 9th day of each month the market administrator shall notify each handler with respect to each of his pool plants:

(a) The amount and value of milk in each class computed pursuant to §§ 917.46 and 917.70 and the totals of such amounts and values;

(b) The uniform price computed pursuant to § 917.72 or § 917.73, whichever is applicable;

(c) The amount due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 917.80 and 917.84; and

(e) The amount to be paid by such handler pursuant to § 917.88.

DETERMINATION OF BASE

§ 917.75 *Daily base.* The daily base for each producer shall be determined by the market administrator and shall be the amount obtained by dividing the total pounds of producer milk received from such producer at all pool plants during the months of July through December immediately preceding by the number of days on which such milk is received from such producer: *Provided*, That for the purpose of calculating the daily base of a producer pursuant to this section, the number of days of production included in his producer milk deliveries shall be the number of days on which milk is received at a pool plant: *Provided further*, That if no milk is received from a producer at a pool plant during the months of July through December or if milk is received on less than 120 days during such months, the daily base of such producer shall be calculated for each of the months of January through June by dividing the pounds of producer milk received from such producer during the month by the number of days in such month and multiplying the quotient by the following percentages: January and February, 60; March and April, 50; and May and June, 40; *And provided further*, That any producer for whom a daily base has been established pursuant to this section based on deliveries of 120 days or more during the preceding months of July through December may, in lieu thereof, by notifying the market administrator prior to January 31, be accorded a daily base calculated pursuant to the immediately preceding proviso of this section.

§ 917.76 *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 prior to the last day of the month in which such base is to be transferred to the person named in such notice and only under the following conditions:

(1) In the event of the death, retirement, or entry into the military service of a producer, the entire base may be transferred to a member of such producer's immediate family who carries on the dairy operation.

(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.

§ 917.77 *Announcement of established bases.* The market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by the producer.

PAYMENT FOR MILK

§ 917.80 *Time and method of payment.* On or before the 12th day after the end of each month during which milk is received, each handler shall make payment as follows:

(a) To each producer for milk received from him at a pool plant and for which payment is not made to a cooperative association pursuant to paragraph (c) of this section at not less than the following prices subject to the butterfat differentials computed pursuant to § 917.81:

(1) For all milk that is not excess milk, the uniform price pursuant to §§ 917.72 and 917.73, less location differential deductions pursuant to § 917.82; and

(2) For excess milk, the price for Class II milk of 3.5 percent butterfat content.

(b) To each approved dairy farmer for milk received from him at an approved plant which is a nonpool plant and for which payment is not made to a cooperative association pursuant to paragraph (c) of this section, at not less than the price per hundredweight, adjusted by

the butterfat differential pursuant to § 917.81, obtained by dividing the value of approved milk at such plant computed pursuant by § 917.70 by the hundredweight of approved milk at such plant: *Provided,* That if the total amount paid to such approved dairy farmers is less than that prescribed by this paragraph, payment of the difference shall be made to the producer-settlement fund: *And provided further,* That this paragraph shall not be applicable to approved milk received at an approved plant which is a nonpool plant in any month for which the handler operating such plant makes payment to the producer-settlement fund pursuant to § 917.62 on Class I milk disposed of in the marketing area from such plant.

(c) To a cooperative association for approved milk which it caused to be delivered to such handler if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such approved milk.

§ 917.81 *Butterfat differentials to producers.* The price to be paid each producer shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, at the rate, rounded to the nearest cent, of 0.120 times the Chicago butter price.

§ 917.82 *Location differentials to producers.* The uniform price to be paid producers for milk received at a pool plant located 100 miles or more from the post offices of Rapid City, Lead, Hot Springs, and Custer, South Dakota, by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced by 15 cents for the first 110 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearer of the post offices of Rapid City, Lead, Hot Springs, and Custer, South Dakota.

§ 917.83 *Producer-settlement fund.* The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund and out of which he shall make all payments from such fund pursuant to §§ 917.62, 917.80, 917.84, 917.85, and 917.86; Provided, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 917.84 *Payments to the producer-settlement fund.* On or before the 10th day after the end of each month each handler shall pay to the market administrator the amount by which the obligation pursuant to § 917.80 of such handler to producers for milk received at a pool plant during the month is less than the value of such producer milk pursuant to § 917.70.

§ 917.85 *Payments out of the producer-settlement fund.* On or before the 10th day after the end of each month the market administrator shall pay to each handler the amount by which the obligation, pursuant to § 917.80, of such handler to producers for milk received at a pool plant during the month exceeds the value of such producer milk pursuant to § 917.70.

§ 917.86 *Adjustment of accounts.* Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 917.84 and 917.85, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall within 5 days, make such payment to such handler.

§ 917.87 *Adjustment of errors in payments to producers.* Whenever verification by the market administrator of the payments by a handler to any approved dairy farmer or cooperative association, discloses payment of less than is required by § 917.80 the handler shall make up such payment to the approved dairy farmer or cooperative association not later than the time of making payments next following such disclosure.

§ 917.88 *Expense of administration.* As his pro rata share of the expenses of the administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of each month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to butterfat, and skim milk contained in (a) producer milk received at a pool plant, (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 917.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant.

§ 917.89 *Termination of obligations.* The provisions of this section shall apply to any obligation 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 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 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, 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.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 917.90 *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 § 917.91.

§ 917.91 *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.

§ 917.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations under this subpart 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.

§ 917.93 *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

§ 917.94 *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.

§ 917.95 *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.

Issued at Washington, D. C., this 3rd day of December, 1957.

[SEAL] FRANK E. BLOOD,
Acting Deputy Administrator.

[F. R. Doc. 57-10120; Filed, Dec. 5, 1957; 8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 526]

INDUSTRIES OF A SEASONAL NATURE

NOTICE OF PROPOSED AMENDMENT OF DETERMINATION THAT PACKING, HANDLING, PREPARING IN THEIR RAW OR NATURAL STATE OF FRESH FRUITS AND VEGETABLES IS PART OF AN INDUSTRY OF A SEASONAL NATURE

On August 24, 1940 (5 F. R. 3167), the Administrator of the Wage and Hour Division issued a determination that the packing, handling, and preparing in their raw or natural state of perishable or seasonal fresh fruits and vegetables is a part of an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act of 1938 (52 Stat. 1063, as amended; 29 U. S. C. 207 (b) (3)).

It has been the Administrator's position that this determination applies to the packing, handling, and preparing of perishable or seasonal fresh fruits and vegetables when associated with the assembling of these commodities. The determination thus applies to the packing, handling, and preparing of fresh fruits and vegetables at packing houses; to handling and preparing preceding the entry of fresh fruits and vegetables into packing houses and processing plants and, with respect to farm-packed produce, to handling and preparing at the packing houses and at shipping sheds or platforms which, except for packing the commodities, perform the same function in assembling the fruits and vegetables as packing houses. The determination has not been considered applicable to essentially distributive functions, including the repacking of fresh fruits and vegetables.

In order to avoid any misunderstanding as to the scope of the determination of August 24, 1940, it should be amended to more clearly express the Administrator's longstanding interpretation. Accordingly, notice is hereby given that pursuant to the authority provided in section 7 (b) (3) of the Fair Labor Standards Act of 1938 (52 Stat. 1063, as amended; 29 U. S. C. 207 (b) (3)), Reorganization Plan No. 6 of 1950 (3 CFR 1950 Supp., p. 165), General Order No. 45–A (15 F. R. 3290), General Order No. 85–A (22 F. R. 7614), and § 526.5 (b) of Title 29, Code of Federal Regulations, the Administrator proposes to amend paragraph 3 of the determination of August 24, 1940 (5 F. R. 3167) by adding at the end thereof the following:

As used in this determination packing, handling, and preparing in their raw or natural state of perishable or seasonal fresh fruits and vegetables means these operations when associated with the assembling of these commodities, including packing, handling, and preparing at packing houses, handling, and preparing preceding the entry of the commodities into packing houses and processing plants, and handling and preparing of farm-packed produce at packing houses and at shipping sheds or platforms which, except for packing the commodities, perform the same function as packing houses. The operations of packing, handling, and preparing are not included in the determination when they are performed as essentially distributive functions. The term "distributive functions" includes wholesaling, repacking and in-transit handling after the commodities have left the packing houses and shipping sheds or platforms referred to above.

Prior to final adoption of this proposed amendment, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Acting Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., on or before the 20th day of December 1957.

Signed at Washington, D. C., this 2nd day of December 1957.

[SEAL] CLARENCE T. LUNDQUIST,
Acting Administrator.

[F. R. Doc. 57-10088; Filed, Dec. 5, 1957; 8:45 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification 47]

NEW MEXICO

SMALL TRACT CLASSIFICATION

NOVEMBER 27, 1957.

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F. R. 2473), I hereby classify the following described public lands totalling 800 acres in San Juan County, New Mexico as suitable for public sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a) as amended:

NEW MEXICO PRINCIPAL MERIDIAN

T. 30 N., R. 13 W.,
Sec. 26, All;
Sec. 34, N½NE¼;
Sec. 35, W½NW¼.

2. Classification of the above described lands by this order segregates them from all forms of appropriation, including location under the mining laws, except application under the mineral leasing laws.

3. The lands are located one mile north of the City of Farmington and are accessible by primitive roads. The topography is moderately rolling and undulating to extremely rough and hilly. Several large arroyas traverse the area. The soils are predominantly sandy loam and contain considerable rock. The sandstone is exposed over large areas. Vegetation consists chiefly of scrub pinon, juniper trees, brush, and some galleta grass. The climate is mild and semi-arid, the annual precipitation is 9 inches, and the average yearly temperature is 52°. The elevation is approximately 5600'. Utilities may be provided from the City of Farmington, or if not, the purchasers will have to provide utilities for themselves. Business, educational, religious and recreational facilities are available in the City of Farmington, New Mexico.

4. Each of the tracts, numbered 1 through 322 for reference purposes only, contain 2.5 acres, more or less. The fair market value of the tracts, the reference number, and legal description are shown below. The tracts will be subject to all rights-of-way of record, and an additional floating right-of-way 33' in width will be reserved from each tract. The floating right-of-way is to be located by the purchaser of the tract as feasible to provide for roads, utility lines, etc. These floating rights-of-way are necessary as the lands are rough and rights-of-way could not always follow along the outer boundaries of the tracts. All minerals will be reserved by the United States.

T. 30 N., R. 13 W., N. M. P. M., Sec. 26

Tract No.	Legal description	Purchase price
1	NE¼NE¼NE¼NE¼	$375
2	SE¼NE¼NE¼NE¼	375
3	NE¼SE¼NE¼NE¼	375
4	SE¼SE¼NE¼NE¼	375
5	NE¼NE¼SE¼NE¼	375
6	SE¼NE¼SE¼NE¼	375
7	NE¼SE¼SE¼NE¼	375
8	SE¼SE¼SE¼NE¼	375
9	NE¼NE¼NE¼SE¼	375
10	SE¼NE¼NE¼SE¼	375
11	NE¼SE¼NE¼SE¼	375
12	SE¼SE¼NE¼SE¼	375
13	NE¼NE¼SE¼SE¼	375
14	SE¼NE¼SE¼SE¼	375
15	NE¼SE¼SE¼SE¼	375
16	SE¼SE¼SE¼SE¼	375
19	SW¼NE¼SE¼SE¼	375
22	NW¼SE¼NE¼SE¼	375
23	SW¼NE¼NE¼SE¼	375
24	NW¼NE¼NE¼SE¼	375
25	SW¼SE¼SE¼NE¼	375
27	SW¼NE¼SE¼NE¼	375
29	SW¼SE¼NE¼NE¼	375
30	NW¼SE¼NE¼NE¼	375
31	SW¼NE¼NE¼NE¼	375
32	NW¼NE¼NE¼NE¼	375
33	NE¼NW¼NE¼NE¼	375
34	SE¼NW¼NE¼NE¼	375
35	NE¼SW¼NE¼NE¼	375
36	SE¼SW¼NE¼NE¼	375
37	NE¼NW¼SE¼NE¼	375
38	SE¼NW¼SE¼NE¼	375
39	NE¼SW¼SE¼NE¼	375
40	SE¼SW¼SE¼NE¼	375
41	NE¼NW¼NE¼SE¼	375
42	SE¼NW¼NE¼SE¼	375
43	NE¼SW¼NE¼SE¼	375
44	SE¼SW¼NE¼SE¼	375
45	NE¼NW¼SE¼SE¼	375
46	SE¼NW¼SE¼SE¼	375
47	NE¼SW¼SE¼SE¼	375
48	SE¼SW¼SE¼SE¼	375
52	NW¼NW¼SE¼SE¼	375
53	SW¼NW¼NE¼SE¼	375
54	NW¼SW¼NE¼SE¼	375
106	SE¼NW¼NW¼SE¼	375
56	NW¼NW¼NE¼SE¼	375
60	NW¼NW¼SE¼NE¼	375
61	SW¼SW¼NE¼NE¼	375
62	NW¼SW¼NE¼NE¼	375
63	SW¼NW¼NE¼NE¼	375
64	NW¼NW¼NE¼NE¼	375
65	NE¼NE¼NW¼NE¼	375
73	NE¼NE¼NW¼SE¼	375
74	SE¼NE¼NW¼SE¼	375
75	NE¼SE¼NW¼SE¼	375
76	SE¼SE¼NW¼SE¼	375
81	SW¼SE¼SW¼SE¼	500
82	NW¼SE¼SW¼SE¼	500
83	SW¼NE¼SW¼SE¼	500
84	NW¼NE¼SW¼SE¼	500
85	SW¼SE¼NW¼SE¼	375
86	NW¼SE¼NW¼SE¼	375
87	SW¼NE¼NW¼SE¼	375
88	NW¼NE¼NW¼SE¼	375
89	SW¼SE¼SW¼NE¼	375
90	NW¼SE¼SW¼NE¼	375
50	NW¼SW¼SE¼SE¼	375
91	SW¼NE¼SW¼NE¼	375
92	NW¼NE¼SW¼NE¼	375
93	SW¼SE¼NW¼NE¼	375
94	NW¼SE¼NW¼NE¼	375
95	SW¼NE¼NW¼NE¼	375
96	NW¼NE¼NW¼NE¼	375
97	NE¼NW¼NW¼NE¼	375
99	NE¼SW¼NW¼NE¼	375
104	SE¼SW¼SW¼NE¼	375
108	SE¼SW¼NW¼SE¼	375
109	NE¼NW¼SW¼SE¼	500
110	SE¼NW¼SW¼SE¼	500
114	NW¼SW¼SW¼SE¼	500
115	SW¼NW¼SW¼SE¼	500
116	NW¼NW¼SW¼SE¼	500
117	SW¼SW¼NW¼SE¼	375
118	NW¼SW¼NW¼SE¼	375
119	SW¼NW¼NW¼SE¼	375
120	NW¼NW¼NW¼SE¼	375
121	SW¼SW¼SW¼NE¼	375
122	NW¼SW¼SW¼NE¼	375
123	SW¼NW¼SW¼NE¼	375
124	NW¼NW¼SW¼NE¼	375
125	SW¼SW¼NW¼NE¼	375
126	NW¼SW¼NW¼NE¼	375
127	SW¼NW¼NW¼NE¼	375
128	NW¼NW¼NW¼NE¼	375
129	NE¼NE¼NE¼NW¼	375
130	SE¼NE¼NE¼NW¼	375
131	NE¼SE¼NE¼NW¼	375
132	SE¼SE¼NE¼NW¼	375
133	NE¼NE¼SE¼NW¼	375
134	SE¼NE¼SE¼NW¼	375
135	NE¼SE¼SE¼NW¼	375
136	SE¼SE¼SE¼NW¼	375
137	NE¼NE¼NE¼SW¼	375
138	SE¼NE¼NE¼SW¼	375
139	NE¼SE¼NE¼SW¼	375
140	SE¼SE¼NE¼SW¼	375
141	NE¼NE¼SE¼SW¼	375
142	SE¼NE¼SE¼SW¼	375

T. 30 N., R. 13 W., N. M. P. M., Sec. 26—Con.

Tract No.	Legal description	Purchase price
144	SE¼SE¼SE¼SW¼	$500
148	NW¼NE¼SE¼SW¼	375
149	SW¼SE¼NE¼SW¼	375
154	NW¼SE¼SE¼NW¼	375
155	SW¼NE¼SE¼NW¼	375
28	NW¼NE¼SE¼NE¼	375
157	SW¼SE¼NE¼NW¼	375
158	NW¼SE¼NE¼NW¼	375
160	NW¼NE¼NE¼NW¼	375
161	NE¼NW¼NE¼NW¼	375
162	SE¼NW¼NE¼NW¼	375
163	NE¼SW¼NE¼NW¼	375
164	SE¼SW¼NE¼NW¼	375
165	NE¼NW¼SE¼NW¼	375
166	SE¼NW¼SE¼NW¼	375
167	NE¼SW¼SE¼NW¼	375
168	SE¼SW¼SE¼NW¼	375
169	NE¼NW¼NE¼SW¼	375
170	SE¼NW¼NE¼SW¼	375
171	NE¼SW¼NE¼SW¼	375
172	SE¼SW¼NE¼SW¼	375
173	NE¼NW¼SE¼SW¼	375
174	SE¼NW¼SE¼SW¼	375
175	NE¼SW¼SE¼SW¼	500
176	SE¼SW¼SE¼SW¼	500
181	SW¼SW¼NE¼SW¼	375
187	SW¼NW¼SE¼NW¼	375
191	SW¼NW¼NE¼NW¼	375
192	NW¼NW¼NE¼NW¼	375
193	NE¼NE¼NW¼NW¼	375
194	SE¼NE¼NW¼NW¼	375
195	NE¼SE¼NW¼NW¼	375
196	SE¼SE¼NW¼NW¼	375
197	NE¼NE¼SW¼NW¼	375
198	SE¼NE¼SW¼NW¼	375
199	NE¼SE¼SW¼NW¼	375
200	SE¼SE¼SW¼NW¼	375
201	NE¼NE¼NW¼SW¼	375
202	SE¼NE¼NW¼SW¼	375
203	NE¼SE¼NW¼SW¼	375
205	NE¼NE¼SW¼SW¼	500
206	SE¼NE¼SW¼SW¼	500
207	NE¼SE¼SW¼SW¼	500
208	SE¼SE¼SW¼SW¼	500
210	NW¼SE¼SW¼SW¼	500
221	SW¼SE¼NW¼NW¼	375
222	NW¼SE¼NW¼NW¼	375
223	SW¼NE¼NW¼NW¼	375
224	NW¼NE¼NW¼NW¼	375
225	NE¼NW¼NW¼NW¼	375
226	SE¼NW¼NW¼NW¼	375
227	NE¼SW¼NW¼NW¼	375
228	SE¼SW¼NW¼NW¼	375
229	NE¼NW¼SW¼NW¼	375
231	NE¼SW¼SW¼NW¼	375
232	SE¼SW¼SW¼NW¼	375
233	NE¼NW¼NW¼SW¼	375
234	SE¼NW¼NW¼SW¼	375
241	SW¼SW¼SW¼SW¼	500
242	NW¼SW¼SW¼SW¼	500
243	SW¼NW¼SW¼SW¼	500
244	NW¼NW¼SW¼SW¼	500
245	SW¼SW¼NW¼SW¼	375
246	NW¼SW¼NW¼SW¼	375
247	SW¼NW¼NW¼SW¼	375
248	NW¼NW¼NW¼SW¼	375
249	SW¼SW¼SW¼NW¼	375
250	NW¼SW¼SW¼NW¼	375
251	SW¼NW¼SW¼NW¼	375
252	NW¼NW¼SW¼NW¼	375
253	SW¼SW¼NW¼NW¼	375
254	NW¼SW¼NW¼NW¼	375
255	SW¼NW¼NW¼NW¼	375
256	NW¼NW¼NW¼NW¼	375

T. 30 N., R. 13 W., N. M. P. M., Sec. 34

Tract No.	Legal description	Purchase price
257	NE¼NE¼NE¼NE¼	$500
258	SE¼NE¼NE¼NE¼	500
259	NE¼SE¼NE¼NE¼	500
260	SE¼SE¼NE¼NE¼	500
270	SW¼SW¼NE¼NE¼	500
271	NW¼SW¼NE¼NE¼	500
272	SW¼NW¼NE¼NE¼	500
273	NW¼NW¼NE¼NE¼	500
278	SW¼SE¼NW¼NE¼	500
279	NW¼SE¼NW¼NE¼	500
280	SW¼NE¼NW¼NE¼	500
281	NW¼NE¼NW¼NE¼	500
287	SW¼SW¼NW¼NE¼	500
288	NW¼SW¼NW¼NE¼	500
289	SW¼NW¼NW¼NE¼	500
290	NW¼NW¼NW¼NE¼	500

T. 30 N., R. 13 W., N. M. P. M., Sec. 35

Tract No.	Legal description	Purchase price
291	NE¼NE¼NW¼NW¼	$500
292	SE¼NE¼NW¼NW¼	500
293	NE¼SE¼NW¼NW¼	500
294	SE¼SE¼NW¼NW¼	500
295	NE¼NE¼SW¼NW¼	500
296	SE¼NE¼SW¼NW¼	500
297	NE¼SE¼SW¼NW¼	500
298	SE¼SE¼SW¼NW¼	500

T. 30 N., R. 13 W., N. M. P. M., Sec. 35—Con.

Tract No.	Legal description	Purchase price
307	NE¼NW¼NW¼NW¼	$500
308	SE¼NW¼NW¼NW¼	500
309	NE¼SW¼NW¼NW¼	500
310	SE¼SW¼NW¼NW¼	500
311	NE¼NW¼SW¼NW¼	500
312	SE¼NW¼SW¼NW¼	500
313	NE¼SW¼SW¼NW¼	500
314	SE¼SW¼SW¼NW¼	500

The following described tracts are under application from individuals having statutory preference under 43 CFR 257.5 (a):

T. 30 N., R. 13 W., N. M. P. M., Sec. 26

Tract No.	Legal description	Purchase price
236	SE¼SW¼NW¼SW¼	$375
235	NE¼SW¼NW¼SW¼	375
237	NE¼NW¼SW¼SW¼	500
238	SE¼NW¼SW¼SW¼	500
239	NE¼SW¼SW¼SW¼	500
240	SE¼SW¼SW¼SW¼	500
180	NW¼NW¼SE¼SW¼	375
230	SE¼NW¼SW¼NW¼	375
215	SW¼NE¼NW¼SW¼	375
20	NW¼NE¼SE¼SE¼	375
57	SW¼SW¼SE¼NE¼	375
59	SW¼NW¼SE¼NE¼	375
58	NW¼SW¼SE¼NE¼	375
184	NW¼NW¼NE¼SW¼	375
182	NW¼SW¼NE¼SW¼	375
218	NW¼SE¼SW¼NW¼	375
216	NW¼NE¼NW¼SW¼	375
151	SW¼NE¼NE¼SW¼	375
143	NE¼SE¼SE¼SW¼	500
150	NW¼SE¼NE¼SW¼	375
183	SW¼NW¼NE¼SW¼	375
178	NW¼SW¼SE¼SW¼	500
217	SW¼SE¼SW¼NW¼	375
66	SE¼NE¼NW¼NE¼	375
212	NW¼NE¼SW¼SW¼	500
153	SW¼SE¼SE¼NW¼	375
69	NE¼NE¼SW¼NE¼	375
111	NE¼SW¼SW¼SE¼	500
55	SW¼NW¼NE¼SE¼	375
185	SW¼SW¼SE¼NW¼	375
214	NW¼SE¼NW¼SW¼	375
105	NE¼NW¼NW¼SE¼	375
72	SE¼SE¼SW¼NE¼	375
152	NW¼NE¼NE¼SW¼	375
70	SE¼NE¼SW¼NE¼	375
71	NE¼SE¼SW¼NE¼	375
26	NW¼SE¼SE¼NE¼	375
100	SE¼SW¼NW¼NE¼	375
156	NW¼NE¼SE¼NW¼	375
98	SE¼NW¼NW¼NE¼	375
159	SW¼NE¼NE¼NW¼	375
177	SW¼SW¼SE¼SW¼	500
80	SE¼SE¼SW¼SE¼	500
49	SW¼SW¼SE¼SE¼	375
17	SW¼SE¼SE¼SE¼	375
145	SW¼SE¼SE¼SW¼	500
78	SE¼NE¼SW¼SE¼	500
77	NE¼NE¼SW¼SE¼	500
211	SW¼NE¼SW¼SW¼	500
209	SW¼SE¼SW¼SW¼	500
79	NE¼SE¼SW¼SE¼	500
179	SW¼NW¼SE¼SW¼	375
146	NW¼SE¼SE¼SW¼	500
102	SE¼NW¼SW¼NE¼	375
68	SE¼SE¼NW¼NE¼	375
51	SW¼NW¼SE¼SE¼	375
147	SW¼NE¼SE¼SW¼	375
101	NE¼NW¼SW¼NE¼	375
67	NE¼SE¼NW¼NE¼	375
18	NW¼SE¼SE¼SE¼	375
103	NE¼SW¼SW¼NE¼	375
186	NW¼SW¼SE¼NW¼	375
219	SW¼NE¼SW¼NW¼	375
188	NW¼NW¼SE¼NW¼	375
190	NW¼SW¼NE¼NW¼	375
220	NW¼NE¼SW¼NW¼	375
107	NE¼SW¼NW¼SE¼	375
189	SW¼SW¼NE¼NW¼	375
21	SW¼SE¼NE¼SE¼	375
213	SW¼SE¼NW¼SW¼	375
204	SE¼SE¼NW¼SW¼	375

T. 30 N., R. 13 W., N. M. P. M., Sec. 34

Tract No.	Legal description	Purchase price
283	NE¼NW¼NW¼NE¼	$500
284	SE¼NW¼NW¼NE¼	500
285	NE¼SW¼NW¼NE¼	500
286	SE¼SW¼NW¼NE¼	500
274	NE¼NE¼NW¼NE¼	500
275	SE¼NE¼NW¼NE¼	500
276	NE¼SE¼NW¼NE¼	500
277	SE¼SE¼NW¼NE¼	500
265	NE¼NW¼NE¼NE¼	500

T. 30 N., R. 13 W., N. M. P. M., Sec. 34—Con.

Tract No.	Legal description	Purchase price
266	SE¼NW¼NE¼NE¼	$500
267	NE¼SW¼NE¼NE¼	500
268	SE¼SW¼NE¼NE¼	500
264	NW¼NE¼NE¼NE¼	500
263	SW¼NE¼NE¼NE¼	500
262	NW¼SE¼NE¼NE¼	500
261	SW¼SE¼NE¼NE¼	500

T. 30 N., R. 13 W., N. M. P. M., Sec. 35

304	NW¼SE¼NW¼NW¼	$500
306	NW¼NE¼NW¼NW¼	500
317	SW¼NW¼SW¼NW¼	500
302	NW¼NE¼SW¼NW¼	500
315	SW¼SW¼SW¼NW¼	500
299	SW¼SE¼SW¼NW¼	500
300	NW¼SE¼SW¼NW¼	500
305	SW¼NE¼NW¼NW¼	500
303	SW¼SE¼NW¼NW¼	500
316	NW¼SW¼SW¼NW¼	500
318	NW¼NW¼SW¼NW¼	500
319	SW¼SW¼NW¼NW¼	500
301	SW¼NE¼SW¼NW¼	500
321	SW¼NW¼NW¼NW¼	500
320	NW¼SW¼NW¼NW¼	500
322	NW¼NW¼NW¼NW¼	500

5. Persons who have previously acquired a tract under the Small Tract Act are not qualified to secure a tract at the sale unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

6. The above described tracts, except as to those for which statutory preference claimants exercise their rights, will be sold at public auction at a public sale to be held at the City Hall in the Public Meeting Room, Farmington, New Mexico, at 10:30 a. m., March 18 through March 20, 1958. Bids may be made personally by the applicant or his agent at the sale or may be mailed. Bids sent by mail will be considered only if received at the Santa Fe Land Office prior to 3:00 p. m. March 14, 1958 and at the Farmington District Grazing Office prior to 10:00 a. m. March 18, 1958. No bid will be accepted if it is less than the appraised value of the tract. See paragraph 4 for appraised values.

7. Each bid sent by mail must clearly show (a) the name and post office address of the bidder, (b) Classification No. 47, (c) the land description of the tract for which the bid is made, described in accordance with paragraph 4 of this order, (d) whether the bidder is entitled to veterans' preference in accordance with paragraph 8 of this order. Each bid must be accompanied by the full amount bid in the form of a certified or cashier's check, post office money order, or bank draft made payable to the Bureau of Land Management. Each bid must be enclosed in a separate envelope but payment need only accompany the highest bid, provided all other bids designate the envelope containing the payment. Each envelope must carry on its reverse the following information and nothing else: (a) "Classification No. 47," (b) Veterans' Preference, if the bidder is entitled to veterans' preference in accordance with paragraph 8, and (c) the description of the tract for which the bid is made, described in accordance with paragraph 4 of this order.

8. All valid applications filed in Section 34 prior to August 30, 1956 and valid applications filed in Sections 26 and 35 filed prior to October 23, 1956, will be granted the preference rights provided for by 43 CFR 257.5 (a). In accordance with 43 CFR 257.14 (e), each tract will be awarded to the highest bidder among persons entitled to veterans' preference, and if there be none, to the highest bidder among nonpreference bidders. No person will be awarded more than one tract. Persons entitled to veterans' preference, in brief, are (a) honorably discharged veterans who served at least 90 days after September 15, 1940, (b) surviving spouse or minor orphan children of such veterans, and (c) with the consent of the veteran, the spouse of living veterans. The 90-day requirement does not apply to veterans who were discharged on account of wounds or disability incurred in the line of duty or to the surviving spouse or minor children of veterans killed in the line of duty. Successful bidders among preference claimants will be called upon for proof of the military service upon which their claim is based.

9. All inquiries concerning these lands shall be addressed to the Manager, Land Office, P. O. Box 1251, Santa Fe, New Mexico.

E. R. SMITH,
State Supervisor.

[F. R. Doc. 57-10056; Filed, Dec. 5, 1957; 8:45 a. m.]

NEW MEXICO GRAZING DISTRICT NO. 7

RULES FOR ADMINISTRATION, AMENDMENT

NOVEMBER 26, 1957.

By virtue of the authority vested in me by section 2 of the act of June 28, 1934 (48 Stat. 1270, 43 U. S. C. 315a), delegated to me by Departmental Order No. 2583 of August 16, 1950 (15 F. R. 5643, as amended, and to the provisions of § 161.16 of the Federal Range Code for Grazing Districts, 1956 Rev. (43 CFR 161.16), the Rules for the Administration of New Mexico Grazing District No. 7, approved September 3, 1949 (14 F. R. 5575), as amended April 15, 1954 (19 F. R. 2378), are amended as to paragraph (d) as follows:

(d) Free use grazing privileges may be accorded to any resident Indian applicant in the district to the extent of 100 sheep units, or an equivalent in other classes of livestock: *Provided,* That no free use grazing privileges will be authorized to any person who may be indebted to the United States by reason of delinquent grazing fees or trespass charges for unauthorized grazing use: *Provided, further,* That in the issuance of free use grazing privileges any applicant having less than 100 sheep units shall henceforth be limited to the number of sheep units or their equivalent for which a license was issued, or for which an applicant may have been qualified for the period July 1, 1954 to June 30, 1955, except that increases may be allowed by the District Range Manager whenever additional range or grazing privileges are available for such allocation.

EDWARD WOOZLEY,
Director.

I concur: December 2, 1957.

GLENN L. EMMONS,
Commissioner,
Bureau of Indian Affairs.

[F. R. Doc. 57-10114; Filed, Dec. 5, 1957; 8:49 a. m.]

OREGON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

NOVEMBER 27, 1957.

The Bureau of Reclamation, United States Department of the Interior has filed an application, Serial No. Oregon 05771, for the withdrawal of lands described below, subject to valid existing rights, from all forms of appropriation, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388), except the grazing administration of the lands in Townships 16 and 17 South, Range 17 East, Willamette Meridian, will remain under the Bureau of Land Management until January 1, 1959.

The applicant desires the land for use in connection with the construction of the Prineville Dam on the Crooked River in central Oregon, and development of the reservoir area in the Crooked River Project.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN, OREGON

T. 17 S., R. 16 E.
Sec. 10: NE¼NE¼, S½NE¼, NE¼SE¼;
Sec. 11: NW¼NE¼, N½NW¼;
Sec. 24: NE¼SE¼.

T. 16 S., R. 17 E.,
Sec. 24: NE¼NW¼;
Sec. 31: SW¼NE¼, SE¼NW¼, NE¼SE¼;
Sec. 34: SW¼NE¼.

T. 17 S., R. 17 E.,
Sec. 9: NE¼NE¼.

Approximately 560 Acres.

VIRGIL T. HEATH,
State Supervisor.

[F. R. Doc. 57-10086; Filed, Dec. 5, 1957; 8:45 a. m.]

Bureau of Reclamation

[No. 64]

HEART MOUNTAIN DIVISION, SHOSHONE PROJECT, WYOMING

PUBLIC NOTICE OF ANNUAL WATER RENTAL CHARGES

NOVEMBER 15, 1957.

1. *Water rental.* (a) The minimum water rental charge for lands of the Heart Mountain Division for the irrigation season of 1958 and thereafter, until further notice, will be $2.75 per irrigable acre, whether water is used or not, except that such minimum charge need not be paid in any year for any acreage which the Chief, Shoshone Field Division, certifies is temporarily nonirrigable during the year due to seepage or land subsidence. Payment of such minimum charge will entitle each water user to such amount of water per acre as may beneficially be used by him, such amounts being based on water-holding capacity soil groups and topography. Determination of the total amount of water allowable under the minimum charge payment will be made by the Chief, Shoshone Field Division, whose decision will be final, in accordance with tables of water requirements for particular soil and topographic land factors. Such tables will be compiled by the Bureau of Reclamation and will be on file and available for inspection at the office of the Chief, Shoshone Field Division. Water in addition to the determined requirements, if available, will be furnished during each irrigation season at the rate of $1.25 per acre-foot for the first acre-foot of water per acre, and for $1.50 per acre-foot for the second and succeeding acre-foot of water per acre.

(b) Upon approval of the Chief, Shoshone Field Division, water may be furnished for classes 5 and 6 lands. The determination of the total amount of water allowable, the minimum charge, and rates for additional water, will be in accordance with paragraph 1 (a) of this notice.

2. *Time of payment.* The minimum charge for water to be delivered for each irrigation season will be due and payable on March 31 preceding that season. Charges for water delivered in excess of the minimum for each irrigation season will be due and payable by the following January 1. No water will be delivered to a water user until all charges have been paid in full.

3. *Discounts and penalties.* If payment of the minimum charge and the charge for additional water furnished under this notice is made on or before January 1 of the year in which due, a discount of 5 percent of such charges will be allowed. To any payment of the charges which is made on and after April 1 of the year in which such payment is due, there shall be added a penalty of one-half of one percent of the unpaid amount for each month or fraction thereof after March 31, so long as such default shall continue, and no water will be delivered until all charges and penalties have been paid in full.

4. *Place of payment.* All charges will be paid at the office of the Bureau of Reclamation, P. O. Box 822, Powell, Wyoming.

5. *Public Notices Nos. 53, 55, and 58 supplemented.* This notice supplements subparagraphs 5a (1) and (2) of Public Notices Nos. 53, 55, and subparagraph 24 (b) of Public Notice No. 58, Shoshone Project, Wyoming.

F. M. CLINTON,
Regional Director.

[F. R. Doc. 57-10087; Filed, Dec. 5, 1957; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 456]

MARKET AGENCIES AT UNION STOCK YARDS, OGDEN, UTAH

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), an order was issued on June 10, 1957 (16 A. D. 502), continuing in effect to and including December 19, 1957, an order issued on June 9, 1955 (14 A. D. 446), as modified by orders issued on April 9, 1956 (15 A. D. 381), and December 20, 1956 (15 A. D. 1306). The order of June 9, 1955, as continued in effect by the order of June 10, 1957, was further modified by an order issued on November 7, 1957. Under these orders the respondents, Market Agencies at the Union Stock Yards, Ogden, Utah, are authorized to assess the current rates and charges.

On October 30, 1957, documents were filed on behalf of the respondents, except J. E. Manning, owner of the Ogden Livestock Auction Company, requesting that the current rates and charges be modified in the following respects:

1. Amend Article II, "Selling Commissions," of the current schedule as indicated below:

	Per head
Cattle	$1.35
Calves	.85
Bulls (over 600 lbs.)	Delete
* * * * *	
Springers, T. B. or Bangs Reactors, suspects	Delete
* * * * *	
Sheep—consignments of 179 head and less:	Per head
First 20 head	$0.50
Next 30 head	.34
Next 129 head	.12

Consignments of 180 head and over a flat rate of $0.20 per head will be assessed on the entire consignment.

* * * * *

2. Delete section A, "Extra Draft Charge", from Article III of the current schedule.

The modifications, if authorized, will produce additional revenue for the respondents and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days after the publication of this notice.

Done at Washington, D. C., this 2d day of December 1957.

[SEAL] DAVID M. PETTUS,
Director, Livestock Division, Agricultural Marketing Service.

[F. R. Doc. 57-10123; Filed, Dec. 5, 1957; 8:51 a. m.]

Office of the Secretary

MISSISSIPPI

DESIGNATION OF AREA FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a-2 (a)), as amended, it has been determined that in the following counties in the State of Pennsylvania a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MISSISSIPPI

Calhoun.	Leake.
Chickasaw.	Montgomery.
Choctaw.	Panola.
Clay.	Simpson.
De Soto.	Sunflower.
Grenada.	Tallahatchie.
Hinds.	Tate.
Humphreys.	Washington.
Itawamba.	Webster.
Lafayette.	Yalobusha.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after December 31, 1958, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., this 3d day of December 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-10124; Filed, Dec. 5, 1957; 8:51 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

UNITED STATES LINES CO.

NOTICE OF APPLICATION

Notice is hereby given that United States Lines Company has on file with the Federal Maritime Board an application to increase, effective January 1, 1957, subsidized sailings from a maximum of 37 to a maximum of 42 sailings on Trade Route No. 11 service described in F. R. Doc. 56-3278, appearing in the FEDERAL REGISTER issue of April 27, 1956 (21 F. R. 2730).

Parties having an interest in such application may file with the Secretary, Federal Maritime Board, any objections thereto, within five (5) days from the date of this publication.

Subsequent to the expiration of the above period, the Federal Maritime

Board will take such action with respect to the application and any objections thereto, as may be deemed appropriate.

Dated: December 3, 1957.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F. R. Doc. 57-10115; Filed, Dec. 5, 1957; 8:49 a. m.]

Maritime Administration

TRADE ROUTE 11—U. S. SOUTH ATLANTIC AND UNITED KINGDOM, EUROPE NORTH OF PORTUGAL

NOTICE OF CLARIFICATION

Notice is hereby given that the Maritime Administrator has determined that the term "approximately 2 to 3 per month" appearing under United States flag service requirements on Trade Route No. 11 as published in the FEDERAL REGISTER issues of April 27, and May 24, 1956, needs clarification and accordingly is hereby amended to read "approximately 3 per month."

Dated: December 3, 1957.

By order of the Maritime Administrator.

JAMES L. PIMPER,
Secretary.

[F. R. Doc. 57-10116; Filed, Dec. 5, 1957; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8727]

BLATZ AIRLINES, INC.; ENFORCEMENT PROCEEDING

NOTICE OF POSTPONEMENT OF HEARING

In the matter of Blatz Airlines, Inc., Enforcement Proceeding.

Notice is given herewith, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that a public hearing in the above-entitled proceeding heretofore assigned to be held on December 3, 1957, is hereby reassigned to be held on January 15, 1958, at 10:00 a. m., e. s. t., in Room E-210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Richard A. Walsh.

Dated at Washington, D. C., December 2, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-10117; Filed, Dec. 5, 1957; 8:49 a. m.]

[Docket No. SR-2253]

ORVILLE J. FEROE

NOTICE OF POSTPONMENT OF ORAL ARGUMENT

In the matter of James T. Pyle, Administrator of Civil Aeronautics, complainant v. Orville J. Feroe, respondent; Docket No. SR-2253.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding now assigned to be held on December 10 is postponed to December 18, 1957; 10:00 a. m., e. s. t., in Room 5042, Commerce Building, Constitution Avenue, between 14th and 15th Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., December 3, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-10118; Filed, Dec. 5, 1957; 8:50 a. m.]

[Docket No. 9088]

RESORT AIRLINES, INC.

NOTICE OF PREHEARING CONFERENCE

In the matter of an application by Resort Airlines, Inc. for approval of the purchase of one DC-4 aircraft or the alternative for the Disclaimer of Jurisdiction over such aircraft.

Notice is hereby given that a prehearing conference in the above-entitled application is assigned to be held on December 9, 1957, at 2:00 p. m., e. s. t., in Room 1510, Temporary Building No. 4, 17th Street and Constitution Avenue NW., Washington, D. C., before Examiner Ferdinand D. Moran.

Dated at Washington, D. C., December 3, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-10119; Filed, Dec. 5, 1957; 8:50 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-7]

ISOTOPE SPECIALTIES CO.

NOTICE OF RECEIPT OF APPLICATION FOR LICENSE TO PROVIDE RADIOACTIVE WASTE DISPOSAL SERVICES

Please take notice that an application for a license to provide radioactive waste disposal services has been filed by Isotope Specialties Company, 170 West Providencia, Burbank, California.

The application specifies a maximum possession limit of 100 curies total of Byproduct Material with atomic numbers from 3 to 83 and Source Material. The radioactive material will be buried at sea at minimum depths of 1,000 fathoms.

A copy of the application is available for public inspection in the AEC Public Document Room located at 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 26th day of November 1957.

For the Atomic Energy Commission.

FRANK K. PITTMAN,
Acting Director,
Division of Civilian Application.

[F. R. Doc. 57-10112; Filed, Dec. 5, 1957; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11934; FCC 57-1296]

TEXAS TECHNOLOGICAL COLLEGE

ORDER REOPENING RECORD FOR FURTHER HEARING ON STATED ISSUES

In re application of Texas Technological College, Lubbock, Texas, Docket No. 11934, File No. BPCT-2183; for construction permit for a new television broadcast station.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of November 1957;

The Commission having under consideration the Initial Decision herein of Examiner Millard F. French, released September 17, 1957, which proposes to grant the above-entitled application and the matters of record in this proceeding involving the application of Texas Technological College for a construction permit for a new television broadcast station to operate on Channel 5 at Lubbock, Texas, including, (1) the extent of the legal authority of applicant to operate a television broadcast station; (2) the agreements of Texas Telecasting, Inc. and Bryant Radio and Television, Inc., licensees of the two commercial television stations in Lubbock, Texas, to donate certain sums of money to applicant for the securing and constructing of a non-commercial educational television station; and (3) the dismissal without prejudice on April 12, 1957 of the application of C. L. Trigg for the same facilities (BPCT-2185), pursuant to an agreement with Texas Technological College whereby C. L. Trigg, was allegedly partially reimbursed for his expenses in the amount of $25,000;

It appearing that preliminary to the determination that the public interest would be served by a grant of the above-entitled application, more detailed evidence as to these matters, as set forth in the issues hereinafter specified, is desirable, and that accordingly, further hearing is required;

It is ordered, That the above-entitled matter is remanded to the Hearing Examiner, who presided at this hearing, with the instructions to reopen the record for further hearing on the issues hereinafter specified; and

It is further ordered, That after procedural steps appropriate to the further proceeding herein have been taken, the Hearing Examiner shall issue a supplemental Initial Decision; and

It is further ordered, That the further hearing be held upon the following issues:

1. To determine whether the applicant is legally qualified fully to operate, as well as own and construct, the proposed station, including commercial as well as non-commercial operation thereof.

2. To determine the full facts and circumstances surrounding the agreement of Texas Telecasting, Inc. and Bryant Radio and Television, Inc. to donate funds to the applicant, including the terms and conditions thereof, with special reference to whether the applicant

would thus, by agreement, understanding, or otherwise, be precluded from carrying commercial television programming if the public interest so required.

3. To determine the full facts and circumstances surrounding the dismissal of the application herein of C. L. Trigg including, but not limited to, an account of the expenses incurred by C. L. Trigg for which he was assertedly partially reimbursed, and the source or sources of the $25,000 paid to C. L. Trigg.

It is further ordered, That the hearing ordered herein shall be expedited.

Released: December 2, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10106; Filed, Dec. 5, 1957; 8:48 a. m.]

[Docket Nos. 12037-12039; FCC 57M-1201]

BROADCASTERS, INC., ET AL.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Broadcasters, Inc., South Plainfield, New Jersey, Docket No. 12037, File No. BP-10587; Eastern Broadcasting Company, Inc. (WDRF), Chester, Pennsylvania, Docket No. 12038, File No. BP-10722; Tri-County Broadcasting Corp., Plainfield, New Jersey, Docket No. 12039, File No. BP-10878; for construction permits.

The Hearing Examiner having under consideration the above-entitled proceeding:

It is ordered, This 2d day of December 1957, that all parties, or their attorneys, are directed to appear for a further prehearing conference, pursuant to the provisions of § 1.813 of the Commission's rules, at the Commission's offices in Washington, D. C., on December 19, 1957.

Released: December 3, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10107; Filed, Dec. 5, 1957; 8:48 a. m.]

[Docket No. 12231; FCC 57M-1197]

GREYLOCK BROADCASTING CO. (WBRK)

ORDER FOR PRE-HEARING CONFERENCE

In re application of Greylock Broadcasting Company (WBRK), Pittsfield, Massachusetts, Docket No. 12231, File No. BP-11385; for construction permit.

A pre-hearing conference in the above-entitled proceeding will be held on Monday, December 9, 1957, beginning at 2:00 p. m. in the offices of the Commission, Washington, D. C. This conference is called pursuant to the provisions of § 1.813 of the Commission's rules and the matters to be considered are those specified in that section of the rules.

It is so ordered, This the 27th day of November 1957.

Released: November 29, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10108; Filed, Dec. 5, 1957; 8:48 a. m.]

[Docket Nos. 12244-12246; FCC 57M-1205]

SANTA ROSA BROADCASTING CO., ET AL.

ORDER CONTINUING HEARING CONFERENCE

In re applications of B. Floyd Farr, George Snell, Edward W. McCleery, Robert Blum d/b as Santa Rosa Broadcasting Company, Santa Rosa, California, Docket No. 12244, File No. BP-10626; Golden Valley Broadcasting Company (KRAK), Stockton, California, Docket No. 12245, File No. BP-10676; Joseph E. Gamble and Lew L. Gamble d/b as Radio Santa Rosa, Santa Rosa, California, Docket No. 12246, File No. BP-11084; for construction permits.

At the request of counsel for Radio Santa Rosa and with the consent of the other parties, including the Broadcast Bureau: *It is ordered,* This 2d day of December 1957, that the prehearing conference presently scheduled for December 6, 1957, is hereby rescheduled to commence at 10:00 a. m., December 23, 1957, in the Commission's offices at Washington, D. C.

Released: December 3, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10109; Filed, Dec. 5, 1957; 8:48 a. m.]

[Docket No. 12250; FCC 57M-1199]

SACRAMENTO TELECASTERS, INC. (KBET-TV)

NOTICE CONTINUING HEARING CONFERENCE

In re application of Sacramento Telecasters, Inc. (KBET-TV) Sacramento, California, Docket No. 12250, File No. BMPCT-2633; for modification of construction permit.

On the oral request of counsel for Sacramento Telecasters, Inc., and without objection by other counsel, the prehearing conference scheduled for December 5 is continued to Monday, December 9, 1957, at 10 a. m., in the offices of the Commission, Washington, D. C.

Dated: December 2, 1957.

Released: December 2, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-10110; Filed, Dec. 5, 1957; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-10807, G-11263]

JOINT ADVENTURE NO. FOUR, NOW INLAND NATURAL GASOLINE, AND EL PASO NATURAL GAS CO.

NOTICE OF APPLICATIONS AND DATE OF HEARING

NOVEMBER 29, 1957.

Take notice that El Paso Natural Gas Company (El Paso), a Delaware corporation with its principal place of business in El Paso, Texas, and Joint Adventure No. Four, now Inland Natural Gasoline Operator (Inland), filed applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of facilities necessary for receiving and transporting natural gas in interstate commerce for resale and authorizing the sale and delivery in interstate commerce of natural gas, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open to public inspection.

Inland filed an application on January 10, 1957, in Docket No. G-10807, for authority to sell natural gas in interstate commerce to El Paso for resale from its South Cowden gasoline plant in Ector County, Texas, under a gas sales contract dated June 25, 1956.

On October 19, 1956, El Paso filed in Docket No. G-11263 an application for a certificate of public convenience and necessity authorizing the construction and operation of approximately 1.3 miles of 4½-inch O. D. lateral supply pipeline to extend from a point on its existing 20-inch O. D. Sweetie Peck to Goldsmith pipeline in Ector County, Texas, to a proposed purchase meter station, with appurtenances, to be installed at the discharge side of Inland's South Cowden gasoline plant located in the South Cowden Field, Ector County, Texas. These proposed facilities will enable El Paso to purchase and receive daily volumes of approximately 2,000 Mcf of residue gas from Inland's gasoline plant. The estimated total cost of El Paso's proposed facilities is $25,000, which cost is to be financed from current working funds.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 14, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hear-

ing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 20, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10096; Filed, Dec. 5, 1957; 8:46 a. m.]

[Docket No. 12059 etc.]

TRANSCONTINENTAL GAS PIPE LINE CORP. ET AL.

ORDER MODIFYING AND ADOPTING AS MODIFIED INITIAL DECISION OF PRESIDING EXAMINER, REOPENING A PART OF PROCEEDING AND CONSOLIDATING PROCEEDINGS FOR THE PURPOSE OF HEARING

NOVEMBER 29, 1957.

In the matters of Transcontinental Gas Pipe Line Corporation, Docket No. G-12059; Eastern Shore Natural Gas Company, Docket No. G-12200; Transcontinental Gas Pipe Line Corporation, Docket No. G-13357; Transcontinental Gas Pipe Line Corporation, Docket No. G-13560; Atlantic Seaboard Corporation, Docket No. G-13707.

This matter, which arises under section 7 of the Natural Gas Act, is before us upon exceptions filed on October 2, 1957, by Delaware Power & Light Company and on October 10, 1957, by the National Coal Association, et al., and as a consequence of applications filed by Transcontinental Gas Pipe Line Corporation (Transco) and Atlantic Seaboard Corporation (Seaboard) subsequent to the Examiner's decision issued on September 20, 1957, in Docket Nos. G-12059 and G-12200.

The Examiner's decision on the matters involved in Docket Nos. G-12059 and G-12200 issued certificates of public convenience and necessity to Transco and Eastern Shore Natural Gas Company (Eastern Shore) as requested by said applicants in their respective applications, with certain conditions attached.

The certificates referred to above authorized Transco to construct and operate certain natural gas facilities for the purpose of rendering increased service to existing customers and for the purpose of initiating new service to new customers, including an interruptible transportation service of 25,553 Mcf per day to Virginia Electric and Power Company (VEPCO), as conditioned therein.

Eastern Shore was authorized to construct and operate natural gas facilities for the distribution and sale for resale of natural gas purchased from Transco and the transportation of natural gas for Delaware Power & Light Corporation. However, the record clearly shows that such transportation service is to be priced at a rate of 3 cents per Mcf as compared with an admitted cost of approximately 6 cents per Mcf. We do not believe Eastern Shore should be permitted to offset the deficiency in revenues from Delaware by increased rates for jurisdictional sales or service rendered to the other customers and shall so condition the authorization to be granted.

Upon consideration of the deficiency in transportation revenues from Delaware and the exceptions filed and applications filed by Transco in Docket Nos. G-13357 and G-13560 and by Seaboard in Docket No. G-13707, we will affirm and adopt the Presiding Examiner's decision in the consolidated proceeding involving the applications in Docket Nos. G-12059 and G-12200, excepting the authorization to Transco for the construction and operation of facilities necessary for initiating interruptible transportation service to VEPCO, for reasons hereinafter stated and ordered, and excepting the modifications hereinafter ordered with respect to authorization of service by Eastern Shore.

Transco in its application in Docket No. G-12059 proposed inter alia, the construction and operation of 25,553 Mcf per day capacity which it proposed to utilize for the transportation and delivery of natural gas on an interruptible basis to VEPCO at its Possum Point Plant and for the sale and delivery of winter peaking gas to its Zone 3 customers. The two services in combination were proposed by Transco to justify authorization for the construction and operation of the aforementioned 25,553 Mcf per day capacity. It developed upon the record in this proceeding that Transco had not yet contracted for the sale of any of the winter peaking service to be made available by the authorization of such facilities. Subsequent to the issuance of the Presiding Examiner's decision herein, Transco filed an application on October 4, 1957, in Docket No. G-13357, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, for authority to utilize the capacity proposed in Docket No. G-12059 to sell 25,553 Mcf per day of winter peaking gas to Seaboard in Transco's Zone 2 service area under a proposed new rate schedule for that zone, all as more fully described in the application.

Seaboard on November 13, 1957, filed an application in Docket No. G-13707, for a certificate of public convenience and necessity authorizing the construction and operation of facilities necessary for receiving the 25,553 Mcf per day of winter peaking gas as proposed by Transco in its application in Docket No. G-13357, all as more fully described in the application in Docket No. G-13707.

By airmail letters dated June 12, 1957, August 30, 1957, and October 30, 1957, Transco was authorized to construct and operate facilities which would increase its system sales capacity to approximately 921,700 Mcf per day during winter periods. To render the service being authorized herein, exclusive of the VEPCO transportation, it will be necessary for Transco to construct and operate facilities which would further increase winter sales capacity by 26,362 Mcf per day to a total of 948,062 Mcf per day. The record does not disclose specifically which facilities are necessary for this purpose. The record does disclose that the facilities authorized under the aforesaid temporary certificates will permit Transco to meet the requirements of its customers during the 1957-58 winter. Our order herein will provide that Transco, prior to construction of any additional facilities over those authorized by the temporary certificates, for the rendition of the full authorized service, shall submit details of such additional facilities to the Commission for its approval.

On October 21, 1957, Transco filed an application in Docket No. G-13560 seeking authority to construct and operate approximately 2.63 miles of 36-inch loop pipeline between Milepost 1222.85 at existing mainline valve 14-1 and Milepost 1225.48 in Cherokee County, South Carolina, all as more fully described in the application.

Transco states that the proposed construction of the 2.63 miles of loops was to have been included in its anticipated 1958 construction program. However, because of delay in the completion of its compressor station No. 34 proposed and authorized under temporary authority in Docket No. G-12059, the loop proposed herein is now being requested.

Because the application fails to describe the effect on Transco's ultimate capacity with both the 2.63 miles of 36-inch loop and station No. 34 and since Transco has been granted temporary authority to construct and operate the proposed loop, it is believed advisable to treat the subject application as a request to amend the proposal in Docket No. G-12059 to be heard and determined as hereinafter ordered.

The issuance and publication of this order will constitute due notice of the applications filed in Docket Nos. G-13357, G-13560 and G-13707, as required by the Commission's rules of practice and procedure.

Since the proposed winter peaking service to Seaboard in Transco's Zone 2 is the subject of the applications in Docket Nos. G-13357 and G-13707, and is proposed to be complementary to the transportation service for VEPCO as presented in Docket No. G-12059, it would appear that these matters including Transco's proposal in Docket No. G-13560, are so interrelated with regard to service and rates as to require that a new record be made regarding the proper rates to be charged by Transco for winter peaking service to Seaboard and transportation for VEPCO and such issues and any related matters should be heard and considered in a consolidated proceeding, and to that end:

The Commission finds: Upon review of the entire record in the consolidated proceeding in Docket Nos. G-12059 and G-12200, including the exceptions filed therein, the Presiding Examiner's deci-

sion should be modified as hereinafter ordered.

The Commission orders:

(A) The Examiner's decision issued September 20, 1957 in Docket Nos. G-12059, et al., be and the same hereby is modified by deleting therefrom any authorization to Transco for the construction and operation of natural gas facilities for the transportation of natural gas for VEPCO for delivery at its Possum Point Plant.

(B) The Presiding Examiner's decision be and the same hereby is modified by adding the following to paragraph (C) and paragraph (E) of said order.

Paragraph (C): "* * * The certificate of public convenience and necessity issued herein to Eastern Shore Natural Gas Company is conditioned to provide that so long as the transportation service is rendered to Delaware Power and Light Company at the rate of 3 cents per Mcf no part of the costs properly applicable to such service may be assigned to sales or service for jurisdictional customers other than Delaware Power and Light Company."

Paragraph (E): "* * * *Provided, however,* That this condition shall not become applicable until Eastern Shore's facilities are completed so that it is able to supply gas service to Elkton Gas Company."

(C) That portion of the record in the consolidated proceedings in Docket Nos. G-12059, et al. relating to any authorization for the construction and operation of facilities for the transportation of natural gas for VEPCO for delivery at its Possum Point plant be and the same hereby is reopened, remanded and consolidated for further hearing with the applications filed in Docket Nos. G-13357, G-13560 and G-13707, such hearing to be held on January 6, 1958, at 10:00 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C. Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 20, 1957.

(D) Prior to the construction of any additional facilities over and above those authorized by letter dated June 12, 1957, August 30, 1957, and October 30, 1957, necessary for the rendition of all the service herein authorized, Transco shall submit details of such additional facilities to the Commission and receive approval thereof.

(E) The initial decision of the Presiding Examiner, as modified shall become effective as the decision of the Commission as of the date of the issuance of this order.

By the Commission (Commissioner Digby dissenting).

JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-10095; Filed, Dec. 5, 1957; 8:46 a. m.]

[Docket No. G-12858]

MANUFACTURERS LIGHT AND HEAT CO.

NOTICE OF APPLICATION AND DATE OF HEARING

DECEMBER 2, 1957.

Take notice that The Manufacturers Light and Heat Company (Applicant), a Pennsylvania corporation with its principal place of business in Pittsburgh, Pennsylvania, filed an application on July 8, 1957, for a certificate of public convenience and necessity, and permission and approval to abandon pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of natural gas facilities and the abandonment of certain facilities, as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization for the construction and operation of two pipeline projects as follows:

Job 1, approximately 8.83 miles of 10-inch transmission line looping a section of its Coatesville-Port Jervis line between Applicant's Downingtown Compressor Station, West Bradford Township, and its Eagle Compressor Station, West Vincent Township, all in Chester County, Pennsylvania; and

Job 2, approximately 1.70 miles of 8-inch transmission line in Penn Township, York County, Pennsylvania, south of the community of Hanover, replacing an equal length of 6-inch Line No. 136 in the same location.

Applicant states that its Job 1 is predicated on establishment of an interconnection with Transcontinental Gas Pipe Line Corporation (Transco) where the lines of the two firms cross about 3 miles north of Applicant's Downingtown Compressor Station. Transco's line operates at about 550 psig, but Applicant's existing Port Jervis line is operated at up to double that pressure. To be able to receive from Transco 10,000 Mcf of natural gas per day, for which authorization was granted in Docket No. G-12059, yet not have to construct and operate a new compressor station, Applicant plans the subject 10-inch loop paralleling a section of the existing 14-inch Port Jervis pipeline. The gas from Transco could be routed to the intake side of either or both the Downingtown and the Eagle Compressor Stations depending largely on curtailment of deliveries by Applicant to its customer, Lukens Steel Company, a large gas user located upstream from the Downingtown Station.

Applicant's Job 2 is made necessary because the age and condition of 6-inch Line 136 in Adams County limit its operating pressure to 96 psig for service to retail markets in Littlestown, Gettysburg and Fairfield and to existing customer, York County Gas Company, serving Hanover and other nearby towns. By paralleling a portion of the old 6-inch line with an 8-inch line operating at higher pressure, Applicant can, for the time being, meet the expanding requirements of its existing customers between Fairfield and Hanover with a minimum amount of construction.

Applicant seeks authority to abandon the 6-inch line to be looped by the proposed 8-inch line next year, at which time a $10,000 regulator will be needed to supply gas at the Baltimore Street connection of York County Gas Company near Hanover now served by the 6-inch line.

Job 1 is estimated to cost $492,000 while Job 2 is estimated to cost $73,000, less credit to fixed capital of $6,000 for the proposed abandonment of facilities. The funds will come out of Applicant's share of 1957 Columbia System financing whereby member companies borrow from Columbia through the sale of stock and promissory notes to the parent company.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 15, 1958 at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 23, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-10097; Filed, Dec. 5, 1957; 8:46 a. m.]

[Docket No. G-13119]

KERR-McGEE OIL INDUSTRIES, INC.

ORDER ACCEPTING CORRECTION TO RATE SCHEDULE HERETOFORE SUSPENDED

NOVEMBER 29, 1957.

On August 27, 1957, the Commission, pursuant to the authority of the Natural Gas Act, issued its order in this proceeding providing for a hearing and suspending a proposed change in rates as shown

by Supplement No. 12 to Kerr-McGee Oil Industries, Inc. (Kerr-McGee), FPC Gas Rate Schedule No. 8 until February 15, 1958. The Commission's order provided, among other things, that the foregoing supplement thereby suspended should not be changed until this proceeding had been disposed of or until the period of suspension had expired, unless otherwise ordered by the Commission.

On October 31, 1957, Kerr-McGee filed a correction to the foregoing Supplement No. 12 to its FPC Gas Rate Schedule No. 8 and thereby reflected an increase of 0.00025 cents to 9.51061 cents for sweet gas and a decrease of 0.00428 cents to 8.8998 cents per Mcf for sour gas.

The Commission finds: Good cause has been shown that the correction filed on October 31, 1957, to Supplement No. 12 to Kerr-McGee's FPC Gas Rate Schedule No. 8, as suspended by the order of the Commission in this docket, be accepted and be permitted to be filed and that the suspended rate in this proceeding be that as corrected, as reflected herein, and be regarded as a part of that rate suspended as originally ordered.

The Commission orders: Supplement No. 12 to Kerr-McGee's FPC Gas Rate Schedule No. 8 is corrected as shown by the filing made by Kerr-McGee on October 31, 1957, affecting such Supplement No. 12, and that as corrected by an increase of 0.00025 cents to 9.51061 cents for sweet gas and a decrease of 0.00428 cents to 8.8998 cents for sour gas, the said corrected rate continues subject to the suspension order issued on August 27, 1957, in this proceeding, and the use of such rate as corrected is deferred until February 15, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10094; Filed, Dec. 5, 1957; 8:46 a. m.]

[Docket No. G-13603]

HOME UTILITIES CO.

NOTICE OF APPLICATION

NOVEMBER 29, 1957.

Take notice that Home Utilities Company (Applicant) of Marietta, Ohio, filed an application on October 28, 1957, pursuant to section 7 (a) of the Natural Gas Act, for an order of the Commission directing Ohio Fuel Gas Company (Ohio Fuel) to establish a physical connection of its transmission facilities with the facilities of Applicant and to sell natural gas to Applicant for resale in and about Somerset and Warren Townships in Belmont County, Ohio, as hereinafter described, all as more fully represnted in the application, which is on file with the Commission and open to public inspection.

Applicant states that it operates a natural gas distribution system in and around the Village of Batesville and Carlisle in Noble County, Ohio, as well as the Villages of Temperanceville and Somerton in Belmont County, Ohio; that it has an adequate but limited gas supply for its service area with the exception of the area in and around Somerton and that this application concerns gas supply for that area only. There is no existing connection between the Somerton area and Applicant's other areas of operation. Such a connection is impractical due to distance involved and limited supplies.

Applicant further states that the Somerton area is presently, as in the past, being supplied with natural gas from local wells owned or leased by Applicant. The supply from these wells has been declining for some years and they are no longer adequate to serve existing or potential needs of the Somerton area. Applicant states that it has been unsuccessful in recent attempts to increase its production in this area by drilling new wells. The most feasible method of obtaining the additional gas supply needed for this area is from Ohio Fuel.

Applicant proposes to purchase Ohio Fuel's line 0-26, a 6⅝ inch line extending from a point on Ohio Fuel's line 0-949, near Barnesville, Ohio, southerly to a point northwest of Somerton where the connection requested herein is to be located. The proposed purchase at net book cost and method of financing has been approved by the Public Utilities Commission of Ohio.

Applicant's estimates of the volumes of gas required in the Somerton area which it proposes to purchase from Ohio Fuel are as follows:

[Vols. in Mcf]

Year	1957	1958	1959	1960
Peak day	50	60	60	80
Annual	759	5,092	6,469	7,647

On November 8, 1957, Ohio Fuel filed its answer to Applicant's request therein, stating that it is willing and able and has sufficient capacity to deliver the first year peak-day requirements of Applicant.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 18, 1957.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10091; Filed, Dec. 5, 1957; 8:46 a. m.]

[Docket No. G-13729]

HUMBLE OIL AND REFINING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

NOVEMBER 29, 1957.

Humble Oil and Refining Company (Humble), on October 30, 1957, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notice of changes, dated October 23, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 4 to Humble's FPC Gas Rate Schedule No. 28. Supplement No. 8 to Humble's FPC Gas Rate Schedule No. 31. Supplement No. 3 to Humble's FPC Gas Rate Schedule No. 33. Supplement No. 3 to Humble's FPC Gas Rate Schedule No. 45.

Effective date: January 1, 1958 (effective date is the effective date proposed by Humble).

In support of the proposed periodic rate increases, Humble submits its usual statements to the effect that the contract was entered into in good faith and at arm's-length; the price increase provision is an integral part of the contract which was agreed to by El Paso Natural Gas Company (El Paso) and thus is not a price increase, and the 10.5 cent rate is just and reasonable. In addition, Humble cites sales to El Paso in the area under other contracts which provide for the 10.5 cent rate.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 4 to Humble's FPC Gas Rate Schedule No. 28; Supplement No. 8 to Humble's FPC Gas Rate Schedule No. 31; Supplement No. 3 to Humble's FPC Gas Rate Schedule No. 33, and Supplement No. 3 to Humble's FPC Gas Rate Schedule No. 45, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 4 to Humble's FPC Gas Rate Schedule No. 28; Supplement No. 8 to Humble's FPC Gas Rate Schedule No. 31; Supplement No. 3 to Humble's FPC Gas Rate Schedule No. 33, and Supplement No. 3 to Humble's FPC Gas Rate Schedule No. 45.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until June 1, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by sections 1.8

and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10092; Filed, Dec. 5, 1957; 8:46 a. m.]

[Docket No. G-13811]

UNION PRODUCING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

NOVEMBER 29, 1957.

Union Producing Company (Union), on October 31, 1957, included among 216 rate schedules and supplements tendered in answer to an order of the Commission issued on October 3, 1957, in Docket No. G-10060,[1] a number of proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. Included among the proposed changes, which constitute increased rates and charges, are the following designated filings:

(1) Description: Supplemental Agreement, dated February 28, 1956, Notice of Change, dated October 31, 1957. Rate schedule designation: Supplements Nos. 5 and 6 to its FPC Gas Rate Schedule No. 78;

(2) Description: Contract, dated September 12, 1957,[2] Notice of Change, dated October 31, 1957. Rate schedule designation: FPC Gas Rate Schedule No. 215 and Supplement No. 1 to FPC Gas Rate Schedule No. 215;

(3) Description: Contract, dated September 20, 1957,[3] Notice of Change, dated October 21, 1957. Rate schedule designation: FPC Gas Rate Schedule No. 216 and Supplement No. 1 to FPC Gas Rate Schedule No. 216;

(4) Description: Supplemental Agreement, dated December 1, 1954, Notice of Change, dated October 31, 1957. Rate schedule designation: Supplements Nos. 1 and 2 to its FPC Gas Rate Schedule No. 92.

The purchaser in each instance is United Gas Pipe Line Company, which, like Union, is a subsidiary of United Gas Corporation. The rate schedules and supplements relate to sales of natural gas produced from the Greta-Tom O'Connor Field, Refugio County, Texas; Lirette Field, Terrebonne Parish, Louisiana; Bay Baptiste Field, Terrebonne Parish, Louisiana; and Maxie-Pistol Ridge Field, Forrest, Lamar, and Pearl River Counties, Mississippi, respectively.

For each of the proposed changes in rates, Union requests an effective date corresponding to the date the change was due under the contract. In the alternative, Union requests waiver of the notice provisions of the Natural Gas Act and the Regulations thereunder to make the changes effective on the date of filing.

In support of the proposed increases, Union states that the increased revenues will tend to offset its increased costs over the long terms of the contracts, and the increased revenues are necessary in what it calls the current inflationary trend of the American economy to enable Union to search, develop, and market natural gas. Union also contends that other independent producers are receiving rates equal to or in excess of the increased rates proposed by it. It appears that some of the rates Union refers to are rates received for intrastate sales or for new services recently initiated. In any event, such prices alone do not per se justify the proposed increased rates. Union Oil Company, 16 F. P. C. 100.

The increased rates and charges so proposed (other than certain tax changes and a periodic increase hereinafter described) have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of said proposed changes, and that the above-designated schedules and supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges.

(B) Pending such hearing and decision thereon, Supplements Nos. 5 and 6 to Union's FPC Gas Rate Schedule No. 78 (except insofar as they provide for tax changes due September 1, 1954, and September 1, 1955, and for a periodic increase due February 15, 1956, together with the tax component applicable thereto); Union's FPC Gas Rate Schedule No. 215 and Supplement No. 1 thereto; Union's FPC Gas Rate Schedule No. 216 and Supplement No. 1 thereto; and Supplements Nos. 1 and 2 to Union's FPC Gas Rate Schedule No. 92 (except insofar as they provide for a tax change due April 1, 1955) are hereby suspended and the use thereof deferred until May 1, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the rate schedules nor supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10089; Filed, Dec. 5, 1957; 8:45 a. m.]

[1] In the Matter of Union Producing Company and United Gas Pipe Line Company.

[2] Supersedes Union Producing Company FPC Gas Rate Schedule No. 85.

[3] Supersedes Union Producing Company FPC Gas Rate Schedule No. 43.

[Docket No. G-13819]

MIDWEST OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

NOVEMBER 29, 1957.

Midwest Oil Corporation (Midwest) on November 1, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated October 30, 1957.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: Supplement No. 2 to Midwest's FPC Gas Rate Schedule No. 13.

Effective date: December 2, 1957 (effective date is the first day after expiration of the required thirty days' notice).

Midwest submits no support for its proposed two-step periodic rate increase.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 2 to Midwest's FPC Gas Rate Schedule No. 13 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Midwest's FPC Gas Rate Schedule No. 13.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until May 2, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-10090; Filed, Dec. 5, 1957; 8:46 a. m.]

[Project No. 2230]

CITY OF SITKA, ALASKA

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

NOVEMBER 29, 1957.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 7912–825r) by City of Sitka, Alaska, for preliminary permit for proposed water power Project No. 2230 to be located on Blue Lake and Medvetcha River in Baranof Island, Territory of Alaska, and affecting lands of the United States within Tongass National Forest. The proposed project will consist of a concrete arch dam on Medvetcha River about 400 feet below outlet of Blue Lake about 250 feet long and 200 feet high; a tunnel about 1,200 feet long; a powerhouse with installed capacity of two 3,000-kw generators.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is January 15, 1958. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–10093; Filed, Dec. 5, 1957; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–2105]

KINGSFORD CO.

NOTICE OF APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

DECEMBER 2, 1957.

In the matter of Kingsford Company, Common Stock, File No. 1–2105.

The above named issuer, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2–1 (b) promulgated thereunder, has made application to withdraw the specified security from listing and registration on the Midwest Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

At the annual meeting on October 25, 1957, pursuant to solicitation by a proxy statement in respect of the management's delisting proposal, 1,715,820 of the 2,269,819 outstanding common shares were voted, of which 1,622,478 were voted for and 11,990 against the proposal. Of the 2,104 common shareholders of record, 994 voted for and 70 voted against the proposal. None of the 47 holders of the 13,100 outstanding convertible preferred shares voted against the proposal. The applicant has accordingly complied with the pertinent delisting rule of the Midwest Stock Exchange. The common stock continues to be listed on the American Stock Exchange and the management desires to save the expenses of a duplicate listing.

Upon receipt of a request, on or before December 16, 1957, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 57–10102; Filed, Dec. 5, 1957; 8:47 a. m.]

[File No. 7–1900]

VIRGINIAN RAILWAY CO.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

DECEMBER 2, 1957.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Virginian Railway Company, Common Stock, File No. 7–1900.

The above named stock exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F–1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before December 16, 1957, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 57–10101; Filed, Dec. 5, 1957; 8:47 a. m.]

[File No. 70–3644]

LOUISIANA POWER & LIGHT CO. AND MIDDLE SOUTH UTILITIES, INC.

NOTICE REGARDING PROPOSED ISSUE AND SALE OF ADDITIONAL SHARES OF COMMON STOCK BY PUBLIC-UTILITY SUBSIDIARY AND ACQUISITION THEREOF BY PARENT COMPANY

NOVEMBER 29, 1957.

Notice is hereby given that Middle South Utilities, Inc., ("Middle South"), a registered holding company, and its public-utility subsidiary, Louisiana Power & Light Company ("Louisiana"), have filed with this Commission a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("act") and have designated sections 6 (a), 7, 9 (a), 10 and 12 (f) of the act and Rule U-43 promulgated thereunder as applicable to the proposed transactions.

All interested persons are referred to the application-declaration on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Louisiana proposes to issue and sell and Middle South proposes to acquire, for $6,500,000 cash, 1,800,000 additional shares of the authorized but unissued no par common stock of Louisiana. Louisiana also proposes to transfer $2,500,000 from its earned surplus account to its common capital stock account. The proceeds received from the proposed sale of common stock are to be used by Louisiana to pay part of the cost of construction of new facilities and for the extension and improvement of its present facilities.

The application-declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is hereby given that any interested person may, not later than December 16, 1957, at 5:30 p.m., e. s. t., request in writing that a hearing be held in respect to such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the Commission may grant and permit to become effective the application-declaration, as filed or as it may be hereafter amended, pursuant to Rule U-23 promulgated under the act, or the Commission may exempt the proposed transactions pursuant to Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 57–10100; Filed, Dec. 5, 1957; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

GYÖRGYI HARTMAN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Györgyi Hartman, Toronto, Ontario, Canada, $2,576.17 in the Treasury of the United States.

Vesting Order No. 9352, Claim Nos. 33758 and 33759.

Executed at Washington, D. C. November 29, 1957.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 57-10111; Filed, Dec. 5, 1957; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 3, 1957.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34328: *Chemical fertilizers from the southwest to the south.* Filed by F. C. Kratzmier, Agent (SWFB No. B-7164), for interested rail carriers. Rates on dry fertilizer and fertilizer materials, carloads from points in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas to points in southern territory; also Baton Rouge, New Orleans, La., Natchez, Vicksburg, Miss., and Memphis, Tenn.

Grounds for relief: Short-line distance formula and market competition.

Tariff: Supplement 241 to Agent Kratzmier's tariff I. C. C. 4112.

FSA No. 34329—*Scrap iron and related articles in official territory.* Filed by H. R. Hinsch, Agent (CTR No. 2361), for interested rail carriers. Rates on scrap iron and articles taking the same rate, carloads from points in central territory to points in central and trunk line territories.

Grounds for relief: Rates constructed on short-line distance formula, and grouping.

Tariff: Agent Hinsch's tariff I. C. C. No. 4807.

FSA No. 34330: *Substituted service, motor and rail, B. & M., D. & H. and Erie.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 72), for interested rail and motor carriers. Rates on freight loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., on the one hand, and East Cambridge, Holyoke, or Worcester, Mass., on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 1 to The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. No. 17.

FSA No. 34331: *Substituted service, motor and rail, Pennsylvania Railroad.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 73), for and on behalf of The Pennsylvania Railroad Company, Association Transport, Inc., and other interested motor carriers. Rates on freight loaded in highway trailers and transported on railroad flat cars between Cincinnati, Ohio, on the one hand, and Baltimore, Md., Kearny, N. J., or Philadelphia, Pa., on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 1 to The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. No. 17.

FSA No. 34332: *Substituted service, motor and rail, Erie Railroad Company.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 74); for and on behalf of The Erie Railroad Company, Chicago Express, Inc., and other interested motor carriers. Rates on freight loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., or Hammond, Ind., on the one hand, and Jersey City, N. J., on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 1 to The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 17.

FSA No. 34333: *Substituted service, motor and rail, Erie and N. Y., N. H. & H.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 75), for and on behalf of the Erie Railroad Company, and other interested rail and motor carriers. Rates on freight loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., or Hammond, Ind., on the one hand, and Boston, or Worcester, Mass., or Providence, R. I., on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 1 to The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. No. 17.

FSA No. 34334: *Newsprint paper between points in southern territory.* Filed by O. W. South, Jr., Agent (SFA No. A3565), for interested rail carriers. Rates on newsprint paper, carloads between points in Southern territory.

Grounds for relief: Short-line distance formulas, grouping, maintenance of rates including short or relief line arbitraries from or to points on short or weak lines.

Tariff: Supplement 26 to Agent Spaninger's tariff I. C. C. 1601.

FSA No. 34335: *Sulphuric acid—LeMoyne, Ala., to Miami, Fla.* Filed by O. W. South, Jr., Agent (SFA No. A3566), for interested rail carriers. Rates on sulphuric acid, tank-car loads, from Le Moyne, Ala., to Miami, Fla.

Grounds for relief: Short-line distance formula.

Tariff: Supplement 161 to Agent Spaninger's tariff I. C. C. 1357.

FSA No. 34336: *Caustic soda—Between and from and to points in the south.* Filed by O. W. South, Jr., Agent (SFA No. A3570) for interested rail carriers. Rates on liquid caustic soda, tank-car loads between points in southern territory, and between points in southern territory, on the one hand, and points in southern Illinois and Indiana, also St. Louis, Mo., on the other.

Grounds for relief: Short-line distance formula, grouping, and short-or relief line arbitraries.

Tariffs: Supplement 10 to Agent Spaninger's tariff I. C. C. 1613 and two other schedules.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 57-10098; Filed, Dec. 5, 1957; 8:47 a. m.]

PART II

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 22 NUMBER 236

Washington, Friday, December 6, 1957

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Because of the numerous amendments which have been made in Title 8, Chapter I, of the Code of Federal Regulations, the chapter is republished in its entirety as set forth below as of November 27, 1957.[1]

NOTE: This table shows sections of Title 8 of the United States Code and corresponding sections of the Immigration and Nationality Act and of parts in Subchapters A, B, and C of Chapter I of Title 8 of the Code of Federal Regulations. Those sections of Title 8 of the United States Code bearing an asterisk do not have a corresponding part in Chapter I of Title 8 of the Code of Federal Regulations.

Sections 8 USC	Sections I. & N. Act and 8 CFR
1101*	101
1102*	102
1103*	103
1104*	104
1105*	105
1106*	401
1151*	201
1152*	202
1153*	203
1154	204
1155	205
1156	206
1157*	207
1181	211
1182	212
1183	213
1184	214
1185*	215
1201*	221
1202*	222
1203	223
1204*	224
1221	231
1222	232
1223	233
1224*	234
1225	235
1226	236
1227	237
1228	238
1229	239
1230*	240
1251	241
1252	242
1253	243
1254	244
1255	245
1256	246
1257	247
1258	248
1259	249
1260	250
1281	251
1282	252
1283	253
1284*	254
1285*	255
1286*	256
1287*	257
1301*	261
1302	262
1303	263
1304	264
1305	265
1306*	266
1321*	271
1322*	272
1323*	273
1324	274
1325*	275
1326*	276
1327*	277
1328*	278
1329*	279
1330	280
1351*	281
1352	282
1353*	283
1354*	284
1355*	285
1356*	286
1357	287
1358*	288
1359*	289
1360*	290
1361*	291
1362	292
1401*	301
1402*	302
1403*	303
1404*	304
1405*	305
1406	306
1407*	307
1408*	308
1409*	309
1421	310
1422*	311
1423	312
1424*	313
1425*	314
1426*	315
1427	316
1428	317
1429	318
1430	319
1431*	320
1432*	321
1433	322
1434	323
1435	324
1436	325
1437*	326
1438	327
1439	328
1440	329
1441	330
1442	331
1443	332
1444	333
1445	334
1446	335
1447	336
1448	337
1449	338
1450	339
1451	340
1452	341
1453*	342
1454	343
1455	344
1456*	345
1457*	346
1458*	347
1459*	348
1481*	349
1482*	350
1483*	351
1484*	352
1485*	353
1486*	354
1487*	355
1488*	356
1489*	357
1501*	358
1502*	359
1503*	360

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	Regional commissioners; appeals.
8	Reopening and reconsideration.
9	Authority of Commissioner, Regional Commissioners, and Assistant Commissioners.
10	Formal applications and petitions.

Subchapter B—Immigration Regulations

Part	
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 nonimmigrants: admission of certain inadmissible aliens; parole.
212a	Admission of certain aliens to perform skilled or unskilled labor.
213	Admission of aliens on giving bond or cash deposit.
214	Admission of nonimmigrants: general.
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.
214k	Admission of agricultural workers under special legislation.
223	Reentry permits.
231	Arrival-departure manifests and lists; supporting documents.
232	Detention of aliens for observation and examination.
233	Temporary removal for examination upon arrival.
235	Inspection of aliens applying for admission.
235a	Preexamination of aliens within the United States.
236	Exclusion of aliens.
237	Deportation of excluded aliens.
238	Entry through or from foreign contiguous territory and adjacent islands.
239	Special provisions relating to aircraft: designation of ports of entry for aliens arriving by civil aircraft.
241	Judicial recommendations against deportation.
242	Proceedings to determine deportability of aliens in the United States: apprehension, custody, hearing, and appeal.
243	Deportation of aliens in the United States.
244	Suspension of deportation and voluntary departure.
245	Adjustment of status of nonimmigrant to that of a person admitted for permanent residence.
245a	Adjustment of status of nonimmigrant to that of a person admitted for permanent residence in accordance with the Refugee Relief Act of 1953, as amended.
246	Rescission of adjustment of status.

[1] See amendments in F. R. Doc. 57-9886, 22 F. R. 9518, November 28, 1957.

Subchapter A—General Provisions

PART 1—GENERAL

AUTHORITY: §§ 1.1 and 1.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 332, 66 Stat. 166, 252; 8 U. S. C. 1101, 1443.

§ 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 for taking any action provided in this chapter, including the taking of an appeal, shall include Sundays and legal holidays, except that when the last day of the period so computed falls on a Sunday or legal holiday, the period shall run until the end of the next day which is neither a Sunday nor a legal holiday.

(7) The term "region" or "immigration region" 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 statement of organization of the Service.

(8) The term "regional commissioner" means:

(i) The officer duly appointed to the titular position as the Service officer in charge of a region whose appointment has not terminated, or

(ii) The officer or employee of the Service who has been designated to act as regional commissioner in the absence of the regional commissioner.

(9) 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 statement of organization of the Service.

(10) The term "district director" means:

(i) The officer duly appointed to the titular position as the Service officer in charge of a district whose appointment has not terminated, or

(ii) The officer or employee of the Service who has been designated to act as district director in the absence of the district director.

(11) The term "immigration officer" means:

(i) Any officer or employee of the Service who on December 24, 1952, was serving under an appointment theretofore made to the position of immigrant inspector, patrol inspector, detention officer, investigator, or 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 persons 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.

(12) The term "officer in charge" means the Service Officer in charge of a suboffice.

(13) 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.

(14) 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.

(15) The term "suboffice" means any office or facility specifically designated as such in the statement of organization of the Service.

(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 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 having administrative judisdiction over the place of arrival to have been wholly involuntary, not reasonably to be expected, or not intended;

(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.

(13) The term "American Indians born in Canada", as used in section 289 of the Immigration and Nationality Act, means persons who possess at least fifty per centum of blood of the American Indian race. It does not include persons of less than fifty per centum of blood of the American Indian race who are the spouses or children of such Indians or whose membership in Indian tribes or families is created by adoption.

(14) The term "pay off or discharge", as used in section 256 of the Immigration and Nationality Act, means the signing off the articles of a crewman or the termination in any manner of his service and presence on board the vessel or aircraft on which he arrived in the United States.

(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.

PART 2—SERVICE RECORDS: FEES

Sec.

AUTHORITY: §§ 2.1 to 2.5 issued under sec. 501, 65 Stat. 290, sec. 103, 66 Stat. 173; 5 U. S. C. 140, 8 U. S. C. 1103 Interpret or apply secs. 281, 332, 343, 344, 405, 66 Stat. 230, 252, 263, 266, 280; 8 U. S. C. 1351, 1443, 1454, 1455, 1101 note.

§ 2.1 *Authority of officers to release information and to certify records.* The Commissioner, the General Counsel of the Service, Regional Commissioners, 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 and Information 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.* Except as otherwise provided in § 2.5, fees shall be submitted with any formal application or petition prescribed in this chapter and shall be in the amount prescribed by the act or other applicable statute or regulation. When any discretionary relief in exclusion or deportation proceedings is granted absent an application and fee therefor, the district director having administrative jurisdiction over the place where the original proceeding was conducted shall require the filing of the application and the payment of the fee. All remittances shall be accepted subject to collection. A receipt issued by a Service officer for any such remittance shall not be binding if the 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 "Immigration and Naturalization Service, Department of Justice," 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.* 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. Whenever it is desired that a copy of a document or written information from the records be officially certified under seal, an additional fee of $1.00 is required.

§ 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 prescribed:

For filing application for United States citizen border crossing identification card	$5.00
For filing application for the benefits of section 316 (b) or 317 of the Immigration and Nationality Act	10.00
For filing an appeal from, or a motion to reopen or reconsider, a decision in an exclusion or deportation proceeding. (The minimum fee of $25 shall be charged whenever such an appeal or motion is filed by or on behalf of two or more aliens and all of such aliens are covered by one decision.)	25.00
For filing an appeal from, or a motion to reopen or reconsider, any decision under the immigration laws, except from a decision in an exclusion or deportation proceeding. (The minimum fee of $10 shall be charged whenever such an appeal or motion is filed by or on behalf of two or more aliens and all of such aliens are covered by one decision.)	10.00
For filing application for Alien Registration Receipt Card in lieu of one lost, mutilated, or destroyed, or in changed name, or in lieu of form other than I–151	5.00
For filing application for approval of a school	25.00
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
For filing application for discretionary relief under section 212 (c) of the Immigration and Nationality Act	25.00
For filing application for discretionary relief under section 212 (d) (3) of the Immigration and Nationality Act, except in emergency cases or where the granting of the application is in the interest of the United States Government	25.00
For filing application for Alien Laborer's Permit in lieu of one lost, mutilated, or destroyed	1.00

For filing application for waiver of passport or visa of an individual alien prior to or at the 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, or who is seeking admission under section 101 (a) (15) (A) or (G) of the act) [1]	$10.00
For filing application for waiver of visa of an individual alien at the time he applies for admission to the United States as a returning resident [1]	10.00
For a search of an arrival record in case information is for personal benefit	3.00
For annual subscription for "Passenger Travel Reports via Sea and Air"	10.00
For an annual table on "Passenger Travel Reports via Sea and Air"	.20
For set of six annual tables on "Passenger Travel Reports via Sea and Air"	1.00
For filing application for waiver of grounds for exclusion contained in section 212 (a) (14) of the Immigration and Nationality Act	10.00
For special statistical tabulations a charge will be made to cover the cost of the work involved.	
For filing application for stay of deportation under § 243.3 (b) of this chapter, except when made concurrently with a motion to reopen or reconsider a decision in a deportation proceeding	25.00
For filing application for waiver of passport of an individual alien prior to or at the time he applies for admission to the United States for permanent residence [1]	10.00
For filing application for preexamination. (The fee and application shall not be required of an alien who has filed an application for adjustment of status under section 4 of the Displaced Persons Act of 1948, as amended, or section 6 of the Refugee Relief Act of 1953, as amended; for suspension of deportation; a previous application for preexamination, or an application for adjustment of status under section 245 or 248 or for creation of a record of admission for permanent residence under section 249 of the Immigration and Nationality Act.)	25.00
For filing an application for certificate of citizenship by claimant under section 309 (c) of the act	5.00

[1] Plus communication costs.

PART 3—IMMIGRATION BONDS

§ 3.1 *Immigration bonds*—(a) *Acceptable sureties.* In cases other than those in which cash is deposited pursuant to Part 213 of 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 sections 6 to 13 of title 6 of the United States Code as an acceptable surety on Federal bonds;

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

(3) Sureties, who shall be two in number, each of whom shall justify separately in real property which is not exempted from levy and sale upon execution and which 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 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. 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, 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 regional 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 regional 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 regional commissioner for approval, except that a request for delivery of collateral security to a duly appointed and undischarged administrator or executor of the estate of a deceased depositor shall be forwarded to the district director for approval.

(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, or when a request for release from liability is received from an obligor, 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 him in writing on Form I–323 of his decision. No appeal shall lie from the decision of the district director.

(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 may be given if all the conditions of the bond have been complied with and (i) the alien has departed from the United States or, being the sole obligor on the bond or holding an approved power of attorney from the obligor, is about to depart 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; 8 U. S. C. 1103)

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

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.

AUTHORITY: §§ 4.1 to 4.3 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 212, 66 Stat. 166, 182; 8 U. S. C. 1101, 1182.

§ 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.

(b–1) *Aliens who entered at the port of Presidio, Texas, prior to October 21, 1918.* An alien who establishes that, while a citizen of Mexico, he entered the United States at the port of Presidio, Texas, prior to October 21, 1918.

(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) of this paragraph, and an alien of the class described in subparagraph (1) of this paragraph 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.

(i) *Citizens of the Trust Territory of the Pacific Islands who entered Guam prior to December 24, 1952.* An alien who establishes that while a citizen of the Trust Territory of the Pacific Islands he entered Guam prior to December 24, 1952, by records, such as Service records subsequent to June 15, 1952, records of the Guamanian Immigration Service, records of the Navy or Air Force, or records of contractors of those agencies, and was residing in Guam on that date.

(j) *Aliens admitted to Guam.* (1) An alien who establishes that he was admitted to Guam prior to December 24, 1952, by records, such as Service records subsequent to June 15, 1952, records of the Guamanian Immigration Service, records of the Navy or Air Force, or records of contractors of those agencies; that he was not excludable under the act of February 5, 1917, as amended; and that he continued to reside in Guam until December 24, 1952, and thereafter has not been admitted or readmitted into Guam as a nonimmigrant: *Provided*, That the provisions of this subparagraph shall not apply to an alien who was exempted from the contract laborer provisions of section 3 of the Immigration Act of February 5, 1917, as amended, through the exercise, expressly or impliedly, of the 4th or 9th provisos to section 3 of the said act.

(2) An alien residing in Guam who establishes that he was previously lawfully admitted for permanent residence at a continental port of the United States, that a record of such admission exists, and that he has not abandoned the status of resident of the United States.

§ 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.

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

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

Sec.
5.11 Report and notice.
5.12 Failure to answer; admission of allegations.
5.13 Answer filed; personal appearance; notice.
5.14 Surrender of documents.

AUTHORITY: §§ 5.1 to 5.14 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 342—344, 66 Stat. 252, 263—264; 8 U. S. C. 1443, 1453—1455.

§ 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.

§ 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, and the subject shall be informed of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

§ 5.14 *Surrender of documents.* 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.

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

Sec.
6.1 Board of Immigration Appeals.
6.2 Reopening or reconsideration.
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; 8 U. S. C. 1103.

§ 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 Part 236 of this chapter;

(2) Decisions of special inquiry officers in deportation cases, as provided in Part 242 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 Part 212 of this chapter;

(4) Decisions of district directors involving administrative fines and penalties, including mitigation thereof, as provided in Part 280 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 Parts 205 and 206, respectively, of this chapter;

(6) Decisions of district directors or the Assistant Commissioner, 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 Part 212 of this chapter;

(7) Determinations of regional commissioners or district directors relating to bond, parole, or detention of an alien as provided in Part 242 of this chapter.

(c) *Jurisdiction by certification.* The Commissioner, an assistant commissioner, a regional commissioner, or the Board may in any case arising under paragraph (b) (1) through (6) 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 by law 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 re-

turn 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 Commissioner. 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 Commissioner or an assistant commissioner 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 Commissioner, an assistant commissioner, a regional commissioner, 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 § 6.1 (b) (1), (2), (3), (4), and (5) shall be regarded as a decision by the Board.

§ 6.11 *Notice of appeal.* A party affected by a decision who is entitled under this chapter to appeal to the Board shall be given notice of his right to appeal. An appeal is taken by filing Notice of Appeal, Form I–290A, in triplicate, with the district director having administrative jurisdiction over the case, within the time specified in the governing sections of this chapter. The regional commissioner, district director, or the Board, in their discretion, for good cause shown, may extend the time within which to submit a brief in support of such appeal. 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 he 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. Departure from the United States of a person under deportation proceedings, prior to the taking of an appeal from a decision in his case, shall constitute a waiver of his right to 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 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, as provided in this chapter, the entire record of the proceeding shall be forwarded to the Board by the district director having administrative jurisdiction over the case upon timely receipt of the brief in support of the appeal, or upon expiration of the time allowed for the submission of the 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 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 for transmittal to the Board within 10 days from receipt of the notice of certification, unless for good cause shown the district director 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 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.* Except as otherwise provided in this section, 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 a fee specified by, and remitted in accordance with, the provisions of Part 2 of this chapter. In any case in which an alien or other party affected is unable to pay the fee for an appeal or a motion, he shall file with the notice of appeal or the motion his affidavit stating the nature of the motion or appeal, the affiant's belief that he is entitled to redress, his inability to pay the required fee, and request permission to prosecute the appeal or motion without prepayment of such fee. If such an affidavit is filed with the officer of the Service from whose decision the appeal is taken or with respect to whose decision the motion is addressed, he shall, if he believes that the appeal or motion is not taken or made in good faith, certify in writing his reasons for such belief for consideration by the Board. The Board may, in its discretion, authorize the prosecution

of any appeal or motion without prepayment of fee.

§ 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. In any case in which a deportation order is in effect, there shall be included in the motion to reopen or reconsider that order a statement by or on behalf of the moving party declaring whether or not the subject of the deportation order is also the subject of any pending criminal proceeding under section 242 (e) of the Immigration and Nationality Act and, if so, the current status of that proceeding. If the motion to reopen or reconsider is for the purpose of seeking discretionary relief, there shall be included in the motion a statement by or on behalf of the moving party declaring whether or not the alien for whose relief the motion is filed is subject to any pending criminal prosecution and, if so, the nature and current status of that prosecution. 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 or the district director 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 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 the Commissioner, an assistant commissioner, or a regional commissioner is the moving party.* Whenever a motion to reopen or a motion to reconsider is made by the Commissioner, an assistant commissioner, or a regional commissioner, he shall cause one copy of the motion to be served upon the alien or party affected, as provided in §§ 292.11 and 292.12 of this chapter, and shall cause the record in the case and one copy of the motion to be filed directly with the Board, together with proof of service upon the alien or other party affected. Such alien or party shall have a period of ten days from the date of service upon him of the motion within which to submit a brief in opposition to the motion. Two copies of such brief shall be filed directly with the Board and one copy directly with the Commissioner. The submission of such brief may be waived. The Board, in its discretion, for good cause shown may extend the time within which such brief may be submitted.

(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—REGIONAL COMMISSIONERS: APPEALS

Sec.
7.1 Regional commissioners.
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; 8 U. S. C. 1103. Interpret of apply sec. 332, 66 Stat. 252; 8 U. S. C. 1443.

§ 7.1 *Regional commissioners*—(a) *Appellate jurisdiction.* Appeals shall lie to the regional commissioners from the following:

(1) 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 Parts 204, 214h, and 206 of this chapter;

(2) 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 Part 212 of this chapter;

(3) 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 Part 212a of this chapter;

(4) 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 Part 214f of this chapter;

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

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

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

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

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

(10) 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 Part 249 of this chapter;

(11) Decisions of district directors on applications filed under Parts 316 and 317 of this chapter for residence or physical presence benefits for naturalization purposes;

(12) [Reserved.]

(13) Decisions of district directors on applications for certificates of citizenship under Part 341 of this chapter;

(14) Decisions of district directors revoking certificates, documents or records under section 342 of the Immigration and Nationality Act, as provided in Part 5 of this chapter;

(15) Decisions of district directors on applications for certificates of naturalization or repatriation under Part 343 of this chapter;

(16) Decisions of district directors on applications for replacement of certificates of naturalization or citizenship under Part 343a of this chapter;

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

(18) [Reserved.]

(19) Decisions of district directors on applications for preexamination under Part 235a of this chapter.

(b) *Jurisdiction by certification.* The regional commissioner 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 regional commissioner 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 regional commissioner.* In considering and determining cases appealed or certified to him and in which he has jurisdiction to enter a decision, the regional commissioner 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 regional commissioner.* The decision of the regional commissioner shall be in writing. The alien or other party affected by the decision shall be informed of the decision made in the case.

§ 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 regional commissioner, 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 having administrative jurisdiction over the case three copies of Notice of Appeal, Form I–290B; and, except as otherwise pro-

vided in this chapter, that such appeal must be taken within ten days from the receipt of notification of decision. 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 or the regional commissioner, in his 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 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 regional commissioner 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 regional commissioner 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 having administrative jurisdiction over the case to the regional commissioner:

(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 regional commissioner 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 regional commissioner by way of certification.

§ 7.15 *Notice of certification.* When the regional commissioner 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 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 regional commissioner and of the right to submit a brief, if desired, for consideration by the regional commissioner. The brief shall be submitted to such district director for transmittal to the regional commissioner within ten days from receipt of the notice of certification, unless, for good cause shown, the district director or the regional commissioner 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 regional commissioner by the district director 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.* Except as otherwise provided in this section, 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. In any case in which an alien or other party affected is unable to pay the fee for an appeal, he shall file with the notice of appeal his affidavit stating the nature of the appeal, the affiant's belief that he is entitled to redress, his inability to pay the required fee, and requesting permission to prosecute the appeal without prepayment of such fee. If such an affidavit is filed, the officer of the Service from whose decision the appeal is taken shall, if he believes that the appeal is not taken in good faith, certify in writing his reasons for such belief for consideration by the regional commissioner. The regional commissioner may, in his discretion, authorize the prosecution of any such appeal without prepayment of fee.

PART 8—REOPENING AND RECONSIDERATION

Sec.

8.1 Reopening and reconsideration.

8.2 Reopening of suspension cases pending in Congress.

8.11 Motion to reopen or reconsider.

AUTHORITY: §§ 8.1 to 8.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103.

§ 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 the regional commissioner, if the decision in the case was made by him, or if the case is before him for review; or 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 regional commissioner; or the special inquiry officer, if he has ordered suspension of deportation and the regional commissioner has approved the granting of suspension but final action in the case has not been taken by Congress; or the special inquiry officer, in any other case in which the decision was made by him, unless the record in the case previously was forwarded to the Board or to the regional commissioner. 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.

§ 8.2 *Reopening of suspension cases pending in Congress.* Any deportation proceeding in which a special inquiry officer has ordered suspension of deportation, the regional commissioner (or the Assistant Commissioner, Inspections and Examinations Division, prior to January 3, 1955) has approved the granting of suspension, and final action in the case has not been taken by Congress, may be reopened by the special inquiry officer for proper cause upon motion made by the district director having administrative jurisdiction over the place where the proceeding was conducted. A motion to reopen which is granted by the special inquiry officer in a suspension case pending before Congress shall be conditioned upon withdrawal of the case from the list of suspension cases referred to Congress.

§ 8.11 *Motion to reopen or reconsider*—(a) *Filing.* When the alien is the moving party, a motion to reopen or to reconsider shall be filed in duplicate with the district director of the place where the proceeding was conducted for transmittal to the officer having jurisdiction to act on the motion, as provided in § 8.1. In any case in which an examining officer has appeared before a special inquiry officer, the district director shall immediately forward a copy of the alien's motion to such examining officer. When an officer of the Service is the moving party, a copy of the motion shall be served on the alien or other party in interest, as provided in §§ 292.11 and 292.12 of this chapter, and the motion, together with proof of service, shall be filed directly with the officer having jurisdiction to act on the motion. The party opposing the motion shall have ten days from the date of service thereof within which he may submit a brief. In his discretion, for good cause

shown, the officer having jurisdiction to act on the motion may extend the time within which such brief may be submitted. If the officer who originally decided the case is unavailable, the motion may be referred to another officer in the district or region having jurisdiction over the subject matter and authorized to act in such cases. 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. A motion 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 of the place where the proceeding was conducted.

(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 of this chapter 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 § 6.1 (b) (2) of this chapter.

(f) *Fees.* Except as otherwise provided in this paragraph, a motion filed under this part by any person other than an officer of the Service shall be accompanied by a fee specified by, and remitted in accordance with, the provisions of Part 2 of this chapter. In any case in which an alien or other party affected is unable to pay the fee for a motion, he shall file with the motion his affidavit stating the nature of the motion, the affiant's belief that he is entitled to redress, his inability to pay the required fee, and request permission to prosecute the motion without prepayment of such fee. If such an affidavit is filed, the district director having administrative jurisdiction over the place where the proceedings were conducted shall, if he believes that the motion is not made in good faith, certify in writing his reasons for such belief for consideration by the officer having jurisdiction to act on the motion as provided in § 8.1. The officer having jurisdiction to act on the motion may, in his discretion, authorize the prosecution of any such motion without prepayment of fee.

PART 9—AUTHORITY OF COMMISSIONER, REGIONAL COMMISSIONERS, AND ASSISTANT COMMISSIONERS

Sec.

AUTHORITY: §§ 9.1 to 9.6 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 332, 66 Stat. 252; 8 U. S. C. 1443.

§ 9.1 *Authority of Commissioner*—(a) *General.* Under the general direction of the Attorney General, the Commissioner is authorized and directed to 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, to administer and enforce the Immigration and Nationality Act and all other laws relating to immigration, naturalization, and nationality; and for such purposes he is authorized to exercise or perform any of the powers, privileges, and duties conferred or imposed upon the Attorney General thereby, including the authority to promulgate regulations under Subchapters B, and C 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, Examinations Division.* The powers, privileges, and duties conferred or imposed upon officers or employees of the Service under this chapter with respect to the inspections, examinations, and hearing programs of the Service, are hereby conferred or imposed upon the Assistant Commissioner, Examinations Division, including:

(a) Applications for waiver of ground of inadmissibility as provided in section 212 (d) (3) of the Immigration and Nationality Act and Part 212 of this chapter, but only in those cases where such applications have been recommended by the Secretary of State or by a consular officer.

(b) Final determinations regarding qualifications of aliens for the benefits of section 212 (a) (28) (I) (ii) 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 investigation programs of the Service are hereby conferred or imposed upon the Assistant Commissioner, Investigations Division.

§ 9.4 *Authority of Assistant Commissioner, Enforcement Division.* The powers, privileges, and duties conferred or imposed upon officers or employees of the Service under this chapter with respect to the border patrol, detention, deportation, and parole programs of the Service are hereby conferred or imposed upon the Assistant Commissioner, Enforcement Division.

§ 9.5 *Authority of Assistant Commissioner, Administrative Division.* The function of requesting information from other Government agencies regarding the identity and location of aliens as provided for in sections 290 (b) and (c) of the Immigration and Nationality Act is conferred upon the Assistant Commissioner, Administrative Division, with related functions.

§ 9.5a *Authority of Regional Commissioners.* 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 regional commissioners:

(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) Waiver of passport and visa requirements in particular cases of immigrants in accordance with Part 211 of this chapter.

(d) 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.

(e) 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.

(f) 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, except as otherwise provided in § 9.2.

(g) 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.

(h) Waiver of nonimmigrant passport and visa requirements, acting jointly with the Secretary of State, or his authorized representative, if any, in individual cases of unforeseen emergency, as provided by section 212 (d) (4) of the Immigration and Nationality Act.

(i) 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.

(j) 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 214k, inclusive, of this chapter.

(k) 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.

(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 Part 214f of this chapter.

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

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

(o) Designation, and withdrawal of designation, of ports of entry for aliens arriving by vessel or by land transportation as provided in the statement of organization of the Service, and designation, and withdrawal of designation, of airports as international airports for entry of aliens as provided in Part 239 of this chapter.

(p) 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.

(q) 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.

(r) [Reserved.]

(s) [Reserved.]

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

(u) Issuance and cancellation of warrants of arrests and orders to show cause prior to hearing as provided in section 242 of the Immigration and Nationality Act and Part 242 of this chapter.

(v) Voluntary departure of aliens prior to hearing as provided in section 242 (b) of the Immigration and Nationality Act and Part 242 of this chapter.

(w) 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.

(x) 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.

(y) 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.

(z) 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.

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

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

(cc) 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.

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

(ee) 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.

(ff) 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.

(gg) 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.

(hh) [Reserved.]

(ii) [Reserved.]

(jj) Replacement of alien-registration receipt cards under Part 264 of this chapter.

(kk) Issuance of subpenas as provided in section 235 (a) of the Immigration and Nationality Act and Part 287 of this chapter.

(ll) Control and guarding of boundaries and borders of the United States against the illegal entry of aliens and the fixing of boundary distances as provided in section 287 of the Immigration and Nationality Act and Part 287 of this chapter.

(mm) Applications for residence and physical presence benefits under section 316 of the Immigration and Nationality Act and Parts 316a and 317 of this chapter and determinations that employers are American institutions of research or public international organizations within the meaning of section 316 (b) or 319 (b) of the Immigration and Nationality Act.

(nn) [Reserved.]

(oo) [Reserved.]

(pp) Applications for transfer of petitions for naturalization under section 335 (i) of the Immigration and Nationality Act and Part 334 of this chapter.

(qq) 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.

(rr) 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.

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

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

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

(vv) Applications for certificates of citizenship under Part 341 of this chapter.

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

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

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

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

(aaa) Adjustment of immigration status as provided in section 4 of the Displaced Persons Act, as amended, and section 6 of the Refugee Relief Act of 1953 and Part 245a of this chapter.

(bbb) Review of certain designated examiner recommendations as to final disposition of petitions for naturalization by courts under Part 335 of this chapter.

(ccc) Applications for preexamination under Part 235a of this chapter.

(ddd) Determinations regarding qualifications of aliens for the benefits of section 212 (a) (28) (I) (i) of the Immigration and Nationality Act.

(eee) Waiver of the requirement that certain exchange aliens be resident and physically present in a cooperating country for an aggregate period of two years following departure from the United States, as provided in section 201 of the United States Information and Educational Exchange Act of 1948, as amended. (Sec. 2, Reorganization Plan 2, 1950, 64 Stat. 1261, note fol. 5 U. S. C. 133z-15)

§ 9.5b *Authority of District Directors.* Except as otherwise provided, district directors are authorized to grant or deny any formal application or petition in any case provided for in this chapter.

§ 9.6 *Reservation of authority.* The powers, privileges, and duties conferred or imposed by this chapter upon officers or employees of the Service other than those referred to in this section shall be in addition to, and not in substitution for, those conferred or imposed by this part upon the assistant commissioners and the regional commissioners. The powers, privileges, and duties conferred or imposed by this chapter upon officers or employees of the Service other than the Commissioner shall be in addition to, and not in substitution for, those conferred upon the Commissioner by this part. Concurrent and coexistent powers and authority with respect to all delegations made by this chapter are retained by the Attorney General.

PART 10—FORMAL APPLICATIONS AND PETITIONS

§ 10.1 *General.* Every formal application or petition shall be submitted in accordance with the instructions accompanying it or contained therein, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. Such applications shall not be accepted and shall be returned if improperly executed. A person or guardian may file a formal application or a petition on behalf of a son, daughter, or ward under 14 years of age. Except as otherwise provided in this chapter, a separate application or petition shall be filed by each applicant or petitioner. Any oath required in the execution of a formal 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. The Service officer authorized to make decisions may, in his discretion, require the submission of additional evidence, including blood tests where that is deemed helpful and appropriate; may require the testimony of the applicant, petitioner, or other person, and may direct the making of any investigation which he deems necessary to establish the truth or falsity of the allegations in the application or petition and the eligibility of the applicant or petitioner for the requested right or privilege. 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. Formal applications or petitions delivered in person or by mail to any Service office shall be stamped to show the time and date of their actual receipt and shall be regarded as filed when so stamped unless they are returned because they are improperly executed. 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; 8 U. S. C. 1103)

Subchapter B—Immigration Regulations

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

Sec.
204.1 Definition.
204.2 Petition.

AUTHORITY: §§ 204.1 and 204.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 203, 204, 66 Stat. 166, 173, 179; 8 U. S. C. 1101, 1153, 1154.

§ 204.1 *Definition.* As used in section 101 (a) (27) (F) of the 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 clergyman. Lay preachers not authorized to perform the duties usually performed by a regularly ordained pastor or clergyman, and cantors, or nuns, do not come within this definition.

§ 204.2 *Petition.* The petition required by section 204 (b) of the act shall be filed by the person, institution, firm, organization, or governmental agency for whom the work, labor, or services are to be performed on Form I–129A for nonquota classification under section 101 (a) (27) (F) (i) of the act as a minister of a religious denomination and on Form I–129 for quota classification under section 203 (a) (1) (A) of the act as an alien whose services are needed urgently in the United States. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

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

§ 205.1 *Petition.* A petition by a United States citizen under section 205 (b) of the act shall be filed on Form I–133. A petition by an alien under section 205 (b) of the act shall be filed on Form I–133A. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal to the Board within 10 days from the receipt of such notification in accordance with Part 6 of this chapter.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interprets or applies sec. 205, 66 Stat. 180; 8 U. S. C. 1155)

PART 206—REVOCATION OF APPROVAL OF PETITIONS

Sec.
206.1 Automatic revocation.
206.2 Revocation on notice.
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; 8 U. S. C. 1103. Interpret or apply secs. 204, 205, 214, 66 Stat. 179, 180, 189; 8 U. S. C. 1154, 1155, 1184.

§ 206.1 *Automatic revocation.* The approval of a petition made under section 204, 205, or 214 (c) of the 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 and is not issued a visa under the classification approved within one year of the date on which the petition was approved.

(2) The beneficiary is an alien seeking classification as a nonimmigrant under section 101 (a) (15) (H) of the Immigration and Nationality Act and is not issued a visa on or prior to the expiration date of approval shown on the approved petition.

(3) The beneficiary is an alien seeking classification under section 203 (a) (1) (A) of the Immigration and Nationality Act and is not issued a visa on or prior to the expiration date of approval shown on the approved petition. In the case of any such petition terminated by the expiration of the period for which approval was given, the Attorney General may, in his discretion, reaffirm such approval for an additional period.

(4) 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 act:

(1) The beneficiary is an alien seeking classification as a nonquota immigrant under section 101 (a) (27) (A) and is not issued a visa under the classification approved within two years of the date on which the petition was approved.

(2) The beneficiary is an alien seeking classification under section 203 (a) (2), (3), or (4) and is not issued a visa under the classification approved within three years of the date on which the petition was approved or during the quota year in which such three-year period expired.

(3) 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 approved.

(4) 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.

(5) As to a child beneficiary, the beneficiary is married before he arrives in the United States to apply for admission under the classification approved, or the beneficiary reaches the 21st anniversary of his birth before he arrives in the United States to apply for admission under the classification approved. In any such case involving a son or daughter of a United States citizen petitioner, the approved petition will continue to be valid for the purposes of section 203 (a) (4) until the expiration of three years from the date of its approval or during the quota year in which such three-year period expired.

§ 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.

§ 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 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 act, or to the regional commissioner as provided in Part 7 of this chapter if the petition initially was approved for classification under section 204 or 214 (c) of the 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

Sec.
211.1 Visas.
211.2 Passports.

AUTHORITY: §§ 211.1 and 211.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 211, 212, 222, 235, 66 Stat. 181, 182, 193, 198; 8 U. S. C. 1181, 1182, 1202, 1225.

§ 211.1 *Visas.* A valid unexpired immigrant visa shall be presented by each arriving immigrant alien except an immigrant who (a) was born subsequent to the issuance of an immigrant visa to his accompanying parent and applies for admission during the validity of such a visa, or (b) is returning to an unrelinquished lawful permanent residence after a temporary absence abroad (1) not exceeding one year and presents a Form I–151 alien registration receipt card duly issued to him or (2) presents a valid unexpired reentry permit duly issued to him, or (3) satisfies the district director in charge of the port of entry that there is good cause for the failure to present the required document, in which case an application for waiver shall be made on Form I–193.

§ 211.2 *Passports.* A valid unexpired passport shall be presented by each arriving immigrant alien except an immigrant who (a) is the spouse, parent or unmarried son or daughter of a United States citizen, or (b) is the spouse or unmarried son or daughter of an alien lawful permanent resident of the United States, or (c) is returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad, or (d) is a stateless person or a person who because of his opposition to communism is unwilling or unable to obtain a passport from the country of his nationality, or (e) is a first-preference quota immigrant, or (f) satisfies the district director in charge of the port of entry that there is good cause for failure to present the required document, in which case an application for waiver shall be made on Form I–193.

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

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 Nonimmigrants required to present visas or border-crossing identification cards but not passports.
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 Request by certain resident aliens for permission to reenter the United States.
212.8 Request by certain nonimmigrant aliens for permission to enter the United States temporarily.
212.9 Parole of aliens into the United States.
212.11 Nonresident alien Mexican border crossing card.
212.71 Application for permission to reenter the United States; prior to application for readmission at a port of entry.
212.73 Application for permission to reenter the United States; at time of application for readmission at a port of entry.
212.81 Application for permission to enter the United States temporarily; prior to application for admission at a port of entry.
212.82 Application for permission to enter the United States temporarily; at time of application for admission at a port of entry.

AUTHORITY: §§ 212.1 to 212.82 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 212, 214, 236, 238, 66 Stat. 166, 182, 189, 200, 202; 8 U. S. C. 1101, 1182, 1184, 1226, 1228.

§ 212.1 *Documentary requirements for nonimmigrants.* Except as otherwise 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 Mexican border crossing card shall be acceptable in lieu of a nonimmigrant visa when presented in accordance with the 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.* (a) The provisions of section 212 (a) (26) of the act and of this chapter relating to the requirement of passports, visas, and border-crossing identification cards for nonimmigrants, have been waived on a reciprocal basis by the Secretary of State and the Attorney General, acting jointly, in pursuance of the authority contained in section 212 (d) (4) (B) of the act, in the cases of aliens (including alien crewmen) who fall within any of the following-described categories:

(1) A Canadian citizen who has his residence in Canada and who makes application for admission into the United States (i) from Canada; or (ii) from, and after a visit solely to, some place in foreign contiguous territory or adjacent islands; or (iii) from, and after a visit solely to, some place in the Western Hemisphere if such citizen departed on a round-trip cruise from a port of the United States or Canada and has not transshipped from the original vessel or aircraft.

(2) A British subject who has his residence in Canada and who makes application for admission into the United States (i) from Canada; or (ii) from, and after a visit solely to, some place in foreign contiguous territory or adjacent islands; or (iii) from, and after a visit solely to, some place in the Western Hemisphere if such subject departed on a round-trip cruise from a port of the United States or Canada and has not transshipped from the original vessel or aircraft.

(3) A Mexican national who:

(i) Is a military or civilian official or employee of the Mexican national government, or of a Mexican state or municipal government, or a member of the family of any such official or employee, and who makes application for admission into the continental United States from Mexico on personal or official business or for pleasure; or

(ii) Makes application to pass 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

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

(4) 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.

(5) A national of Cuba who is an official of the Cuban Immigration Service, who makes continuous round trips on regularly scheduled steamships between Havana, Cuba, and Miami, Florida, for the purpose of inspecting passengers, and who makes application for admission into the United States in connection with such employment.

(6) A national of Cuba who is a crewman serving on board a Cuban military or naval aircraft and who makes application for admission into the United States in connection with his official duties.

(7) A British subject who has his residence in Bermuda and who makes application for admission into the United States as a visitor for business or pleasure under the provisions of section 101 (a) (15) (B) of the act (i) from Bermuda; or (ii) from, and after a visit solely to, some place in foreign contiguous territory or adjacent islands; or (iii) from, and after a visit solely to, some place in the Western Hemisphere if such subject departed on a round-trip cruise from a port of the United States or Bermuda and has not transshipped from the original vessel or aircraft.

(b) The provisions of section 212 (a) (26) of the act 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) (C) of the act, for aliens embraced within the provisions of § 214c.1 of this chapter.

(c) The provisions of section 212 (a) (26) of the act 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) (A) of the act, in the individual cases of aliens who fall within the following-described category, which is hereby declared to be an unforeseen emergency within the purview of that section:

(1) An alien who is a pilot of vessels and who is compelled to travel to the United States because weather conditions made it impossible for him to disembark from a vessel after he had guided it out of a foreign port.

§ 212.4 *Nonimmigrants required to present visas or border-crossing identification cards but not passports.* (a) The provisions of section 212 (a) (26) (A) of the act relating to the requirement of valid passports 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) (A) of the act in the individual cases of aliens who fall within the following-described category, which is hereby declared to be an unforeseen emergency within the purview of that section:

(1) An alien who is described in section 212 (d) (8) of the act, and who is in possession of a travel document which is valid for at least 30 days from the date of his admission into the United States for his entry into a foreign country.

§ 212.5 *Nonimmigrants required to present passports but not visas or border-crossing identification cards.* (a) The provisions of section 212 (a) (26) (B) of the Immigration and Nationality Act relating to the requirement of visas and border-crossing identification cards for nonimmigrants have been waived on a reciprocal basis by the Secretary of State and the Attorney General, acting jointly, in pursuance of the authority contained in section 212 (d) (4) (B) of the Immigration and Nationality Act in the cases of aliens (including alien crewmen) who fall within any of the following-described categories:

(1) A Canadian citizen who has his residence in Canada, who is not within the purview of § 212.3 (a) (1), and who makes application for admission into the United States.

(2) A British subject who has his residence in British territory in the West Indies and who makes application for admission to Puerto Rico or the Virgin Islands of the United States.

(3) A French national who has his residence in French territory in the West Indies and who makes application for admission to Puerto Rico or the Virgin Islands of the United States.

(4) A Netherlands subject who has his residence in Netherlands territory in the West Indies and who makes application for admission to Puerto Rico or the Virgin Islands of the United States.

(5) Nationals of foreign contiguous territory or adjacent islands who make application for admission into the United States as seasonal or temporary workers under specific legislation enacted by the Congress and in accordance with any required international arrangements concluded upon the basis of such legislation.

(6) Nationals of adjacent islands in the British West Indies who are being imported as agricultural workers from the British West Indies, and who make application for admission into the United States.

(7) A Mexican national who makes application for admission into the United States as a crewman of an aircraft belonging to a Mexican company authorized to engage in commercial transportation into the United States, who is employed in any capacity required for normal operation and service on board, including a crewman employed as a steward or hostess, and who is in possession of a valid Mexican passport or a valid air crewman's certificate issued under the provisions of Annex 9 of the International Civil Aviation Convention.

(8) A Cuban national who makes application for admission into the United States as a crewman of an aircraft belonging to a Cuban company authorized to engage in commercial transportation into the United States, who is employed in any capacity required for normal operation and service on board, including a crewman employed as a steward or hostess, and who is in possession of a valid Cuban passport or a valid air crewman's certificate issued under the provisions of Annex 9 of the International Civil Aviation Convention.

(9) A British subject who has his residence in, and arrives in the United States directly from, the Cayman Islands, and who, in making application for admission into the United States, presents a certificate from the Clerk of Court of the Cayman Islands stating what, if anything, the Court's criminal records show concerning such subject, and a certificate from the Office of Commissioner of the Cayman Islands stating what, if anything, its records show with respect to such subject's political associations or affiliations.

(b) The provisions of section 212 (a) (26) (B) 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, in pursuance of the authority contained in section 212 (d) (4) (A) of the act in the individual cases of aliens

who fall within any of the following-described categories, which are hereby declared to be unforeseen emergencies within the purview of that section:

(1) A crewman serving on a vessel or aircraft proceeding directly to the United States from a port or place at which no American consular officer is stationed and no 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.

(2) A crewman serving on a vessel or aircraft which is proceeding from a foreign port or place, not destined to the United States, and is diverted to a port of the United States.

(3) A crewman serving on a vessel or aircraft who was necessarily signed on as a replacement after the crew-list visa was obtained, and there was no opportunity thereafter to have such crewman included in a supplemental crew-list visa, without delaying the departure of the vessel or aircraft.

(4) An alien in the United States in a lawful nonimmigrant status who proceeds from a port in the United States to another port of the United States via the Canal Zone and who upon arrival in the United States from the Canal Zone is in possession of an expired nonimmigrant visa.

(5) An alien who arrives at a United States port of entry from a remote Pacific island and who could not reasonably be expected to obtain a nonimmigrant visa because of the distance from his place of residence to the nearest United States consular office.

(6) An alien who is a resident of Greenland and who makes application for admission into the United States.

§ 212.6 *Aliens previously deported or removed, or who departed at Government expense; consent to reapply for admission.* (a) Except as provided in § 236.13 (b) of this chapter and paragraph (b) of this section, an alien who is inadmissible to the United States under paragraph (16) or (17) of section 212 (a) of the 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 on Form I–212 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.

(b) Except as otherwise provided in paragraph (a) of this section, an alien who is inadmissible to the United States under paragraph (16) or (17) of section 212 (a) of the act and who desires to enter the United States frequently across an international land border to purchase the necessities of life, or in connection with the business in which he is engaged, or for some other legitimate reason, may file his application for consent to reapply for admission to the United States with the district director having administrative jurisdiction over the nearest port of entry adjacent to the alien's foreign residence.

(c) The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

§ 212.7 *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, apply for permission to reenter the United States under the authority contained in section 212 (c) of the Immigration and Nationality Act notwithstanding any such ground of inadmissibility.

§ 212.8 *Request by certain nonimmigrant aliens for permission to enter the United States temporarily.* (a) 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) or (29), may 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.

(b) Pursuant to the authority contained in section 212 (d) (3) of the Immigration and Nationality Act, the ground of inadmissibility contained in section 212 (a) (24) of the act is waived in the case of an alien, otherwise admissible under the immigration laws, who is in possession of appropriate documents or has been granted a waiver thereof and is seeking admission to the United States as a nonimmigrant.

§ 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 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.

§ 212.11 *Nonresident alien Mexican border crossing card*—(a) *Form.* Form I–186 is a nonresident alien's border crossing identification card when it is in the possession of and presented by the rightful holder thereof as provided in this part.

(b) *Use.* The rightful holder of a nonresident alien Mexican border crossing card may present such card in lieu of a nonimmigrant visa when arriving direct from Mexico and applying for admission to the United States at a port of entry situated along the border between the United States and Mexico. 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 act.

(c) *Form I–186; who may apply.* A nonresident alien Mexican border crossing card may be issued to any alien who, upon application therefor, (1) submits satisfactory evidence that he is a citizen and resident of Mexico, (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, (4) is admissible to the United States as a bona fide nonimmigrant, and (5) has been fingerprinted.

(d) *Application.* Application for a nonresident alien Mexican border crossing card shall be made on Form I–190 at any Service office located at a port of entry situated along the border between the United States and Mexico, or at any United States consulate in Mexico. Photographs of the applicant shall be submitted with each application form. No appeal shall lie from a denial of the application, but such denial shall be without prejudice to the alien's application to an American consul for a nonimmigrant or immigrant visa, or to the Service for admission into the United States.

(e) *Validity of Form I–186.* A nonresident alien Mexican border crossing card shall be valid until declared void. Any immigration or consular officer may, without notice, void a nonresident alien Mexican border crossing card. Such action shall be without prejudice to the alien making application to an American consul for a nonimmigrant or immigrant visa, or to the Service for admission into the United States. No appeal shall lie from the decision of an immigration or consular officer declaring void a nonresident alien Mexican border crossing card.

(f) *Surrender and replacement.* A void nonresident alien Mexican border crossing card shall be immediately surrendered to any immigration or consular officer. A nonresident alien's border crossing identification card issued prior to November 1, 1956, shall be invalid after July 1, 1957. If a nonresident alien Mexican border crossing card has been lost, mutilated, or destroyed, the person to whom such card was issued may apply for a new card in accordance with the provisions of this section, and in such case shall attach the mutilated card to his application.

(g) *Previous removal, deportation; permission to reapply.* An alien who establishes that he is in all respects entitled to admission as a visitor for business or pleasure or as a student when in possession of a nonresident alien Mexican border crossing card, except that he has been previously removed at Government expense pursuant to section 242 (b) of the act, or excluded or deported solely because of entry without inspection or absence of required documents, is hereby granted permission to reapply for admission to the United States.

§ 212.71 *Application for permission to reenter the United States; prior to application for readmission at a port of entry.* An application for the exercise of discretion under the provisions of section 212 (c) of the act shall be submitted on Form

I-191 to the district director having administrative jurisdiction over the applicant's place of residence in the United States if the application is made prior to the alien's application for readmission to the United States at a port of entry. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal to the Board within 10 days from the receipt of such notification in accordance with Part 6 of this chapter.

§ 212.73 *Application for permission to reenter the United States; at time of application for readmission at a port of entry.* An application for the exercise of discretion under the provisions of section 212 (c) of the act made at the time of applying for readmission to the United States at a port of entry shall be made orally or in writing to the immigration officer conducting the examination of the alien, if the case has not been referred to a special inquiry officer for further inquiry, who shall refer it for decision to the district director having administrative jurisdiction over the place where the examination is being conducted. If the case has been referred to a special inquiry officer, the application shall be made during the proceedings before the special inquiry officer in accordance with the provisions of section 235 (b) of the act. If the application is denied by the district director, he shall return the case to the examining immigration officer for further proceedings in accordance with sections 235 and 236 of the act. No appeal shall lie from the decision of the district director but if adverse to the alien it shall be without prejudice to the renewal of the application before the special inquiry officer to whom the case is referred for further proceedings in accordance with sections 235 and 236 of the act. The special inquiry officer, in his discretion, may, in his decision provided for in Part 236 of this chapter, grant or deny any such application which is submitted to him. In any case in which an appeal may not be taken from a decision of a special inquiry officer excluding an alien but in which the alien has applied for the exercise of discretion under the provisions of section 212 (c) of the act, the alien may appeal to the Board from a denial of such application in accordance with the provisions of § 236.15 of this chapter.

§ 212.81 *Application for permission to enter the United States temporarily; prior to application for admission at a port of entry.* When a visa is not required, an application for the exercise of discretion under section 212 (d) (3) (B) of the act made prior to the alien's application for admission shall be on Form I-192 and submitted to the district director having jurisdiction over the intended port of entry. When Form I-192 is not readily available and the case is one of unforeseen emergency, a written application containing all the information required by such form may be made. The applicant shall be notified of the decision and if the application is denied, of the reasons therefor and of his right to appeal to the Board within 10 days from the receipt of such notification in accordance with Part 6 of this chapter.

CROSS REFERENCE: For State Department procedure when a visa is required see 22 CFR 41.150.

§ 212.82 *Application for permission to enter the United States temporarily; at time of application for admission at a port of entry.* An alien applying at a port of entry for temporary admission to the United States as a nonimmigrant may apply orally or in writing for the exercise of discretion under the provisions of section 212 (d) (3) of the act provided he was not aware of the ground of inadmissibility prior to his departure for the United States and such ground of inadmissibility could not have been ascertained by the exercise of reasonable diligence, and the alien is in possession of appropriate documents or has been granted a waiver thereof. If the case has not been referred to a special inquiry officer for further inquiry, the application shall be made to the immigration officer conducting the examination of the alien who shall refer it for decision to the district director having administrative jurisdiction over the place where the examination is being conducted. If the case has been referred to a special inquiry officer, the application shall be made during the proceedings before the special inquiry officer in accordance with the provisions of section 235 (b) of the act. If the application is denied by the district director, he shall return the case to the examining immigration officer for further proceedings in accordance with sections 235 and 236 of the act. No appeal shall lie from the decision of the district director but if adverse to the alien it shall be without prejudice to the renewal of the application before the special inquiry officer to whom the case is referred for further proceedings in accordance with sections 235 and 236 of the act. The special inquiry officer, in his discretion, may, in his decision provided for in part 236 of this chapter, grant or deny any such application which is submitted to him. In any case in which an appeal may not be taken from a decision of a special inquiry officer excluding an alien but in which the alien has applied for the exercise of discretion under the provisions of section 212 (d) (3) of the act, the alien may appeal to the Board from a denial of such application in accordance with the provisions of § 236.15 of this chapter.

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

§ 212a.1 *Aliens seeking to enter the United States for the purpose of performing skilled or unskilled labor; application.* An alien of any of the classes described in section 101 (a) (27) (C), (D), or (E) of the act, and any alien described in the nonpreference 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 on Form I-129C for permission for such alien to enter the United States under the authority contained in section 212 (a) (14) of the act notwithstanding such ground of inadmissibility. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interprets and applies secs. 101, 203, 212, 66 Stat. 166, 178, 182; 8 U. S. C. 1101, 1153, 1182)

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

Sec.
213.1 Authority to admit under bond or cash deposit.
213.11 Form of public charge bond.

AUTHORITY: §§ 213.1 and 213.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 213, 235, 66 Stat. 188, 198; 8 U. S. C. 1183, 1225.

§ 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 having administrative jurisdiction over the place where the examination for admission is being conducted, as provided in § 235.7 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, which may be in the form of United States money orders or bank cashier checks, 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 § 235.7 of this chapter may, in his discretion, admit the alien upon the furnishing of bond or the depositing of cash as aforesaid.

§ 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

Sec.
214.1 Time for which nonimmigrants may be admitted.
214.2 Conditions of nonimmigrant status.

Sec.
214.3 Bonds.
214.4 Extension of period of temporary admission.
214.5 Change of status as affecting period of admission.
214.6 Limitation.

AUTHORITY: §§ 214.1 to 214.6 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 501–508, 65 Stat. 119–121, as amended, secs. 101, 102, 212, 214, 235, 66 Stat. 166, 173, 182, 189, 198; 7 U. S. C. 1461–1468, 8 U. S. C. 1101, 1102, 1182, 1184, 1225.

§ 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 country 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 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 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 Form I–317 or I–377 as the admitting officer shall determine.

§ 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 on Form I–539 for and may be granted or denied an extension or extensions of the period of his temporary admission by an officer in charge of a suboffice or a district director 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) 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 continue to furnish bond or to furnish bond in different sum on the form and for the purposes stated in § 214.3.

(d) 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.

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

(f) 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.

(g) No appeal shall lie from the decision of the officer denying the application.

§ 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 214k of this chapter.

PART 214a—ADMISSION OF NONIMMIGRANTS: FOREIGN GOVERNMENT OFFICIAL

Sec.
214a.1 Acceptance of classification.
214a.2 Limitation as to time for which alien may be admitted.
214a.4 Failure to maintain status.

AUTHORITY: §§ 214a.1 to 214a.4 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 214, 235, 66 Stat. 166, 189, 198; 8 U. S. C. 1101, 1184, 1225.

§ 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 regional commissioner 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.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.

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

§ 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.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interprets or applies secs. 101, 214, 66 Stat. 166, 189; 8 U. S. C. 1101, 1184)

PART 214c—ADMISSION OF NONIMMIGRANTS: TRANSIT ALIENS

Sec.
214c.1 Special prerequisites for admission as a transit without a visa.
214c.2 Limitation as to time for which transit aliens may be admitted.
214c.3 United Nations Headquarters District.

AUTHORITY: §§ 214c.1 to 214c.3 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 214, 66 Stat. 166, 189; 8 U. S. C. 1101, 1184.

§ 214c.1 *Special prerequisites for admission as a transit without a visa.* Any alien, except a citizen and resident of the Union of Soviet Socialist Republics, Estonia, Latvia, Lithuania, Poland, Czechoslovakia, Hungary, Rumania, Bulgaria, Albania, Peoples Republic of China, Peoples Democratic Republic of Korea (North Korea Regime), German Democratic Republic, and North Vietnam (Viet Minh), may apply for immediate and continuous transit through the United States. Such an alien must establish that he is admissible under the immigration laws; that he has confirmed and onward reservations to at least the next country beyond the United States (except that, if seeking to join a vessel or aircraft in the United States as a crewman, the vessel or aircraft will depart directly foreign, and his departure from the United States will be completed within a maximum of five calendar days after his arrival in the United States), and that he has a document establishing his ability to enter some country other than the United States. Except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without visa must be made at one of the following ports of entry: Boston, Mass.; New York, N. Y.; Norfolk, Va.; Baltimore, Md.; Philadelphia, Pa.; Miami, Fla.; Tampa, Fla.; New Orleans, La.; San Antonio, Tex.; Dallas, Tex.; Houston, Tex.; Brownsville, Tex.; Los Angeles, Calif.; San Francisco, Calif.; Honolulu, T. H.; Seattle, Wash.; Portland, Oreg.; St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Anchorage, Alsaka; San Juan, P. R.; Charlotte Amalie, V. I.; Christiansted, V. I.; Agana, Guam. The acceptance of the privilege of such transit shall constitute an agreement by the alien and the carrier that at all times he is not aboard an aircraft which is in flight through the United States he shall be in the custody directed by the district director having administrative jurisdiction over the port of entry, and should he violate any of the terms of such admission, an agreement by the alien immediately to depart voluntarily from the United States without recourse to any type of hearing or proceeding provided for in this chapter.

§ 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 act shall be admitted for a period of time fixed by the admitting officer, not to exceed 29 days.

§ 214c.3 *United Nations Headquarters District.* An alien of the class described in section 101 (a) (15) (C) of the 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 additional conditions that he 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 and that he 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.

PART 214d—ADMISSION OF NONIMMIGRANTS: CREWMEN

§ 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; 8 U. S. C. 1103. Interprets or applies secs. 101, 214, 66 Stat. 166, 189; 8 U. S. C. 1101, 1184)

PART 214e—ADMISSION OF NONIMMIGRANTS: TREATY TRADER

Sec.
214e.1 Definitions.
214e.2 Limitations on time for which admitted.
214e.4 Failure to maintain status.
214e.6 Trader and dependents admitted under Immigration Act of 1924.

AUTHORITY: §§ 214e.1 to 214e.6 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 214, 223, 66 Stat. 166, 189, 194; 8 U. S. C. 1101, 1184, 1203.

§ 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 paragraph (a) (1), (2), (3), (4), or (5) 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.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 the 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.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 on Form I–126 to the district director having administrative jurisdiction over the place where the alien resides in the United States indicating whether he continues to be eligible for readmission to the country whence he came or for admission to some other country, and has fulfilled and will continue to fulfill all the conditions prescribed by § 214.2 of this chapter. No appeal shall lie from such officer's decision that the alien is not maintaining his status.

PART 214f—ADMISSION OF NONIMMIGRANTS: STUDENTS

Sec.

214f.1 Petition for approval.
214f.2 Approval of certain institutions of learning and recognized places of study.
214f.3 Withdrawal of approval.
214f.4 Certificate of eligibility.
214f.5 Prerequisites for admission.
214f.6 Limitation on time for which admitted.
214f.7 Employment.
214f.31 Withdrawal of approval; procedure.

AUTHORITY: §§ 214f.1 to 214f.31 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. interpret or apply secs. 101, 214, 66 Stat. 166, 189; 8 U. S. C. 1101, 1184.

§ 214f.1 *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 act shall 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. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of the right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

§ 214f.2 *Approval of certain institutions of learning and recognized places of study.* Any institution of learning or other place of study in the United States which falls within any of the following-described categories, and which agrees to report in writing to the district director having administrative jurisdiction over the place where such institution of learning or place of study is located the enrollment and termination of attendance of each nonimmigrant student, is hereby approved for the attendance of nonimmigrant students in accordance with section 101 (a) (15) (F) of the act:

(a) Any public educational institution listed in the current issue of one of the following-described publications or lists:

(1) "Directory of Secondary Day Schools in the United States," U. S. Office of Education, Washington, D. C.

(2) Directories and official lists of public educational institutions issued by State departments of education. In a State that does not publish all-inclusive public school directories or official lists, a statement over the signature of the local public school superintendent that any school is an approved or recognized part of that public school system, will suffice within the meaning of this subparagraph.

(3) Education Directory, Part 3, "Higher Education," U. S. Office of Education (including privately controlled colleges and universities listed therein).

(4) "Accredited Higher Institutions," U. S. Office of Education (including privately controlled colleges and universities listed therein).

(b) Any secondary school which is operated by or as a part of an institution of higher learning listed in paragraph (a) (2), (3), or (4) of this section.

(c) Private and parochial elementary and secondary schools, if they meet any one of the following conditions:

(1) The school is currently listed as accredited in the U. S. Office of Education publication "Directory of Secondary Day Schools in the United States."

(2) The school is currently listed in the educational directory of the respective State department of education.

(3) The school is an elementary school related to an accredited secondary school.

(4) The school is certified by a responsible official of a State or local public education department or system as meeting the requirements of the State or local public educational system.

The agreement to report the initial registration and termination of attendance of each nonimmigrant student shall be executed on Form I–17, and the report made pursuant to such agreement may be prepared on Form I–21. The provisions of § 2.5 of this chapter relating to payment of a fee shall not be applicable to an institution of learning or other place of study which meets the requirements of this section.

§ 214f.3 *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 materially reduces its educational program or facilities, or which fails, neglects, or refuses to comply with all the terms of its agreement and section 101 (a) (15) (F) of the act may be revoked by the district director having administrative jurisdiction over the place in which such institution or place of study is located.

§ 214f.4 *Certificate of eligibility.* When a prospective nonimmigrant student has been found eligible for attendance, the appropriate officer of the approved institution of learning or place of study shall execute Form I–20 and furnish it to the student for presentation to the American consul (if a visa is required) and the Service. If requested by the student, the school shall execute a new Form I–20 in a single copy for the student's use in temporarily departing from and reentering the United States, in connection with any application for extension of the period of his temporary admission, or in connection with any request to transfer to another school. Form I–20 presented by a student returning from a temporary absence may be retained by the student and used in connection with reentries any number of times within six months from date of issuance.

§ 214f.5 *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 act, shall not be eligible for admission to the United States in such nonimmigrant classification unless he presents Form I–20 properly filled out by the institution to which he is destined, and personally executes the reverse of Form I–20.

§ 214f.6 *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 act for a period not to exceed one year.

§ 214f.7 *Employment.* If it becomes necessary for a student to accept employment after admission, 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 him. If the district director is satisfied that the applicant 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 accept employment. An application for practical training, which may be authorized within the limitations specified on Form I–20, shall be made on Form I–24 and shall be endorsed by the institution of learning or place of study which requires or recommends such practical training.

§ 214f.31 *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 materially reduced its educational program or facilities, or has failed, neglected, or refused to comply with all the terms of its agreement and section 101 (a) (15) (F) of the 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 to appeal in accordance with Part 7 of this chapter.

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

Sec.
214g.1 Acceptance of classification.
214g.2 Limitation as to time for which alien may be admitted.
214g.4 Failure to maintain status.

AUTHORITY: §§ 214g.1 to 214g.4 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 214, 235, 66 Stat. 166, 189, 198; 8 U. S. C. 1101, 1184, 1225.

§ 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 regional commissioner 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.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 101 (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.

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

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.6 Limitation.

AUTHORITY: §§ 214h.1 to 214h.6 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 214, 66 Stat. 166, 189; 8 U. S. C. 1101, 1184.

§ 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 regional commissioner in granting a petition to import such alien.

§ 214h.2 *Bond.* Nonimmigrants of the classes described in section 101 (a) (15) (H) of the act who are required to furnish bonds under § 214.3 or § 214.4 of this chapter shall do so on Form I–377, and shall be in an amount specified by the district director or the regional commissioner.

§ 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 act shall be filed on Form I–129B. Form I–129B may include several prospective nonimmigrants provided they are proceeding from the same place of origin and destined to the United States to perform the same type of services. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

§ 214h.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 214k of this chapter.

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

Sec.
214i.1 Limitation as to time for which alien may be admitted.
214i.3 Special conditions of admission.
214i.4 Failure to maintain status.

AUTHORITY: §§ 214i.1 to 214i.4 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 214, 66 Stat. 166, 189; 8 U. S. C. 1101, 1184.

§ 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.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.

PART 214j—ADMISSION OF NONIMMIGRANTS: EXCHANGE ALIENS

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.

AUTHORITY: §§ 214j.1 to 214j.5 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 201, 62 Stat. 7, as amended, sec. 1, 62 Stat. 771, as amended, secs. 101, 214, 248, 66 Stat. 166, 189, 218; 22 U. S. C. 1446, 18 U. S. C. 1546, 8 U. S. C. 1101, 1184, 1258.

§ 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 change of the nonimmigrant status under which he is admitted to any other class or classes of nonimmigrant pursuant to section 248 of the act, or adjustment of status to that of a permanent resident pursuant to section 245 of the act: *Provided,* That said agreement shall cease to be binding upon any such nonimmigrant who, subsequent to admission, is granted a waiver in accordance with the provisions of section 201 (b) of the United States Information and Educational Exchange Act, as amended.

§ 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.

PART 214k—ADMISSION OF AGRICULTURAL WORKERS UNDER SPECIAL LEGISLATION

Sec.
214k.1 Definitions.
214k.2 Period for which admitted.
214k.3 Conditions of admission.
214k.4 Compliance by employer.
214k.5 Extension of stay; conditions.
214k.6 Readmission after temporary visits to Mexico.
214k.7 Previous removal, deportation; permission to reapply.
214k.8 Arrest and deportation of agricultural workers.
214k.21 Recruitment centers; preliminary inspection.
214k.22 Immigration inspection at reception centers.
214k.23 Recontracting in the United States.
214k.24 Duplicate identification cards.
214k.51 Extension of period of admission.

AUTHORITY: §§ 214k.1 to 214k.51 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 501–508, 65 Stat. 119, secs. 101, 212, 235, 241, 242, 264, 405, 66 Stat. 166, 182, 198, 204, 208, 224, 280; 7 U. S. C. 1461–1468, 8 U. S. C. 1101 and note, 1182, 1225, 1251, 1252, 1304.

§ 214k.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, 82d Cong.), for the sole purpose of engaging in agricultural employment as defined in this section, 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 sub-

paragraph (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.

§ 214k.2 *Period for which admitted.* An agricultural worker may be admitted to the United States temporarily as a nonimmigrant pursuant to the provisions of Title V of the Agricultural Act of 1949, as amended, *Provided*:

(a) That the initial period of admission shall be for not less than four weeks and not more than six months. The initial period of admission or any extension thereof shall not extend beyond June 30, 1959;

(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 § 214k.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.

§ 214k.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 § 214k.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;

(d) Comply with and continue to fulfill all of the terms, conditions, and requirements of his individual work contract;

(e) At all times carry with him and have in his personal possession the Form I–100 issued to him at the time of his admission, pursuant to § 214k.22 (a); and

(f) Establish to the satisfaction of the examining immigration officer that, if admitted, he will comply with all of the conditions of such admission.

§ 214k.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. If the district director determines that the employer has employed such Mexican aliens in violation of this section, he may require that other agricultural workers be removed from said place of employment, either by transfer to an eligible employer or by return to Mexico.

(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 § 214k.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 immigration officer in charge of the reception center where the worker was admitted. Such notification shall contain the individual worker's name, as shown in the employer's copy of the contract; the worker's Form I–100C number; the date the worker left the employer, and the present whereabouts of the worker, if known.

§ 214k.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 of the suboffice having jurisdiction over the place of the alien's employment, subject to the same limitations as are placed on original admission by § 214k.2.

§ 214k.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–100C, Alien Laborer's Permit, if he is still maintaining the status of an agricultural worker in the United States.

(b) An agricultural worker who is granted a furlough which is for more than 15 days, or will take place during the last 15 days of a six-week contract, or will take place during the last 30 days of a contract of more than six weeks, shall be furnished with a letter by the employer stating the time for which the furlough is granted and that contractual obligations will be reassumed upon his return to his employment after 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.

§ 214k.7 *Previous removal, deportation; permission to reapply.* An alien who establishes 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 act or excluded or arrested and deported 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.

§ 214k.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 § 214k.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.

§ 214k.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–100C as prescribed in § 214k.22. Aliens whose conditional permits have been noted by immigration officers shall 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. 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–100C as prescribed in § 214k.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.

§ 214k.22 *Immigration inspection at reception centers*—(a) *Authority to admit.* An alien who presents a conditional permit, as described in § 214k.21, duly noted by an immigration officer at a recruitment center, may be admitted at the reception center if he is found admissible by the examining immigration officer. The examining officer shall fingerprint each alien admitted. The alien shall be given the Form I–100C bearing his photograph and stating his name and place of birth. Such form shall be duly noted by an immigration officer to show the date, place, and period of the alien's admission to the United States and shall be signed by such officer across the photograph. Such noted card shall be the sole document required for admission to the United States as an agricultural worker under this part.

(b) *Hearing before special inquiry officer.* If the examining immigration officer is not satisfied that an alien seeking admission under this part is admissible, the alien shall be held for hearing before a special inquiry officer, and the hearing procedure applicable generally to aliens seeking admission to the United States under 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 paragraph (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 that act and § 235.8 of this chapter.

§ 214k.23 *Recontracting in the United States.* During the period for which he is admitted, or any authorized extension thereof, an agricultural worker may be recontracted by another employer. When an agricultural worker is recontracted, his Form I–100C shall be appropriately noted and the admitting reception center notified.

§ 214k.24 *Duplicate identification cards.* A duplicate Form I–100C may be issued by the admitting reception center when the original has been lost, mutilated, or destroyed. An application for such a card shall be made on Form I–102.

§ 214k.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 of the suboffice 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.

PART 223—REENTRY PERMITS

Sec.
223.1 Application.
223.2 Reentry permit.
223.3 Extensions.
223.5 Expired permits.

AUTHORITY: §§ 223.1 to 223.5 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 223, 66 Stat. 194; 8 U. S. C. 1203.

§ 223.1 *Application.* An application for a reentry permit under the provisions of section 223 of the act shall be submitted on Form I–131. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

§ 223.2 *Reentry permit*—(a) *Form.* Reentry permits shall be issued on Form I–132 and shall indicate whether they are issued under paragraph (a) (1) or (a) (2) of section 223 of the act and the period of their validity.

(b) *Limited reentry permit.* Limited reentry permits, valid for reentry to Hawaii only, may be issued to those citizens of the Philippine Islands specified in § 4.2 (g) of this chapter, if otherwise eligible.

§ 223.3 *Extensions.* An application for extension of a reentry permit shall be submitted to the office having jurisdiction over the applicant's place of residence in the United States prior to the expiration of the period of validity of the reentry permit. The application shall be in writing and shall state the applicant's name and address in the United States; when, where, and the manner in which he departed from the United States; the port of landing and the date of his arrival abroad; the countries visited by him in the order visited; his reasons for requesting an extension and the period for which the extension is desired, and the address to which the permit is to be returned. If the extension application is granted, the permit will be noted to show the extension and returned to the applicant; if denied, the applicant shall be notified of the decision, and the permit returned to him if the remaining period of its validity permits its use for return to the United States. No appeal shall lie from a decision denying an application for extension of a reentry permit.

§ 223.5 *Expired permits.* Upon the expiration of the period of validity of a reentry 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—ARRIVAL-DEPARTURE MANIFESTS AND LISTS; SUPPORTING DOCUMENTS

Sec.
231.1 Arrival manifests, lists, and arrival-departure cards.
231.2 Departure lists and arrival-departure cards.

AUTHORITY: §§ 231.1 and 231.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 212, 231, 238, 239, 66 Stat. 167, 182, 195, 202, 203; 8 U. S. C. 1101, 1182, 1221, 1228, 1229.

§ 231.1 *Arrival manifests, lists, and arrival-departure cards*—(a) *Presentation.* The master or agent of every vessel arriving in the United States shall present to the immigration officer at the port of first arrival, typed or legibly printed in accordance with instructions on the reverse thereof, a manifest on Form I–418 of all passengers on board. To facilitate inspection the manifest on Form I–418 may be presented in separate alphabetical listings for United States citizens and for aliens and may be further subdivided according to the separate foreign ports of embarkation and United States ports of debarkation. The master or agent of every aircraft arriving in the United States shall present to the immigration officer at the port of first arrival a manifest consisting of an arrival-departure card (Form I–94) for each passenger on board. Neither a Form I–418 nor a Form I–94 shall be required of a vessel or aircraft arriving in the continental United States or Alaska

directly from Canada on a voyage or flight originating in that country. In lieu of Form I–418 or Form I–94, the master or agent of a vessel or aircraft arriving in the United States without touching at a foreign port on a voyage or flight originating in Hawaii, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, shall submit a list containing the surname, given name, and middle initial of each passenger on board. To facilitate inspection, an advance list of the names of all passengers on board may be delivered to the immigration officer at the first port of arrival prior to the vessel's or aircraft's arrival. When such advance list has been submitted, there shall be delivered to the immigration officer at the time of arrival at the first port a list containing any changes or corrections which differ from the advance list. If the inspection of all passengers at the first port of arrival is impracticable, the inspection of passengers destined to subsequent ports of arrival may be deferred in the discretion of the examining immigration officer. The manifests or lists of those passengers not inspected shall be returned to the master for presentation at subsequent ports of arrival. The procedure followed at the first port of arrival shall be followed at any subsequent port of arrival.

(b) *Additional documents.* When a manifest on Form I–418 is required to be presented, the master or agent of the vessel shall prepare as a part thereof a completely executed set of Forms I–94 for each alien passenger, except (1) an immigrant or (2) a Canadian citizen or a British subject who has his residence in Canada or Bermuda. The set of Forms I–94 shall be delivered to each alien for presentation to the examining immigration officer at the port of entry. When a manifest is not required or a nonimmigrant alien is applying other than as a passenger or crewman on board a vessel or aircraft, a set of Forms I–94 shall be prepared by the examining immigration officer for each nonimmigrant.

§ 231.2 *Departure lists and arrival-departure cards*—(a) *Presentation.* The master or agent of every vessel departing from the United States shall present to the immigration officer at the port from which the vessel will proceed directly to a foreign port or place a list of all passengers on board on Form I–418 in accordance with instructions contained thereon. The master or agent of every aircraft departing from the United States shall present to the immigration officer at the port from which the aircraft will proceed directly to a foreign port or place a fully executed Form I–94 (including departure information on the reverse) for each passenger departing. When available the Form I–94 given an alien at the time of his last arrival in the United States shall be utilized. Such departure lists and cards shall be presented prior to the departure of the vessel or aircraft except that vessels or aircraft making regular trips to and from the United States in accordance with a published schedule may defer the presentation of such forms and attachments for a period not in excess of 30 days. Forms I–418 or arrival-departure cards shall not be required for vessels or aircraft departing the continental United States or Alaska directly to Canada on a voyage or flight terminating in that country.

(b) *Additional documents.* When a manifest on Form I–418 is presented, the master or agent shall attach to such manifest a fully executed Form I–94 (including departure information on the reverse) for each manifested alien passenger aboard except (1) an alien permanent resident of the United States or (2) a Canadian citizen or a British subject who has his residence in Canada or Bermuda. When available, the Form I–94 given the alien at the time of his last arrival in the United States shall be utilized. Any alien registration receipt card on Form I–151 surrendered pursuant to § 264.1 (d) of this chapter by an alien lawfully admitted for permanent residence who is permanently departing shall also be attached to Form I–418 or the relating arrival-departure card (Form I–94). The alien shall surrender his Form I–94 to a Canadian immigration officer or United States immigration officer when it is not required to be presented by the master or agent of the vessel or aircraft.

PART 232—DETENTION OF ALIENS FOR OBSERVATION AND EXAMINATION

Sec.

AUTHORITY: §§ 232.1 to 232.52 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 3, 63 Stat. 166, as amended, sec. 232, 66 Stat. 196; 5 U. S. C. 836, 8 U. S. C. 1222.

§ 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 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 shall be required to obligate itself in a manner satisfactory to such officer for the payment of the expenses referred to in this section, and may be required to make payment in advance, or deposit security with respect to each alien so detained.

§ 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, to the responsible transportation line as soon as liability therefor is established to the satisfaction of the district director. 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 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

AUTHORITY: §§ 233.1 to 233.52 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 1, 2, 46 Stat. 1467, as amended, 54 Stat. 858, as amended, sec. 3, 63 Stat. 166, as amended, secs. 233, 237, 66 Stat. 197, 201; 5 U. S. C. 342c, 342d, 342e, 836, 8 U. S. C. 1223, 1227.

§ 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.* (a) 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 having administrative jurisdiction over the port of arrival. If the request is approved by the district director the transportation line shall execute an agreement on Form I–259A, and the district director 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.

(b) A transportation line may enter into a blanket agreement assuming the responsibility for the safekeeping of all aliens brought to a port of the United States by such line who are required to be removed for examination and inspection. In the absence of a written notice to the contrary, the acceptance of service of Form I–259 naming the specific alien or aliens to be removed and the reasons therefor shall be good and sufficient evidence of the assumption by the said transportation line of its responsibility in accordance with the provisions of section 233 (a) of the Immigration and Nationality Act and this part.

§ 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 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, shall be required to obligate itself in a manner satisfactory to such officer for the payment of the expenses referred to in this section, 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.

§ 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, 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, to the responsible transportation line as soon as liability therefor is established to the satisfaction of the district director. 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 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

Sec.

AUTHORITY: §§ 235.1 to 235.8 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 212, 213, 221, 234, 235, 236, 237, 238, 242, 66 Stat. 166, 182, 188, 191, 198, 200, 201, 202, 208, as amended; 8 U. S. C. 1101, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252.

§ 235.1 *General qualifications.* 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: he shall apply in person at a place designated as a port of entry for aliens at a time when the immigration office at the port is open for inspection; he shall make his application in person to an immigration officer and shall present whatever documents are required; and he 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 is entitled under all of the applicable provisions of the immigration laws and this chapter to enter the United States.

§ 235.2 *Examination postponed.* Whenever an alien on arrival is found or believed to be suffering from a disability which renders it impractical to proceed with the examination under the act, the examination of such alien, members of his family concerning whose admissibility it is necessary to have such alien testify, and any accompanying aliens whose protection or guardianship will be required should such alien be found inadmissible shall be deferred for such time and under such conditions as the district director in whose district the port is located imposes.

§ 235.3 *Detention.* All persons 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 *Notations on documents.* The admitting examining officer shall by means of a stamp record in each passport required to be presented the word "Admitted" and the date and place of admission and shall record the same information on any immigrant visa, reentry permit, or Form I–94 presented by or prepared for an arriving admitted alien. One copy of the Form I–94, so endorsed, shall be returned to the admitted alien by whom it was presented or for whom it was prepared for his retention while in the United States and for surrender at the time of his departure from the United States, except that the copy of the I–94 shall be delivered to a representative of the carrier which brought him in the case of each alien who is authorized direct transit through the United States under section 238 (d) of the act.

§ 235.5 *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 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 234, 235, 236, and 237 of the 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 further proceedings conducted as provided in section 242 of the act and Part 242 of this chapter. When the foregoing inspection procedure 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.

§ 235.6 *Notice of referral to special inquiry officer.* If, in accordance with the provisions of section 235 (b) of the 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.

§ 235.7 *Referral of certain cases to district director.* If the examining officer has reason to believe that the cause of an alien's excludability can readily be removed by posting of a bond in accordance with the provisions of section 213 of the act; by the exercise of section 212 (d) (3) or (4) of the act; or by the exercise of section 212 (c) of the act, he may in lieu of detaining the alien for hearing in accordance with section 235 (b) and section 236 of the act refer the alien's case to the district director within whose district the port is located for consideration of such action and defer further examination pending the decision of the district director. Refusal of a district director to authorize admission under section 213 or to grant application for the benefits of section 212 (d) (3) or (4) or section 212 (c) of the act shall be without prejudice to the renewal of such application or the authorizing of such admission by the special inquiry officer without additional fee.

§ 235.8 *Temporary exclusion* — (a) *Report.* Any immigration officer who temporarily excludes an alien under the provisions of section 235 (c) of the 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 act, the report shall be forwarded by the district director to the regional commissioner and further action shall be taken thereon as provided in paragraph (b) of this section.

(b) *Action by regional commissioner.* If the regional commissioner is satisfied that the alien is inadmissible to the United States under paragraph (27), (28), or (29) of section 212 (a) of the act and if the regional 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 deny any hearing or further hearing by a special inquiry officer and order such alien excluded and deported, or enter such other order in the case as he deems appropriate. In any other case the regional commissioner shall direct that the alien be given a hearing or further hearing before a special inquiry officer.

(c) *Finality of decision.* The decision of the regional commissioner provided

for in paragraph (b) of this section shall be final and no appeal may be taken therefrom. The decision of the regional 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 regional commissioner and served on the alien.

(d) *Hearing by special inquiry officer.* If the regional 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 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 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 act and further action shall be taken as provided in this section.

PART 235a—PREEXAMINATION OF ALIENS WITHIN THE UNITED STATES

Sec.
235a.1 Application.
235a.11 Disposition of case.

AUTHORITY: §§ 235a.1 and 235a.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103.

§ 235a.1 *Application.* Any alien, except a citizen of Canada, Mexico, or islands adjacent to the United States, who entered the United States prior to January 1, 1957, and has been continuously physically present in the United States since that date, shall apply for preexamination on Form I–63 if he intends to apply to a consular officer of the United States in Canada for an immigrant visa and he believes that he will be admissable to the United States under all the provisions of the immigration laws if in possession of an immigrant visa; that he will be able to obtain the prompt issuance of an immigrant visa, and that he is a person of good moral character. Any alien who files Form I–63 shall be deemed to have thereby abandoned his nonimmigrant status in the United States. Form I–63 shall be submitted to the office of the Immigration and Naturalization Service having jurisdiction over the applicant's place of residence, and may be filed separately or in conjunction with a petition for nonquota or preference quota status under Part 204 or 205 of this chapter. If the applicant is under deportation proceedings, the application shall be made to the special inquiry officer during the hearing pursuant to Part 242 of this chapter. The applicant shall be notified of the decision, and, if the application is denied, of the reasons therefor and of his right to appeal under Part 6 or 7 of this chapter.

§ 235a.11 *Disposition of case.* If preexamination has been authorized, the applicant shall not be preexamined until he has presented written assurance from the consular officer of the United States in Canada that a visa will be promptly available if upon personal examination he is found eligible for a visa, and a report from a medical officer of the United States Public Health Service setting forth findings of the applicant's mental and physical condition. Any applicant certified under paragraph (1), (2), (3), (4), or (5) of section 212 (a) of the act may appeal to a board of medical officers of the United States Public Health Service as provided in section 234 of the act and § 236.13 (c) of this chapter. Preexamination to determine the applicant's admissibility to the United States shall be conducted by an immigration officer. If it shall appear to the immigration officer that the applicant is not clearly and beyond a doubt admissible, the matter shall be referred to a special inquiry officer for disposition pursuant to section 236 of the act and Part 236 of this chapter. If the applicant is found admissible, he shall be given a sealed letter addressed to the Canadian immigration officer at the port through which he will enter Canada, showing the purpose of the applicant's visit to Canada and guaranteeing that if admitted to Canada he will be readmitted to the United States. An applicant previously found admissible in preexamination proceedings, who, having proceeded to Canada, is found inadmissible at the time of seeking reentry into the United States, shall be paroled into the United States.

PART 236—EXCLUSION OF ALIENS

Sec.
236.1 Authority of special inquiry officers.
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.
236.17 Fingerprinting of excluded aliens; photographs.

AUTHORITY: §§ 236.1 to 236.17 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 212, 221, 235, 236, 263, 66 Stat. 182, 191, 198, 200, 224; 8 U. S. C. 1182, 1201, 1225, 1226, 1303.

§ 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.

§ 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*—(a) *Oral decision.* Except as

provided in paragraph (b) of this section, the special inquiry officer shall, immediately following the conclusion of the hearing, state for the record in the presence of the alien or his attorney or representative, his decision in the case, which shall include a summary of the evidence adduced, findings of fact, conclusions of law, and order. If the alien is entitled to appeal to the Board from an adverse decision of the special inquiry officer, he shall be so advised, and the exact language employed in conveying this advice to the alien, and the alien's representations or acknowledging statements, shall be made a part of the record in the case.

(b) *Written decision.* In any case in which he deems such action appropriate, the special inquiry officer may, as soon as practicable after the conclusion of the hearing, prepare a written decision signed by him which shall include a summary of the evidence adduced, findings of fact, conclusions of law, and order. The district director having administrative jurisdiction over the office in which the proceeding is pending shall cause a signed copy of such decision to be served on the alien with the notice referred to in § 6.11 of this chapter.

§ 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 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 district director.* 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 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.

(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 regional commissioner 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 takes an appeal as provided in § 236.16.

§ 236.15 *Appeal by alien*—(a) *From oral decision.* Immediately following an oral decision of the special inquiry officer, the alien, if entitled to appeal to the Board, shall be required to state for the record whether or not he desires to appeal and, if he does, whether or not he desires to file a brief in support of such appeal. If the alien desires to appeal, he shall then and there 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 oral decision within which to submit his brief to the district director having administrative jurisdiction over the office in which the proceeding is pending. Upon good cause shown, such district director 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 a written waiver thereof. An alien appealing from an oral decision of a special inquiry officer shall be furnished with a transcript of the oral decision.

(b) *From written decision.* In any case in which an alien is entitled to appeal from a written decision of a special inquiry officer, such appeal shall be taken on Form I–290A in accordance with the provisions of § 6.11 of this chapter within 5 days after receipt of the written decision.

§ 236.16 *Appeal by district director.* The district director 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 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, 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 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, 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 having administrative jurisdiction over the office in which the proceeding was conducted.

PART 237—DEPORTATION OF EXCLUDED ALIENS

Sec.

AUTHORITY: §§ 237.1 to 237.21 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 233, 237, 238, 243, 280, 66 Stat. 197, 201, 202, 212, 230; 8 U. S. C. 1223, 1227, 1228, 1253, 1330.

§ 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.

§ 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 having administrative jurisdiction over the port at which such vessel arrived: *Provided,* That such district director 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

Sec.

AUTHORITY: §§ 238.1 to 238.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 221, 235, 236, 237, 238, 66 Stat. 191, 198, 200, 201, 202; 8 U. S. C. 1201, 1225, 1226, 1227, 1228.

§ 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 act, shall be made by the regional commissioner in behalf of the government, and shall be in such form as prescribed.

§ 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 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.

§ 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 set of Forms I–94 shall be prepared by an immigration officer for an alien presenting himself for preexamination if such set would be required if the alien were 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 set of Forms I–94 for the applicant. The names and ages of children under 14 years of age may be included in the Forms 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 immigrant or nonimmigrant form prepared for or presented by the applicant, and return the form 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

Sec.
239.1 Definitions.
239.2 Landing requirements.
239.3 Aircraft; how considered.
239.4 International airports for entry of aliens.

AUTHORITY: §§ 239.1 to 239.4 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 231, 239, 66 Stat. 195, 203; 8 U. S. C. 1221, 1229.

§ 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 under the act shall land at the international airports enumerated in the Statement of Organization of the Service 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 furnish notice of the intended flight to the immigration officer at or nearest the intended place of landing, or shall furnish similar notice to the Collector of Customs or other Customs officer in charge at such place. 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 island 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. Aliens on aircraft arriving overland in foreign contiguous territory on journeys which did not begin outside of North or South America or islands belonging to countries or to political subdivisions of these continents shall not be held to be subject to section 212 (a) (24) of the Immigration and Nationality Act.

§ 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 Secretary of Health, Education, and Welfare 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.

PART 241—JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION

§ 241.1 *Notice; recommendation.* For the purposes of clause (2) of section 241 (b) of the Immigration and Nationality Act, notice to the district director having administrative jurisdiction over the place in which the court imposing sentence is located shall be regarded as notice to the Service. A recommendation against deportation by the sentencing court made to the district director receiving the notice shall be regarded as made to the Attorney General.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interprets or applies sec. 241, 66 Stat. 204; 8 U. S. C. 1251)

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Sec.
242.1 Order to show cause and notice of hearing.
242.2 Apprehension, custody, and detention.
242.3 Aliens confined to institutions; incompetents, minors.
242.4 Fingerprints and photographs.
242.5 Voluntary departure prior to commencement of hearing.
242.6 Aliens deportable under section 242 (f) of the act.
242.7 Cancellation of proceedings.
242.8 Special inquiry officers.
242.9 Examining officers.
242.10 Representation by counsel.
242.11 Incompetent respondents.
242.12 Interpreter.
242.13 Postponement and adjournment of hearing.
242.14 Evidence.
242.15 Contents of record.
242.16 Hearing.
242.17 Decision of special inquiry officer.
242.18 Order of special inquiry officer.
242.19 Notice of decision.

AUTHORITY: §§ 242.1 to 242.23 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 242, 244, 292, 66 Stat. 208, as amended, 214, 235; 8 U. S. C. 1252, 1254, 1362.

§ 242.1 *Order to show cause and notice of hearing*—(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the issuance and service of an order to show cause by the Service. In the proceeding the alien shall be known as the respondent. Orders to show cause may be issued by district directors, deputy district directors, district officers who are in charge of investigations.

(b) *Statement of nature of proceeding.* The order to show cause will contain a statement of the nature of the proceeding, the legal authority under which the proceeding is conducted, a concise statement of factual allegations informing the respondent of the acts or conduct alleged to be in violation of the law, and a designation of the charges against the respondent and of the statutory provisions alleged to have been violated. The order will require the respondent to show cause why he should not be deported. The order will call upon the respondent to appear before a special inquiry officer for hearing at a time and place stated in the order, not less than seven days, after the service of such order, except that where the issuing officer, in his discretion, believes that the public interest, safety, or security so requires, he may provide in the order for a shorter period. The issuing officer may, in his discretion, fix a shorter period in any other case at the request of and for the convenience of the respondent.

(c) *Service.* Service of the order to show cause shall be made by having a copy delivered to the respondent by an immigration officer or by mailing it to the respondent at his last known address by certified or registered mail, return receipt requested. Delivery of a copy within this rule means: handing it to the respondent or leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. The post office return receipt or the certificate by the officer serving the order by personal delivery setting forth the manner of said service shall be proof of service.

§ 242.2 *Apprehension, custody, and detention*—(a) *Warrant of arrest.* At the commencement of any proceeding under this part, or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242 (d) of the act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest issued by a district director whenever, in his discretion, it appears that the arrest of the respondent is necessary or desirable. If, after the issuance of a warrant of arrest, a determination is made not to serve it, the district director who issued the warrant of arrest may authorize its cancellation.

(b) *Authorized officer.* A district director may exercise the authority contained in section 242 of the act to continue or detain an alien in, or release him from, custody, and shall promptly notify the alien in writing of any determination made in his case. The alien may appeal to the Board of Immigration Appeals from any determination of such officer relating to bond, parole, or detention. Such appeal shall be taken by filing a notice of appeal with the district director within 5 days after the date when written notification of the determination is delivered in person or mailed to the alien. Upon the filing of such a notice of appeal, the district director shall immediately transmit to the Board of Immigration Appeals all records and information pertaining to his action in relation to such bond, parole, or detention and shall notify the regional commissioner. The filing of such an appeal shall not operate to disturb the custody of the alien or to stay the administrative proceedings or deportation. The foregoing provisions concerning notice, reporting, and appeal shall not apply when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose.

(c) *Revocation of bond or parole.* When an alien who having been arrested and taken into custody has been released under bond or released on parole, such bond or parole may be revoked at any time in the discretion of the district director, in which event the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and cancelled.

(d) *Supervision.* Until an alien against whom a final order of deportation has been outstanding for more than six months is deported, he shall be subject to supervision by a district director or immigration officer acting for him and required to comply with the provisions of section 242 (d) of the act relating to his availability for deportation.

§ 242.3 *Aliens confined to institutions; incompetents, minors*—(a) *Service.* If the respondent is confined in a penal or mental institution or hospital and is competent to understand the nature of the proceedings, a copy of the order to show cause, and the warrant of arrest, if issued, shall be served upon him and upon the person in charge of the institution or hospital. If the respondent is not competent to understand the nature of the proceedings, a copy of the order to show cause, and the warrant of arrest, if issued, shall be served only upon the person in charge of the institution or hospital in which the respondent is confined, such service being deemed service upon the respondent. In case of mental incompetency, whether or not confined in an institution, and in the case of a child under 16 years of age, a copy of the order and of the warrant of arrest, if issued, shall be served upon such respondent's guardian, near relative, or friend, whenever possible.

(b) *Service custody; cost of maintenance.* An alien confined in an institution or hospital 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. When an alien is an inmate of a public or private institution at the time of the commencement of the deportation proceedings, expense for the maintenance of the alien shall not be incurred by the Government until he is taken into physical custody by the Service.

§ 242.4 *Fingerprints and photographs.* Every alien 14 years of age or older against whom proceedings are commenced under this part shall be fingerprinted. Any such alien, regardless of his age, shall be photographed if a photograph is required by the district director.

§ 242.5 *Voluntary departure prior to commencement of hearing*—(a) *Authorized officers.* The authority contained in section 242 (b) of the act to permit aliens to depart voluntarily from the United States may be exercised by district directors, district officers who are in charge of investigations, and officers in charge.

(b) *Application.* Any alien who believes himself to be eligible for voluntary departure under section 242 (b) of the act may apply therefor at an office of the Service any time prior to the commencement of his hearing under an order to show cause. The officers designated in paragraph (a) of this section may deny or grant the application and determine the conditions under which the alien's departure shall be effected. An appeal shall not lie from a denial of an application for voluntary departure under this section, but the denial shall be without prejudice to the alien's right to apply for relief from deportation under any provision of law.

(c) *Revocation.* If, subsequent to the granting of an application for voluntary departure under this section, it is ascertained that the application should not have been granted, that grant may be revoked without notice by any district director, district officer in charge of investigations, or officer in charge.

§ 242.6 *Aliens deportable under section 242 (f) of the act.* In the case of an alien within the purview of section 242 (f) of the act, the order to show cause shall charge him with deportability only under section 242 (f) of the act. The prior order of deportation and evidence of the execution thereof, properly identified, shall constitute prima facie cause for deportation under that section.

§ 242.7 *Cancellation of proceedings.* If an order to show cause has been issued, a district director, deputy district director, or district officer who is in charge of investigations may cancel the order to show cause or, prior to the actual commencement of the hearing under a served order to show cause, terminate proceedings thereunder, if in either case he is satisfied that the respondent is actually a national of the

United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States. If an order to show cause has been cancelled or proceedings have been terminated pursuant to this section, any outstanding warrant of arrest shall also be cancelled.

§ 242.8 *Special inquiry officers*—(a) *Authority.* In a proceeding conducted under this part, the special inquiry officer shall have the authority to determine deportability and to make decisions including orders of deportation as provided by section 242 (b) of the act, to reinstate orders of deportation as provided by section 242 (f) of the act, to suspend deportation and authorize voluntary departure as provided by section 244 of the act, to authorize preexamination as provided by Part 235a of this chapter, to take or cause depositions to be taken, to certify the completeness and correctness of transcripts of hearings, and to take any other action consistent with applicable provisions of law and regulations. In his discretion, the special inquiry officer may exclude from the record any argument in connection with motions, applications, or objections, but in such event the person affected may submit a brief. Nothing contained in this part shall be construed to diminish the authority conferred on special inquiry officers by the act.

(b) *Withdrawal and substitution of special inquiry officers.* The special inquiry officer assigned to conduct the hearing shall at any time withdraw if he deems himself disqualified. If a hearing has begun but no evidence has been adduced other than by the respondent's pleading pursuant to § 242.16 (b), or if a special inquiry officer becomes unavailable to complete his duties within a reasonable time, or if at any time the respondent consents to a substitution, another special inquiry officer may be assigned to complete the case. 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.

§ 242.9 *Examining officers*—(a) *Authority.* When an additional immigration officer is assigned to a proceeding under this part to perform the duties of an examining officer, he shall present the evidence on behalf of the Government as to deportability as provided in section 242 (b) of the act. The examining officer shall also inquire thoroughly into the respondent's eligibility for any requested discretionary relief from deportation and shall develop such other information as may be pertinent to the proper disposition of any case to which he is assigned. The examining officer is authorized to appeal from a decision of a special inquiry officer pursuant to § 242.21 and to move for reopening or reconsideration pursuant to Part 8 of this chapter.

(b) *Assignment.* The district director shall assign an examining officer to every case within the provisions of § 242.16 (c). In his discretion, or at the request of the special inquiry officer, the district director may assign an examining officer to any other case at any stage of the proceedings.

§ 242.10 *Representation by counsel.* The respondent may be represented at the hearing by an attorney or other representative qualified under Part 292 of this chapter.

§ 242.11 *Incompetent respondents.* When it is impracticable for the respondent to be present at the hearing because of mental incompetency, the guardian, near relative, or friend who was served with a copy of the order to show cause shall be permitted to appear on behalf of the respondent. If such a person cannot reasonably be found or fails or refuses to appear, the custodian of the respondent shall be requested to appear on behalf of the respondent.

§ 242.12 *Interpreter.* Any person acting as interpreter in a hearing under this part 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.

§ 242.13 *Postponement and adjournment of hearing.* Prior to the commencement of a hearing, the district director 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 may grant a reasonable adjournment either at his own instance or, for good cause shown, upon application by the respondent or the examining officer. A continuance of the hearing for the purpose of allowing the respondent to obtain representation shall not be granted more than once unless sufficient cause for the granting of more time is shown.

§ 242.14 *Evidence*—(a) *Sufficiency.* A determination of deportability shall not be valid unless based on reasonable, substantial, and probative evidence.

(b) [Reserved.]

(c) *Use of prior statements.* The special inquiry officer may receive in evidence any oral or written statement which is material and relevant to any issue in the case previously made by the respondent or any other person during any investigation, examination, hearing, or trial.

(d) *Testimony.* Testimony of witnesses appearing at the hearing shall be under oath or affirmation administered by the special inquiry officer.

§ 242.15 *Contents of record.* The hearing before the special inquiry officer, including the respondent's pleading, the testimony, the exhibits, the special inquiry officer's decision, and all written orders, motions, appeals, and other papers filed in the proceeding shall constitute the record in the case. The hearing shall be recorded verbatim except for statements made off the record with the permission of the special inquiry officer.

§ 242.16 *Hearing*—(a) *Opening.* The special inquiry officer shall advise the respondent of his right to representation, at no expense to the Government, by counsel of his own choice authorized to practice in the proceedings and require him to state then and there whether he desires representation; advise the respondent that he will have a reasonable opportunity to examine and object to the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; place the respondent under oath; read the factual allegations and the charges in the order to show cause to the respondent and explain them in nontechnical language, and enter the order to show cause and warrant of arrest, if any, as exhibits in the record.

(b) *Pleading by respondent.* The special inquiry officer shall require the respondent to plead to the order to show cause by stating whether he admits or denies the factual allegations and his deportability under the charges contained therein. If the respondent admits the factual allegations and admits his deportability under the charges and the special inquiry officer is satisfied that no issues of law or fact remain, the special inquiry officer may determine that deportability as charged has been established by the admissions of the respondent.

(c) *Issues of deportability.* When deportability is not determined under the provisions of paragraph (b) of this section, the special inquiry officer shall request the assignment of an examining officer, and shall receive evidence as to any unresolved issues, except that no further evidence need be received as to any facts admitted during the pleading.

(d) *Additional charges.* An examining officer who has been assigned to a case may at any time during a hearing lodge additional charges of deportability, including factual allegations against the respondent. When additional charges are lodged, the special inquiry officer shall explain these charges to the respondent in nontechnical language and shall advise him if he is not represented by counsel, that he may be so represented. The special inquiry officer shall also inform the respondent that he may have a reasonable time within which to meet the additional charges. The respondent shall be required to state then and there whether he desires a continuance for either of these reasons.

(e) *Application for discretionary relief.* The respondent may apply during the hearing for suspension of deportation on Form I–256A, voluntary departure under section 244 of the act, preexamination on Form I–63 under Part 235a of this chapter, or such other discretionary relief as may be appropriate to the case. The respondent has the burden of establishing his eligibility for discretionary relief and may submit evidence in support of his application.

§ 242.17 *Decision of special inquiry officer*—(a) *Contents.* The decision of the special inquiry officer may be oral or written. Except in cases where deportability is determined on the pleadings pursuant to § 242.16 (b), the decision shall include a summary of the evidence and shall set forth findings of fact and conclusions of law as to deportability. Adoption by the special inquiry officer of the factual allegations and charges in the order to show cause shall constitute the setting forth of findings of fact and conclusions of law within the meaning of

this paragraph. The decision shall also contain a discussion of the evidence relating to the respondent's eligibility for any discretionary relief requested and the reasons for granting or denying the application. The decision shall be concluded with the order of the special inquiry officer.

(b) *Summary decision.* Notwithstanding the provisions of paragraph (a) of this section, in any case where deportability is determined on the pleadings pursuant to § 242.16 (b) and the respondent does not apply for any discretionary relief, or the respondent applies for voluntary departure only and the special inquiry officer grants the application, the special inquiry officer may enter a summary decision on Form I–38, if deportation is ordered, or on Form I–39 if voluntary departure is granted with an alternate order of deportation.

(c) *Use of non-record information.* In determining an application for discretionary relief from deportation in proceedings under this part, the special inquiry officer may consider and rely upon information not contained in the record only when the Commissioner has determined that it is in the interest of national security and safety to do so.

§ 242.18 *Order of special inquiry officer.* The order of the special inquiry officer shall be that the alien be deported, or that the proceedings be terminated, or that the alien's deportation be suspended, or that the alien be granted voluntary departure at his own expense in lieu of deportation, with or without preexamination, or any combination of these orders in the alternative or that such other action be taken in the proceedings as may be required for the appropriate disposition of the case.

§ 242.19 *Notice of decision*—(a) *Written decision.* A written decision shall be served upon the respondent and the examining officer, if any, by the district director together with the notice referred to in § 6.11 of this chapter. Service by mail is complete upon mailing.

(b) *Oral decision.* An oral decision shall be stated by the special inquiry officer in the presence of the respondent and the examining officer, if any, at the conclusion of the hearing. Unless appeal from the decision is then and there waived, a typewritten copy of the oral decision shall be served in the same manner as a written decision.

(c) *Summary decision.* When the special inquiry officer renders a summary decision as provided in § 242.17 (b), he shall serve a copy thereof upon the respondent at the conclusion of the hearing. Unless appeal from the decision is waived, the respondent shall also be furnished with two copies of Notice of Appeal, Form I–290A, and advised of the provisions of § 242.21 (c).

§ 242.20 *Finality of order.* The order of the special inquiry officer shall be final except when the case has been certified as provided in § 6.1 (c) or § 7.1 (b) of this chapter, or an appeal is taken to the Board of Immigration Appeals by the respondent or by the examining officer.

§ 242.21 *Appeals*—(a) *Non-appealable cases.* An appeal shall not lie from a decision of a special inquiry officer denying an application for voluntary departure or preexamination as a matter of discretion where the special inquiry officer has found the alien statutorily eligible for voluntary departure or eligible for preexamination pursuant to Part 235a of this chapter, and the alien has been in the United States for a period of less than five years at the time of the service of the order to show cause in deportation proceedings. A Notice of Appeal shall not be filed or accepted in any case within the provisions of this paragraph.

(b) *Cases appealable.* Pursuant to Part 6 of this chapter, an appeal shall lie from a decision of the special inquiry officer under this part to the Board of Immigration Appeals (except in cases covered by the provisions of § 242.20 relating to certifications). The reasons for the appeal shall be stated briefly in the Notice of Appeal, Form I–290A. When the conclusion as to deportability is contested, the appellant 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. Failure to do so may constitute a ground for dismissal of the appeal by the Board.

(c) *Time for taking appeal.* An appeal shall be taken within ten days after the mailing of a written decision or of a typewritten copy of an oral decision or the service of a summary decision on Form I–38 or I–39.

§ 242.22 *Proceedings under section 242 (f) of the act*—(a) *Applicable regulations.* Except as hereafter provided in this section, all the provisions of §§ 242.8 to 242.21, inclusive, and § 242.23 shall apply to the case of a respondent within the purview of § 242.6.

(b) *Deportability.* In determining the deportability of an alien alleged to be within the purview of § 242.6, the issues shall be limited solely to a determination of the identity of the respondent, i. e., whether the respondent is in fact an alien who was previously deported, or who departed while an order of deportation was outstanding; 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 act; and whether respondent unlawfully reentered the United States.

(c) *Order.* If deportability as charged pursuant to § 242.6 is established, the special inquiry officer shall order that the respondent be deported under the previous order of deportation in accordance with section 242 (f) of the act, or shall enter such other order as may be required for the appropriate disposition of the case.

(d) *Examining officer; additional charges.* When an examining officer is assigned to a proceeding under this section and additional charges are lodged against the respondent, the provisions of paragraph (b) of this section shall cease to apply.

§ 242.23 *Savings clause.* Deportation proceedings in which warrants of arrest were served prior to the date that orders to show cause were authorized to be issued pursuant to this part shall be completed in accordance with the regulations which were in effect immediately preceding that date, unless the respondents consent to proceed under the current regulations.

PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

Sec.

AUTHORITY: §§ 243.1 to 243.31 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 242, 243, 66 Stat. 208, as amended, 212; 8 U. S. C. 1252, 1253.

§ 243.1 *Issuance of warrants of deportation; country to which alien shall be deported; cost of detention; care and attention of alien*—(a) *Issuance.* A warrant of deportation shall be based upon the final order of deportation and shall be issued by a district director or an immigration officer acting for him.

(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.* (1) Except as otherwise provided in this part, 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.

(2) If 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 Service, he shall be requested, upon notice, to appear before a special inquiry officer for interrogation under oath. The alien may have present with him, at his own expense, during the interrogation any attorney or representative authorized to practice before the Service. The alien may submit any evidence in support of his claim which he believes should be considered by the special inquiry officer. Upon completion of the interrogation, the special inquiry officer shall prepare a written memorandum of his findings and a recommendation which shall be forwarded to the regional commissioner together with all the evidence and information submitted by the alien or which may be applicable to the case. The alien shall be served with a copy of the special inquiry officer's memorandum and recommendation and shall be allowed five days from date of service within which to submit written representations to the regional commissioner. If the alien refuses to appear for interrogation before a special inquiry officer when requested to do so or waives his appearance, all the pertinent evidence and available information in the case shall immediately be submitted to the regional commissioner. The decision whether to withhold deportation and, if so, for what period of time shall be finally made by the regional commissioner upon consideration of all the evidence submitted by the alien and any other pertinent evidence or available information.

(3) Notice of disposition of the alien's request under subparagraph (1) or (2) of this paragraph 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) *Permission to depart when ordered deported.* A district director may, in his discretion, permit an alien who has been ordered deported to deport himself from the United States at his own expense and to a destination of his own choice. Any alien who has so left the United States is considered to have been deported in pursuance of law.

§ 243.11 *Special care and attention for aliens*—(a) *Duty of transportation line.* Whenever it is determined by the district director that 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. The 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 Forms I–287, I–287A, and I–287B. The reverse of Form I–287A shall be signed by the officer of the vessel or aircraft to whom the alien has been delivered and immediately returned to the immigration officer making delivery. Form I–287B shall be retained by the receiving officer and subsequently filled out by the agents or persons therein designated and returned by mail to the district director named on the form.

(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 executing the form provided in the lower half of the reverse of Form I–287B. 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 the reverse of Form I–287B 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 an alien requiring such care and attention, or whenever such line fails, refuses, or neglects to return Form I–287B properly executed within 90 days after the departure of such an 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 attention 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, Department of Health, Education, and Welfare.

§ 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.

§ 243.31 *Fees.* Except as otherwise provided in this section and § 2.5 of this chapter, a stay of deportation requested by an alien under this part shall be accompanied by a fee of $25 as prescribed by, and remitted in accordance with, the provisions of Part 2 of this chapter. In any case in which an alien or other party affected is unable to pay the fee for requesting a stay of deportation, he shall file with the request for a stay his affidavit stating the nature of the request for a stay, the affiant's belief that he is entitled to redress, his inability to pay the required fee, and request permission to prosecute the stay without prepayment of such fee. If such an affidavit is filed, the district director, if the request for a stay of deportation is made pursuant to the provisions of § 243.3 (b) (1), may, in his discretion, stay deportation without prepayment of fee. If such an affidavit is filed and the request for a stay of deportation is made pursuant to the provisions of § 243.3 (b) (2), the special inquiry officer shall, if he believes that the request for a stay is not made in good faith, certify in writing his reasons for such belief for consideration by the regional commissioner. The regional commissioner may, in his discretion, withhold deportation without prepayment of fee.

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

Sec.

AUTHORITY: §§ 244.1 to 244.15 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 241, 242, 244, 66 Stat. 204, 208, as amended, 214; 8 U. S. C. 1251, 1252, 1254.

§ 244.1 *Voluntary departure subsequent to commencement of hearing.* Subject to the provisions of section 244 (e) of the act and this part, a special inquiry officer may, subsequent to the com-

mencement of the hearing provided for in Part 242 of this chapter, 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 Part 242 of this chapter and shall be determined and disposed of in accordance with the provisions of Part 242 of this chapter and this part.

§ 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 Part 242 of this chapter.

§ 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 officer 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.

§ 244.15 *Extension of time to depart.* An application for extension of time within which to depart voluntarily from the United States in lieu of deportation shall be made to the officer having administrative jurisdiction of the office in which the case is pending. Such officer may, in his discretion, grant or deny the application. His decision shall be in writing and served upon the alien. No appeal shall lie from a decision denying an application for an extension of time within which to depart.

PART 245—ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE

Sec.
245.1 Application.
245.2 Documentary requirements.
245.3 Medical examination.

AUTHORITY: §§ 245.1 to 245.3 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 234, 245, 247, 66 Stat. 166, 198, 217, 218; 8 U. S. C. 1101, 1224, 1255, 1257.

§ 245.1 *Application.* 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 act, shall apply on Form I–507 for adjustment of status: *Provided,* That an alien who has a nonimmigrant status under paragraph (15) (A), (15) (E), or (15) (G) of section 101 (a) of the act, or 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 act, shall not 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 act and Part 247 of this chapter. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter: *Provided,* That an appeal shall not lie from the decision denying an application on the ground that a quota immigrant visa is unavailable at the time the decision is rendered even though such a visa was available when the application was filed.

§ 245.2 *Documentary requirements.* The provisions of Part 211 of this chapter relating to the documentary requirements for immigrants shall not apply to an applicant for adjustment of status under this part.

§ 245.3 *Medical examination.* 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. Any applicant certified under paragraph (1), (2), (3), (4), or (5) of section 212 (a) of the act may appeal to a board of medical officers of the United States Public Health Service as provided in section 234 of the act and § 236.13 (c) of this chapter.

PART 245a—ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE IN ACCORDANCE WITH THE REFUGEE RELIEF ACT OF 1953, AS AMENDED

Sec.
245a.1 Submission of application; termination of status.
245a.2 Who may apply.
245a.3 Admissibility into United States.
245a.4 Medical examination.
245a.11 Disposition of case.

AUTHORITY: §§ 245a.1 to 245a.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 234, 247, 66 Stat. 166, 198, 218, sec. 6, 67 Stat. 403, as amended; 8 U. S. C. 1101, 1224, 1257, 50 U. S. C. App. 1971d.

§ 245a.1 *Submission of application; termination of status.* An application for adjustment of status under section 6 of the Refugee Relief Act of 1953, as amended (67 Stat. 403, 68 Stat. 1044; 50 U. S. C. App. 1971d), shall be submitted in accordance with the provisions of this chapter and that act on Form I–233. Any alien who files such an application shall be deemed to have thereby abandoned his nonimmigrant status in the United States.

§ 245a.2 *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 6 of the Refugee Relief Act of 1953, as amended, may apply for adjustment of status: *Provided,* That an 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 not 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.

§ 245a.3 *Admissibility into United States.* The determination of whether an alien is qualified under the Immigration and Nationality Act (66 Stat. 163; 8 U. S. C. 1101) except with respect to quota shall be predicated upon his admissibility into the United States under the Immigration and Nationality Act and this chapter, but he shall not be required to submit a passport or visa.

§ 245a.4 *Medical examination.* 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. Any applicant certified under paragraph (1), (2), (3), (4), or (5) of section 212 (a) of the Immigration and Nationality Act may appeal to a board of medical officers of the United States Public Health Service as provided in section 234 of the Immigration and Nationality Act and § 236.13 (c) of this chapter.

§ 245a.11 *Disposition of case—(a) Record and recommendation.* Upon completion of the examination, the immigration officer shall prepare a memorandum of his findings as to each of the essential facts prescribed by section 6 of the refugee Relief Act of 1953, as amended, and § 245a.2, together with his recommendation. The application, record, supporting documents, and memorandum of the immigration officer shall be transmitted to the regional commissioner who shall approve or disapprove the recommendation of the immigration officer. Upon notification to the applicant or his attorney or representative that adjustment has been approved by concurrent resolution of Congress, the applicant shall be required to pay a visa fee of $25.

(b) *Application denied; further action.* If the immigration officer recommends denial of the application, a copy of his memorandum shall be furnished to the applicant or his attorney or representative pursuant to §§ 292.11 and 292.12 of this chapter. The district director shall allow the applicant or his attorney or representative a reasonable time (not to exceed 10 days, except on a showing of good cause that more time is necessary) in which to file exceptions thereto and to submit a brief, if desired. If the regional commissioner approves the recommendation of the immigration officer, a decision to that effect will be prepared and a copy of the regional commissioner's decision shall be served upon the applicant or his attorney or representative pursuant to § 292.12 of this chapter, and such further action shall be authorized to be taken as is necessary under existing law and regulations to effect the applicant's departure from the United States.

PART 246—RESCISSION OF ADJUSTMENT OF STATUS

Sec.
246.11 Notice.
246.12 Disposition of case.
246.13 Decision by the regional commissioner.
246.14 Surrender of Form I–151.

AUTHORITY: §§ 246.11 to 246.14 issued under sec. 103, 66 Stat 173; 8 U. S. C. 1103. Interpret or apply secs. 244, 246, 66 Stat. 214, 217; 8 U. S. C. 1254, 1256.

§ 246.11 *Notice.* If it appears to a district director that a person residing in his district 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 of the grounds upon which it is intended to rescind the adjustment of status. The notice shall also inform the person 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 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 an immigration officer designated for that purpose. The person shall further be advised 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 his personal appearance and may examine the evidence upon which it is proposed to base such rescission at a Service office.

§ 246.12 *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 regional commissioner, 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.* Upon receipt of an answer asserting a defense to the allegations made in the notice without requesting a personal appearance, or if a personal appearance is requested or directed, the case shall be assigned to an immigration officer. Pertinent evidence, including testimony of witnesses, shall be incorporated in the record. At the conclusion of the interview, the immigration officer shall prepare a report summarizing the evidence and containing his findings and recommendation. The record, 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 alien shall be notified thereof and no further action shall be taken unless the case is certified to the regional commissioner as provided in § 7.1 (b) of this chapter. If the decision of the district director is that the adjustment of status should be rescinded, and 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 serve a copy of his decision, including the report and recommendation of the immigration officer, upon the alien who shall be allowed ten days to file exceptions; thereafter, the record, including any exceptions filed by the alien, shall be forwarded to the regional commissioner for further action in accordance with section 246 of the Immigration and Nationality Act. 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 alien shall be informed of the decision and of the reasons therefor. From the decision of the district director an appeal may be taken within 10 days from the receipt of notification of the decision as provided in Part 7 of this chapter.

§ 246.13 *Decision by the regional commissioner.* When action has been completed by the regional commissioner, the record shall be returned to the district director who shall serve a copy of the decision upon the alien. If the decision of the regional commissioner is that adjustment of status, which was acquired through suspension of deportation, be rescinded, he shall report the case to Congress as provided in section 246 of the Immigration and Nationality Act.

§ 246.14 *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 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

Sec.
247.1 Scope of part.
247.11 Notice.
247.12 Disposition of case.
247.13 Disposition of Form I–508.
247.14 Surrender of documents.

AUTHORITY: §§ 247.1 to 247.14 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 247, 66 Stat. 167, 218; 8 U. S. C. 1101, 1257.

§ 247.1 *Scope of part.* The provisions of this part apply to an alien who is lawfully admitted for permanent residence and 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) or (15) (G) of section 101 (a) of the act, and to his immediate family; also, an alien who was lawfully admitted for permanent residence and has an occupational status which, if he were seeking admission to the United States, would entitle him to a nonimmigrant status under paragraph (15) (E) of section 101 (a) of the act, and to his spouse and children.

§ 247.11 *Notice.* If it appears to a district director that an alien residing in his district, who was lawfully admitted for permanent residence, has an occupational status described in section 247 of the act, he shall cause a notice on Form I–509 to be served on such alien informing him that it is proposed to adjust his status, unless 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 (Waiver of Rights, Privileges, Exemptions and Immunities) within 10 days from receipt of the notice, or 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 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 an immigration officer designated for that purpose. The person shall further be advised 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 may examine the evidence upon which it is proposed to base such adjustment.

§ 247.12 *Disposition of case—(a) Allegations admitted or no answer filed.* If the waiver Form I–508 is not filed by the alien within the time prescribed, and

the answer admits the allegations in the notice, or 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 and no appeal shall lie from such decision. Form I–94A 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.* Upon receipt of an answer asserting a defense to the allegations made in the notice without requesting a personal appearance, or if a personal appearance is requested or directed, the case shall be assigned to an immigration officer. Pertinent evidence, including testimony of witnesses, shall be incorporated in the record. The immigration officer shall prepare a report summarizing the evidence and containing his findings and recommendation. The record, 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 alien shall be informed of such decision. If the decision of the district director is 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, the alien's immigrant status be adjusted to that of a nonimmigrant. The alien shall be informed of such decision and of the reasons therefor, and that he has 10 days from the receipt of notification of such decision within which he may appeal in accordance with Part 7 of this chapter. 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. Form I–94A 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.

§ 247.13 *Disposition of Form I–508.* If Form I–508 is executed and filed, the duplicate copy thereof shall be filed in the office of the Assistant Commissioner, Examinations Division, and may be made available for inspection by any interested officer or agency of the United States.

§ 247.14 *Surrender of documents.* An alien whose status as a permanent resident has been adjusted to that of a nonimmigrant in accordance with section 247 of the 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 any documents (such as Form I–151 or any other form of alien-registration receipt card, immigrant identification card, resident alien's border-crossing identification card (Form I–187), certificate of registry, or certificate of lawful entry) in his possession evidencing his former permanent resident status.

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

Sec.
248.1 Scope of part.
248.2 Application.
248.3 Change of nonimmigrant classification to that under section 101 (a) (15) (H) of the Immigration and Nationality Act.

AUTHORITY: §§ 248.1 to 248.3 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 101, 247, 248, 66 Stat. 166, 218; 8 U. S. C. 1101, 1257, 1258.

§ 248.1 *Scope of part.* Any alien lawfully admitted to the United States as a nonimmigrant (including an alien who acquired such status pursuant to section 247 of the 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 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 act.

§ 248.2 *Application.* Application for change of nonimmigrant classification shall be made on Form I–506. If the application 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 exaction of bond, which the district director deems appropriate to the case, and the district director shall cause a new set of Forms I–94 to be prepared and Form I–94A delivered to the applicant. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

§ 248.3 *Change of nonimmigrant classification to that under section 101 (a) (15) (H) of the Immigration and Nationality Act.* Notwithstanding any other provisions of this part, an application on Form I–506 for a change of an alien's nonimmigrant classification to that described in section 101 (a) (15) (H) of the act shall be accompanied by an application on Form I–129B made by the alien's prospective employer or trainer.

PART 249—CREATION OF RECORD OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE

Sec.
249.1 Scope of part.
249.2 Application.
249.3 Delivery of Form I–151.

AUTHORITY: §§ 249.1 to 249.3 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 249, 66 Stat. 219; 8 U. S. C. 1259.

§ 249.1 *Scope of part.* Any alien who believes that he meets the eligibility requirements enumerated in section 249 (a) of the act may apply for the creation of a record of lawful admission for permanent residence. Such a record shall not 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 act, this part, or other statutory authority.

§ 249.2 *Application.* An application under this part shall be made on Form N–105. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

§ 249.3 *Delivery of Form I–151.* If the application is granted, a 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 document 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

Sec.
250.1 Application.
250.2 Removal authorization.

AUTHORITY: §§ 250.1 and 250.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 250, 66 Stat. 219; 8 U. S. C. 1260.

§ 250.1 *Application.* Application for removal shall be made on Form I–243. No appeal shall lie from the decision of the district director.

§ 250.2 *Removal authorization.* If the district director grants the application he shall issue an authorization for the alien's removal on Form I–202. Upon issuance of the authorization, or as soon thereafter as practicable, the alien may be removed from the United States at government expense.

PART 251—ARRIVAL MANIFESTS AND LISTS: SUPPORTING DOCUMENTS

Sec.
251.1 Arrival manifests and lists.
251.2 Notification of illegal landings.
251.3 Notification of changes in crew.
251.4 Notification of changes in employment (aircraft).

AUTHORITY: §§ 251.1 to 251.4 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 212, 231, 251, 252, 66 Stat. 182, 195, 219, 220; 8 U. S. C. 1182, 1221, 1281, 1282.

§ 251.1 *Arrival manifests and lists*—(a) *Presentation.* The master or agent of every vessel arriving 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, or from the Virgin Islands of the United States shall present to the immigration officer at the port of first arrival a manifest of all crewmen on board on Form I–418 in accordance with the instructions contained thereon. A manifest shall not be required for crewmen aboard a vessel of United States, Canadian, or British registry engaged solely in traffic on the Great Lakes, or the St. Lawrence River, and connecting waterways herewith designated as a Great Lakes vessel, except crewmen of other than United States, Canadian, or British citizenship and, after submission of a manifest on the first voyage of a calendar year, a manifest shall not be required on subsequent arrivals unless there is employed on the vessel at the time of such arrival an alien crewman of other than United States, British, or Canadian citizenship who was not aboard and listed on the occasion of the submission of the last prior manifest. The master or agent of every aircraft arriving 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, or the Virgin Islands of the United States shall present to the immigration officer at the port of first arrival a manifest on Customs Form 7507 of all crewmen on board, except that a manifest shall not be required of an aircraft arriving in the continental United States or Alaska directly from Canada on a flight originating in that country.

(b) *Additional documents.* The master or agent of every vessel or aircraft arriving 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, or the Virgin Islands of the United States shall prepare as a part of the manifest when one is required for presentation to the examining immigration officer, a completely executed set of Forms I–95 for each alien crewman on board, except (1) an alien immigrant crewman in possession of a valid immigrant visa, reentry permit, or alien registration receipt card on Form I–151; (2) a Canadian or British citizen crewman of a Great Lakes vessel; or (3) a crewman seeking conditional landing privileges under section 252 (a) (1) of the act who is in possession of an unmutilated conditional landing permit with space for additional endorsements previously issued to him as a member of the crew of the same vessel or an aircraft of the same line on his last prior arrival in the United States, following which he departed from the United States as a member of the crew of the same vessel or an aircraft of the same line.

§ 251.2 *Notification of illegal landings.* As soon as discovered, the master or agent of any vessel from which an alien crewman has illegally landed or deserted in the United States shall inform the immigration officer in charge of the port where the illegal landing or desertion occurred, in writing, of the name, nationality, passport number and, if known, the personal description, circumstances and time of such illegal landing or desertion of such alien crewman, and any other information and documents which might aid in his apprehension, including when available a photograph of the crewman. Failure to file notice of illegal landing or desertion within twenty-four hours of the time such landing or desertion becomes known shall be regarded as lack of compliance with section 251 (d) of the act.

§ 251.3 *Notification of changes in crew*—(a) *Added crewmen.* The master or agent of every vessel departing from the United States shall submit to the immigration officer at the port from which such vessel is to depart directly to a foreign port or place a list on Form I–418 of the alien crewmen on board, other than lawfully admitted permanent residents of the United States, who were not members of the crew and manifested as such on the occasion of the vessel's arrival in the United States. Such list of names shall be headed by the legend "Added Crewmen—Arrival Crewlist filed at _____," and there shall be attached to such list the nonimmigrant form given to the alien on the occasion of his last arrival in the United States, if such form is available; otherwise, a newly executed Form I–95 shall be prepared by the master or agent for attachment to the list.

(b) *Separated crewmen.* The master or agent of every vessel departing from the United States shall submit to the immigration officer at the port from which such vessel is to depart directly to a foreign port or place a list on Form I–418 of the alien crewmen, other than alien permanent residents of the United States, who were members of the crew and manifested as such on the occasion of the vessel's arrival in the United States who are not departing with the vessel. Such list of names shall be headed by the legend "Separated Crewmen—Arrival Crewlist filed at _____," and shall contain, in addition, the nationality, passport number, and port of separation of each such crewman as well as the reason for separation. The lists required by paragraph (a) of this section and this paragraph may be incorporated in a single Form I–418, if space permits; the required lists need not be submitted for Canadian or British citizen crewmen of Great Lakes vessels.

§ 251.4 *Notification of changes in employment (aircraft).* The agent of the air transportation line shall immediately notify in writing the nearest immigration office of the termination of employment in the United States of each alien crewman employee of the line, furnishing the name, birthdate, birthplace, nationality, passport number and other available information concerning such alien crewman.

PART 252—LANDING OF ALIEN CREWMEN

Sec.
252.1 Examination of crewmen.
252.2 Revocation of conditional landing permits; deportation.
252.3 Great Lakes vessels; special procedures.

AUTHORITY: §§ 252.1 to 252.3 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 214, 248, 251, 252, 66 Stat. 189, 218, 219, 220; 8 U. S. C. 1184, 1258, 1281, 1282.

§ 252.1 *Examination of crewmen*—(a) *Detention prior to examination.* All persons employed in any capacity on board any vessel or aircraft arriving in the United States shall be detained on board the vessel or at the airport of arrival by the master or agent of such vessel or aircraft until admitted or otherwise permitted to land by an officer of the Service.

(b) *Classes of aliens subject to examination under this part.* The examination of every alien crewman arriving in the United States shall be in accordance with this part and not otherwise except that the following classes of persons employed on vessels or aircraft shall be examined in accordance with the provisions of Parts 235, 236, and 237 of this chapter: (1) Aliens in possession of an immigrant visa, reentry permit, or a Form I–151 alien registration receipt card, applying for admission as immigrants; (2) Canadian or British citizen crewmen of Great Lakes vessels; or (3) Canadian or British citizen crewmen of aircraft arriving directly in Alaska or the continental United States on flights originating in Canada.

(c) *Requirements for admission.* Every alien crewman applying for landing privileges in the United States must make his application in person before an immigration officer, present whatever documents are required, and establish to the satisfaction of the immigration officer that he is not subject to exclusion under any provision of law and is entitled clearly and beyond doubt to landing privileges in the United States.

(d) *Authorization to land.* The examining immigration officer in his discretion may grant an alien crewman authorization to land temporarily in the United States for (1) shore leave purposes during the period of time the vessel or aircraft is in the port of arrival or other ports in the United States to which it proceeds directly without touching at a foreign port or place, not exceeding twenty-nine days in the aggregate, if the immigration officer is satisfied that the crewman intends to depart on the vessel on which he arrived or on another aircraft of the same transportation line, or (2) the purpose of obtaining employment and departing from the United States on another vessel than the one on which he arrived, within a period of twenty-nine days, if the immigration of-

ficer is satisfied that the crewman intends to depart in that manner and that he is apparently able to obtain such other employment and the immigration officer has consented to the pay off or discharge of the crewman from the vessel on which he arrived.

(e) *Conditional permits to land.* The examining immigration officer shall give to each alien nonimmigrant crewman permitted to land temporarily a copy of the Form I–95 presented by the crewman, endorsed to show the date and place of admission and the type of conditional landing permitted.

(f) *Change of status.* An alien nonimmigrant crewman landed pursuant to the provisions of this part shall be ineligible for any extension of stay beyond twenty-nine days or for a change of nonimmigrant classification under Part 248 except that a crewman who has been given a conditional landing permit under paragraph (d) (1) of this section may, within the period of its validity and while he is still maintaining his status, apply for a conditional landing permit under paragraph (d) (2) of this section and, upon approval of such application, he shall surrender his original landing permit and shall be given a copy of a new Form I–95, endorsed to show the landing authorized under paragraph (d) (2) of this section for the balance of the twenty-nine days remaining to him.

§ 252.2 *Revocation of conditional landing permits; deportation.* An alien permitted to land conditionally under § 252.1 (d) (1) may, within the period of time for which he was permitted to land, be taken into custody by any immigration officer without a warrant of arrest and be transferred to the vessel upon which he arrived in the United States, if such vessel is in any port of the United States and has not been in a foreign port or place since the crewman was issued his conditional landing permit, upon a determination by the immigration officer that the alien crewman is not a bona fide crewman or that he does not intend to depart on the vessel on which he arrived in the United States. The conditional landing permit of such an alien crewman shall be taken up and revoked by the immigration officer and a notice to detain and deport such alien crewman shall be served on the master of the vessel on Form I–259. On the written request of the master of the vessel, the crewman may be detained and deported, both at the expense of the transportation line on whose vessel he arrived in the United States, other than on the vessel on which he arrived in the United States, if detention or deportation on such latter vessel is impractical.

§ 252.3 *Great Lakes vessels; special procedures.* An immigration examination shall not be required of any crewman aboard a Great Lakes vessel arriving at a port of the United States for a period of less than twenty-four hours, who (a) has previously been examined by an immigration officer as a member of the crew of the same vessel and (b) is either a British or Canadian citizen or is in possession of a Form I–95 previously issued to him as a member of the crew of the same vessel during the same calendar year, and (c) does not request or require landing privileges in the United States during the time the vessel will be in ports of the United States before returning to Canada.

PART 253—PAROLE OF ALIEN CREWMEN

Sec.
253.1 Parole.
253.2 Termination of parole.

AUTHORITY: §§ 253.1 and 253.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 212, 252, 253, 255, 66 Stat. 182, 220, 221, 222; 8 U. S. C. 1182, 1282, 1283, 1285.

§ 253.1 *Parole*—(a) *Afflicted crewmen.* Any alien crewman afflicted with feeblemindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease, or an alien crewman suspected of being so afflicted shall, upon arrival at the first port of call in the United States, be paroled to the medical institution designated by the district director in whose district the port is located, in the custody (other than during the period of time he is in such medical institution) of the agent of the vessel or aircraft on which such alien arrived in the United States and at the expense of the transportation line for a period initially not to exceed thirty days, for treatment and observation, under the provisions of section 212 (d) (5) of the act. Unless the Public Health Surgeon at the first port certifies that such parole be effected immediately for emergent reasons, the district director may defer execution of parole to a subsequent port of the United States to which the vessel or aircraft will proceed, if facilities not readily available at the first port are readily available at such subsequent port of call. Notice to remove an afflicted alien crewman shall be served by the examining immigration officer upon the master or agent of the vessel or aircraft on Form I–259 and shall specify the date when and the place to which such alien crewman shall be removed and the reasons therefor.

(b) *Disabled crewman.* Any alien crewman who becomes disabled in any port of the United States, whom the master or agent of the vessel or aircraft is obliged under foreign law to return to another country, may be paroled into the United States under the provisions of section 212 (d) (5) of the act for the period of time and under the conditions set by the district director in whose district the port is located, in the custody of the agent of the vessel or aircraft for the purpose of passing through the United States and transferring to another vessel or aircraft for departure to such foreign country, by the most direct and expeditious route.

(c) *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 other than as a member of its crew shall be paroled into the United States under the provisions of section 212 (d) (5) of the act for the period of time and under the conditions set by the district director in whose district the port is located, in the custody of the appropriate foreign consul or the agent of the aircraft or vessel which was wrecked or from which such seaman or airman was removed, for the purpose of treatment or observation in a hospital, if such is required, and for departure to the appropriate foreign country by the most direct and expeditious route.

(d) *Crewman denied conditional landing permit.* Any alien crewman denied a conditional landing permit or whose conditional landing permit issued under § 252.1 (d) (1) is revoked may, upon the request of the master or agent, be paroled into the United States under section 212 (d) (5) of the act in the custody of the agent of the vessel or aircraft and at the expense of the transportation line for medical treatment or observation or for other reasons deemed strictly in the public interest.

§ 253.2 *Termination of parole.* At the termination of the period of the parole specified in § 253.1, or when the purpose of the parole specified therein has been served, the alien crewman, if in the United States, shall be returned to the custody from which he was paroled and his case dealt with in the same manner as any other applicant for a conditional landing permit.

PART 262—REGISTRATION OF ALIENS IN THE UNITED STATES

§ 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; 8 U. S. C. 1103. Interprets or applies secs. 261–265, 284, 289, 66 Stat. 223–225, 232, 234; 8 U. S. C. 1301–1305, 1354, 1359)

PART 263—REGISTRATION OF ALIENS IN THE UNITED STATES: PROVISIONS GOVERNING SPECIAL GROUPS

Sec.
263.1 Foreign government officials, representatives to international organizations and similar classes.
263.2 Certain Canadian citizens and British subjects; agricultural workers.
263.3 Aliens under deportation proceedings or confined in institutions within the United States.
263.4 Certain alien crewmen.

AUTHORITY: §§ 263.1 to 263.4 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 211, 221, 262, 263, 66 Stat. 181, 191, 224; 8 U. S. C. 1181, 1201, 1302, 1303.

§ 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 *Certain Canadian citizens and British subjects; agricultural workers.* (a) 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 or British subjects admitted to the United States under the provisions of § 212.3 (a) (1), (2), or (7) of this chapter who depart from the United States within six months of admission. If such an alien's stay in the United States is to exceed six 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 six-month period.

(b) The duty imposed on aliens in the United States by section 262 of the act to apply for registration shall not be applicable to nonimmigrant agricultural workers admitted to the United States during the time such workers maintain their status. If such a worker fails to maintain the nonimmigrant status under which he has been or may be admitted, an application for registration in accordance with the provisions of section 262 of the Immigration and Nationality Act shall be made immediately.

§ 263.3 *Aliens under deportation proceedings or confined in institutions within the United States*—(a) *Under deportation proceedings.* The fingerprinting of an alien under deportation proceedings commenced pursuant to Part 242 of this chapter shall be regarded as registration under section 262 of the Immigration and Nationality Act during the pendency of such proceedings. Pending completion of the deportation proceedings, the copy of the order to show cause served on the alien, endorsed to show that he has been fingerprinted, shall constitute the evidence of registration required to be carried with him and in his personal possession by section 264 of the Immigration and Nationality Act.

(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.

§ 263.4 *Certain alien crewmen.* An alien crewman who has not previously been registered under the Immigration and Nationality Act who has remained in the United States for more than 29 days and who has not been made the subject of deportation proceedings shall be fingerprinted on Form AR–4. The alien crewman's Form I–95A shall be endorsed to show that he has been fingerprinted, and such form shall constitute the evidence of registration required to be carried with him and in his personal possession by section 264 of the Immigration and Nationality Act.

PART 264—REGISTRATION OF ALIENS IN THE UNITED STATES: FORMS AND PROCEDURE

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.
264.11 Form of registration.
264.12 Manner of registration.

AUTHORITY: §§ 264.1 to 264.12 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 221, 261–265, 66 Stat. 191, 223–225; 8 U. S. C. 1201, 1301, 1302, 1303, 1304, 1305.

§ 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, but only during the pendency of the deportation proceedings.)

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 provided 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.* Form I–151 shall be issued as an alien-registration receipt card and as evidence of lawful admission for permanent residence to an alien who is lawfully admitted to the United States as an immigrant with an unexpired immigrant visa; who in any manner becomes a lawful permanent resident of the United States and is registered in the United States; or who was lawfully admitted for permanent residence and reregisters in the United States within 30 days after attaining his fourteenth birthday anniversary, if the Form I–151 originally issued to him does not contain his photograph.

(2) [Reserved.]

(3) *Form I–94A.* Except as otherwise provided in this part, an alien registered on Form AR–2 and, when applicable, AR–4 as provided in § 264.11 shall be given Form I–94A endorsed to show such registration and that form shall be the alien's registration receipt card.

(4) *Order to show cause.* Pending completion of the deportation proceedings, the alien's copy of the order to show cause served on him shall be regarded as an alien-registration receipt card.

(5) *Form I–95A.* An alien crewman registered on Form AR–4 as provided in § 263.4 of this chapter shall be given Form I–95A endorsed to show such registration and that form shall then be the alien crewman'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 this section 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.* Any alien in the United States whose alien registration receipt card has been lost, mutilated, or destroyed, shall immediately apply for a new alien registration receipt card on Form I–90. Any alien lawfully in the United States for permanent residence whose name has been legally changed after registration or who is not in possession of Form I–151 may also apply on Form I–90 for a new alien registration receipt card. No appeal shall lie from the decision of the officer denying the application.

§ 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 Form AR–2 and, where necessary, Form AR–2a. Except as provided in § 263.3 (a) of this chapter, 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 the information furnished by the alien and all fingerprints shall be taken by such officer. When an alien other than a lawful permanent resident is registered on Form AR–2, the registration officer shall issue Form I–94A or I–95A to the alien and shall endorse such form to show that he has registered under the 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 signd 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.

PART 265—REGISTRATION OF ALIENS IN THE UNITED STATES: NOTICES OF ADDRESS

Sec.

AUTHORITY: §§ 265.1 to 265.12 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 265, 66 Stat. 225; 8 U.S.C. 1305.

§ 265.1 *Notices of address.* The notices of address, change of address, and new address required by the act shall be furnished 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.

§ 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 a designated immigration and Naturalization Service office. 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 274—ALIENS; BRINGING IN AND HARBORING

§ 274.1 *Power to arrest persons who bring in, transport, or harbor certain aliens, or induce them to enter.* See § 287.1 (e) of this chapter.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103)

PART 280—IMPOSITION AND COLLECTION OF FINES

Sec.

AUTHORITY: §§ 280.1 to 280.51 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 231, 233, 237, 239, 243, 251, 253–256, 272, 273, 280, 66 Stat. 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; 8 U. S. C. 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330.

§ 280.1 *Notice of intention to fine; administrative proceedings not exclusive.* Whenever a district director has reason to believe that any person has violated any of the provisions of the Immigration and Nationality 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 by an immigration officer designated by the district director, 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.

§ 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 subsequently 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 five days after request therefor, transportation companies shall furnish to the district director pertinent information contained in 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 specify the exact amounts paid for transportation from the initial point of departure (which point shall be indicated) 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 section 231, 233, 237, 239, 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.

§ 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 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 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 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 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 (1) the answer admits the allegations in the notice, or (2) 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.* Upon receipt of an answer asserting a defense to the allegations in the notice without requesting a personal appearance, or if a personal appearance is requested or directed, the case shall be assigned to an immigration officer. The immigration officer shall prepare a report summarizing the evidence and containing his findings and recommendation. The 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. The person 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.

§ 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 regional administrative officer shall be furnished a copy of the decision by the district director. The regional administrative officer shall notify the collector of customs who was furnished a copy of the Notice of Intention to Fine of the final decision made in the case. Such notification need not be made if the regional administrative officer 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 (1) 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 (2) 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

Sec.
282.1 Reentry permits; quality of paper.
282.2 Forms printed by the Public Printer.

AUTHORITY: §§ 282.1 and 282.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 223, 282, 66 Stat. 194, 231; 8 U. S. C. 1203, 1352.

§ 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 B of this chapter: I–20, I–21, I–94, I–95, I–129, I–129A, I–129B, I–131, I–131A, I–133, I–133A, I–418, and I–539.

PART 287—FIELD OFFICERS; POWERS AND DUTIES

Sec.
287.1 Definitions.
287.2 Criminal violations; investigation and action.
287.3 Disposition of cases of aliens arrested without warrant.
287.4 Subpena.
287.5 Power and authority to administer oaths.

AUTHORITY: §§ 287.1 to 287.5 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 235, 236, 242, 287, 66 Stat. 198, 200, 208, as amended, 233; 8 U. S. C. 1225, 1226, 1252, 1357.

§ 287.1 *Definitions*—(a) *Reasonable distance from external boundary.* 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 distances not exceeding 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, who may, if he determines that such action is justified, declare such distance to be reasonable.

(c) *Certain powers of immigration officers.* Any immigration officer is hereby authorized to exercise anywhere in the United States all the powers conferred by section 287 of the Immigration and Nationality Act, including:

(1) The power to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) The power to execute warrants and other processes, to arrest without warrant, to board and search vessels and other conveyances without warrant, and to enter private lands within a distance of twenty-five miles of any external boundary of the United States without warrant to prevent the illegal entry of aliens into the United States;

(3) The power to administer oaths and to take and consider evidence con-

cerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of the Immigration and Nationality Act and the administration of the Service; and

(4) The power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States.

(d) *Disposition of felony cases.* The cases of persons arrested for felonies under paragraph (4) of section 287 (a) of the Immigration and Nationality Act shall be handled administratively in accordance with the applicable provisions of § 287.2, but in no case shall there be prejudiced the right of the person arrested to be taken without unnecessary delay before another near-by officer empowered to commit persons charged with offenses against the laws of the United States.

(e) *Power to arrest persons who bring in, transport, or harbor certain aliens, or induce them to enter.* Any immigration officer shall have authority to make arrests for violations of any provision of section 274 of the Immigration and Nationality Act.

(f) *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 such activities as are customary, or 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 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 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 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 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 a special inquiry officer, he shall request the district director having administrative jurisdiction over him 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.

§ 287.5 *Power and authority to administer oaths.* Any immigration officer, or any other employee individually designated by a district director, shall have the power and authority to administer oaths.

PART 292—ENROLLMENT AND DISBARMENT OF ATTORNEYS AND REPRESENTATIVES

Sec.

AUTHORITY: §§ 292.1 to 292.61 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply sec. 292, 66 Stat. 235; 8 U. S. C. 1362.

§ 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 regional commissioner, district director, officer in charge of a suboffice, 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 char-

acter, 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 regional commissioner, district director, or officer in charge of the suboffice 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 regional commissioner, district director, or officer in charge of a suboffice, 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 regional commissioner and 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) (14) 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 regional commissioner, 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 a suboffice 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 application, in triplicate, shall be transmitted to the Board by either the regional commissioner, district director, or Commissioner.

(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 practic 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) (14) 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.

§ 292.11 *Service upon and action by attorney, representative, or other person.* (a) Whenever a person is required by any of the provisions of this chapter to give or be given notice; to serve or be served with any paper other than a warrant of arrest or a subpena; to make a motion; to file or submit an application or other document; or 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, or requested of, the attorney or representative who has filed an appearance in the case as provided in § 292.5, or the person himself if there is no attorney or representative in the case.

(b) Whenever an examination is provided for by any of the provisions of this chapter in any case pending before the Service, the person involved shall have the right to be represented at the examination by an attorney or representative authorized to practice before the Service. The attorney or representative shall be permitted to examine or cross-examine such person and witnesses, to introduce evidence, to make objections which shall be stated succinctly and entered on the record, and to submit briefs.

§ 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 certified or registered mail upon the person designated in § 292.11.

§ 292.61 *Procedure for suspension or disbarment; effect.* (a) The regional 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 regional 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 regional commissioner. If hearing is requested, the regional 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 regional 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 regional commissioner, by the Service officer within the purview of § 6.1 (e) of this chapter, 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 regional 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.

PART 299—IMMIGRATION FORMS

Sec.

AUTHORITY: §§ 299.1 to 299.3 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103.

§ 299.1 *Prescribed forms.* The following forms are hereby prescribed by the Attorney General for use in compliance with the provisions of Subchapters A and B 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	Immigrant Visa and Alien Registration.
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.
I–17	Petition for Approval of School for Students.
I–20	Certificate of Eligibility.
I–21	Report of Initial Registration and Termination of Attendance of Nonimmigrant "F" Student.
I–24	Application by Alien Student for Permission to Accept Employment.
I–38	Special Inquiry Officer's Decision (Deportation).
I–39	Special Inquiry Officer's Decision (Voluntary departure, alternate deportation).
I–53	Address Report Card.
I–63	Application for Preexamination.
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 in Lieu of Form AR–3 or AR–103.
I–94	Arrival-Departure Card.
I–95	Crewman's Landing Permit.
I–100a	Alien Laborer's Permit and Identification Card.
I–100C	Alien Laborer's Permit.
I–102	Application for copy of Alien Laborer's Permit in lieu of one lost, mutilated, or destroyed.
I–122	Notice to Alien Detained for Hearing by Special Inquiry Officer.
I–126	Annual Report of Status by Treaty Trader.

Form No.	Title and description
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	Petition for Permission to Import Nonimmigrant Aliens.
I-129C	Application for Waiver of Excludability and Ineligibility to Obtain an Immigrant 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-133	Petition by United States Citizen for Issuance of Immigrant Visa.
I-133A	Petition by Permanent Resident Alien for Issuance of Immigrant Visa.
I-138	Subpena.
I-151	Alien Registration Receipt and Border Crossing Card.
I-186	Nonresident Alien Mexican Border Crossing Card.
I-190	Application for Nonresident Alien Mexican Border Crossing Card.
I-191	Application for Advance Permission to Return to Unrelinquished Domicile.
I-192	Application for Advance Permission to Enter as Nonimmigrant.
I-193	Application for Waiver of Passport and/or Visa.
I-200	Warrant for Arrest of Alien.
I-202	Authorization for Removal.
I-212	Application for Permission to Reapply for Admission Into the United States After Deportation or Removal.
I-233	Application to Adjust Immigration Status under Section 6 of the Refugee Relief Act of 1953.
I-243	Application for Removal.
I-256A	Application for Suspension of Deportation.
I-259	Notice to Detain, Deport or Remove Aliens.
I-259A	Agreement by Transportation Line to Assume Responsibility for Removal of Aliens.
I-287	Alien Requiring Special Care and Attention.
I-290A	Notice of Appeal to the Board of Immigration Appeals.
I-290B	Notice of Appeal (to Regional Commissioner).
I-290C	Notice of Certification.
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-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-317	Blanket Bond for Departure of Aliens in Transit or Temporarily Admitted as Visitors for Business or Pleasure.
I-323	Notice of Violation of Conditions of Bond.
I-324	Bond for the Release of an Alien Under Exclusion Proceedings.
I-353	Bond Conditioned for the Delivery of an Alien.
I-354	Bond That Alien Shall Not Become a Public Charge.
I-377	Bond for Maintenance of Status and Departure of Nonimmigrant Alien or Aliens.
I-391	Notice of Cancellation of Bond.
I-414	Receipt for Crew List.
I-418	Passenger List—Crew List.
I-426	Immediate and Continuous Transit Agreement Between a Transportation Line and the United States of America (special direct transit procedure).
I-506	Application for Change of Nonimmigrant Status.
I-507	Application for Status as Permanent Resident.
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-539	Application to Extend Time of Temporary Stay.
N-105	Application to Create Record of Admission for Permanent Residence.

§ 299.2 *Forms available from the Superintendent of Documents.* The following forms required for compliance with the provisions of subchapter B of this chapter may be obtained, upon prepayment, from the Superintendent of Documents, Government Printing Office, Washington, D. C.: I-20, I-21, I-94, I-95, I-129, I-129A, I-129B, I-131, I-131A, I-133, I-133A, I-418, and I-539. A small supply of those forms shall be set aside by immigration officers for free distribution and official use.

§ 299.3 *Reproduction of forms by private parties.* The following forms required for compliance with the provisions of subchapter B of this chapter may be printed or otherwise reproduced by an appropriate duplicating process by private parties at their own expense: I-20, I-21, I-94, I-95, and I-418. 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 or otherwise duplicated in the English language with black ink or dye that will not fade or "feather" within 20 years.

Subchapter C—Nationality Regulations

PART 306—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: VIRGIN ISLANDERS

Sec.
306.1 Persons eligible.
306.2 United States citizenship; when acquired.
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; 8 U. S. C. 1103. Interpret or apply secs. 306, 332, 66 Stat. 237, 252; 8 U. S. C. 1406, 1443.

§ 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.

§ 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 apply 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

Sec.
312.1 Educational examination of petitioners for naturalization.

Sec.
312.2 Ability to read, write, and speak English; exemption.

AUTHORITY: §§ 312.1 and 312.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 312, 332, 66 Stat. 239, 252; 8 U. S. C. 1423, 1443.

§ 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.

PART 316—GOOD MORAL CHARACTER

§ 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 act.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interprets or applies secs. 316, 320, 321, 324, 329, 332, 335, 402, 66 Stat. 242, 245, 246, 250, 252, 255, 275; 8 U. S. C. 1427, 1431, 1432, 1435 and note, 1440 note, 1443, 1446)

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

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.
316a.21 Application for benefits with respect to absences; appeal.

AUTHORITY: §§ 316a.1 and 316a.21 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 316, 317, 332, 405, 66 Stat. 242, 243, 252, 280; 8 U. S. C. 1427, 1428, 1443, 1101 note.

§ 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.

§ 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 either before or after the applicant's employment commences but before the applicant has been absent from the United States for a continuous period of one year. There shall be submitted with the application a fee of $10.00.

(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.

(c) The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter.

PART 317—TEMPORARY ABSENCE OF PERSONS PERFORMING RELIGIOUS DUTIES

Sec.
317.1 Absence for which benefits of section 308 of the Nationality Act of 1940 have been granted.
317.21 Application for benefits of section 317 of the Immigration and Nationality Act.

§ 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 318—PENDING DEPORTATION PROCEEDINGS

§ 318.1 *Warrant of arrest.* For the purposes of section 318 of the act, an order to show cause issued under Part 242 of this chapter shall be regarded as a warrant of arrest.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 242, 318, 332; 66 Stat. 208, as amended, 244, 252; 8 U. S. C. 1252, 1429, 1443)

PART 319—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SPOUSES OF UNITED STATES CITIZENS

Sec.
319.1 Person living in marital union with United States citizen spouse.
319.2 Person whose United States citizen spouse is employed abroad.
319.11 Procedural requirements.

AUTHORITY: §§ 319.1 to 319.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 319, 332, 66 Stat. 244, 252; 8 U. S. C. 1430, 1443.

§ 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.

§ 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–405, in duplicate.

PART 322—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN OF CITIZEN PARENT

§ 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; 8 U. S. C. 1103. Interprets or applies secs. 322, 323, 332, 335, 66 Stat. 246, 252, 255; 8 U. S. C. 1433, 1434, 1443, 1446)

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

Sec.

AUTHORITY: §§ 324.11 to 324.13 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 324, 332, 337, 405, 66 Stat. 246, 252, 258, 280; 8 U. S. C. 1435, 1443, 1448, 1101 note.

§ 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

§ 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 National-

ity 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, establish 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; 8 U. S. C. 1103. Interprets or applies secs. 316, 325, 332, 66 Stat. 242, 248, 252; 8 U. S. C. 1427, 1436, 1443)

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

Sec.
327.1 Period of service in armed forces.
327.11 Procedural requirements.

AUTHORITY: §§ 327.1 and 327.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 327, 332, 338, 344, 66 Stat. 248, 252, 259, 264; 8 U. S. C. 1438, 1443, 1449, 1455.

§ 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.

§ 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

Sec.
328.1 Whenever 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.
328.11 Procedural requirements.

AUTHORITY: §§ 328.1 to 328.11 issued under sec. 103, 66 Stat. 173; 8 U. S .C. 1103. Interpret or apply secs. 318, 328, 332, 334, 335, 66 Stat. 244, 249, 252, 254, 255; 8 U. S. C. 1429, 1439, 1443, 1445, 1446.

§ 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 continuous 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 § 328.1 (a) 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.

§ 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

Sec.
329.1 World War I; definition.
329.2 Proof of character, attachment, and disposition.
329.21 Procedural requirements.

AUTHORITY: §§ 329.1 to 329.21 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 329, 332, 334, 335, 402, 66 Stat. 250, 252, 254, 255, 275; 8 U. S. C. 1440 and note, 1443, 1445, 1435 note.

§ 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.

§ 329.21 *Procedural requirements.* A person of the class described in section 329 or 402 (e) of the act shall submit to the Service an application to file a petition for naturalization on Form N–400. The certification required by section 329 (b) (4) of the act to prove service shall be requested by the applicant on Form N–426, in triplicate, and submitted with Form N–400. The petition for naturalization shall be filed on Form N–405, in duplicate, in any naturalization court, regardless of the residence of the petitioner. There shall be inserted after averment 10 of Form N–405, at the time of filing thereof, an averment as follows:

I served honorably in an active duty status in _____, under Service No. _____
(Branch of service)
from _____, 19__, to _____, 19__, and was separated under honorable conditions on _____, 19__. I entered such service at _____, _____.
(City) (State)

The petition shall be verified by at least two United States citizen witnesses as provided in § 334.21 of this chapter. The petitioner may be naturalized immediately, provided a certificate of examination on Form N–440, in duplicate, is attached to the petition as provided in § 332.12 of this chapter.

PART 330—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SEAMEN

Sec.
330.1 Service on vessels after lawful admission for permanent residence; when deemed residence and physical presence in the United States.
330.3 Proof of qualifications.
330.11 Procedural requirements.

AUTHORITY: §§ 330.1 to 330.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 316, 330, 332, 334, 335, 66 Stat. 242, 251, 252, 254, 255; 8 U. S. C. 1427, 1441, 1443, 1445, 1446.

§ 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.

§ 330.3 *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.* 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, as proof of residence within the State in which the petition is filed.

§ 330.11 *Procedural requirements.* A person claiming the benefits of § 330.1 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 332—PRELIMINARY INVESTIGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

Sec.
332.11 Investigation preliminary to filing petition for naturalization.
332.12 Certificate by examiner whenever petitioner is entitled to immediate hearing.
332.13 Use of record preliminary investigation.
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; 8 U. S. C. 1103. Interpret or apply secs. 332, 335, 66 Stat. 252, 255; 8 U. S. C. 1443, 1446.

§ 332.11 *Investigation preliminary to filing petition for naturalization*—(a) *Scope of investigation.* 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 investigation shall be uniform throughout the United States. During the interrogation of the applicant and at his request, his attorney or representative who has, when required, been admitted to practice in accordance with Part 292 of this chapter, may be permitted to be

present and observe the interrogation and makes note but shall not otherwise participate therein.

(b) *Conduct of investigation.* The Service officer, prior to the beginning of the investigation, shall make known to the applicant and the witnesses the official capacity in which he is conducting the investigation. The applicant and such witness shall be questioned under oath separately and apart from one another and apart from the public. The applicant shall be questioned 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 Service 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 investigation is satisfied that the person being questioned fully understands them. At the conclusion of the investigation 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 Service 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 excepted from the requirement of reading and writing, and speaking English, the questioning, 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 investigation 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 investigation.* The record of the preliminary investigation, including the executed and corrected application form and supplements thereto, affidavits, transcripts of testimony, documents, and other evidence, 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 investigation 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 investigation has been concluded, prepare a memorandum in behalf of the Service in the manner described in § 335.12 of this chapter, and subject to review by the regional commissioner for presentation to the court at the final hearing. The petitioner shall be given written notice on Form N–425 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 certified mail, return receipt requested, after review of the recommendation by the regional 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

Sec.

AUTHORITY: §§ 332a.1 to 332a.13 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 310, 332, 66 Stat. 239, 252; 8 U. S. C. 1421, 1443.

§ 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–3	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–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–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–421	Affidavit in Support of Petition for Naturalization (by a seaman, under section 330, Immigration and Nationality Act).
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–480 A	Order of Court granting Petitions for Naturalization.

Form No.	Title and description
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-484 A-	Order of Court denying Petitions for Naturalization.
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---	Regional Commissioner's Recommendation that Petitions be Granted (and Order of Court).
N-493---	Regional 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).

§ 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 the court as follows:

(a) *Insertion of applicable 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 inserting under the title of the form the applicable act or section.

(b) *Exemption from residence or physical presence in the United States or State.* Whenever residence or physical presence in the United States or State for any specified period is not required, by striking out the allegations relating thereto and the statements in the affidavits of witnesses as to the period of United States or State residence or physical presence.

(c) *Exemption from lawful admission for permanent residence.* Whenever lawful admission for permanent residence is not required, by striking out the allegations relating thereto.

(d) *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 the allegations relating thereto.

(e) *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 N-------".

(f) *Oath of allegiance.* Whenever the petitioner or applicant for naturalization is exempt from taking the oath of allegiance prescribed in Part 337 of this chapter in its entirety, by striking from the oath of allegiance the inapplicable clauses.

PART 332b—INSTRUCTION AND TRAINING IN CITIZENSHIP RESPONSIBILITIES: TEXTBOOKS, SCHOOLS, ORGANIZATIONS

Sec.

AUTHORITY: §§ 332b.1 to 332b.5 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 346, 66 Stat. 252, 266; 8 U. S. C. 1443, 1457.

§ 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.

PART 332c—PHOTOGRAPHIC STUDIOS

§ 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; 8 U. S. C. 1103. Interprets or applies sec. 332, 66 Stat. 252; 8 U. S. C. 1443).

PART 332d—DESIGNATION OF EMPLOYEES TO ADMINISTER OATHS AND TAKE DEPOSITIONS

§ 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. In addition, such other employees as may be designated by a district director are hereby authorized to administer oaths.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interprets or applies sec. 332, 66 Stat. 252; 8 U. S. C. 1443).

PART 333—PHOTOGRAPHS

Sec.
333.1 Description of required photographs.
333.2 Attachment of photographs to documents.

AUTHORITY: §§ 333.1 and 333.2 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 333, 334, 66 Stat. 252, 253, 254; 8 U. S. C. 1443, 1444, 1445.

§ 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.

PART 334—PETITION FOR NATURALIZATION

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.
334.11 Petition for naturalization and preliminary application.
334.12 Notification to appear for preliminary investigation 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; 8 U. S. C. 1103. Interpret or apply secs. 332, 334, 335, 66 Stat. 252, 254, 255; 8 U. S. C. 1443, 1445, 1446.

§ 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 the clerk of court. 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.

§ 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 investigation 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 investigation, 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 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 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 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 exercising administrative jurisdiction over the place where the court in which the petition is filed is located.

(b) *Action by district director.* If the district director 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 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 setting forth the reasons for the denial. The applicant shall be notified by the district director of the filing of Form N–455 with the clerk of court, and whether consent has been given by the district director.

(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. 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 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 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 consents to the withdrawal of the petition. In cases in which the district director 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 consents to dismissal of the petition for lack of prosecution. In cases in which the district director 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 physically 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

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; 8 U. S. C. 1103. Interpret or apply secs. 332, 334, 339, 344, 66 Stat. 252, 254, 259, 264; 8 U. S. C. 1443, 1445, 1450, 1455.

§ 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 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.

PART 335—PRELIMINARY EXAMINATION ON PETITIONS FOR NATURALIZATION

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 regional commissioner; notice.
335.13 Notice of recommendation of designated examiner.

AUTHORITY: §§ 335.11 to 335.13 issued under sec. 103. 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 335, 66 Stat. 252, 255; 8 U. S. C. 1443, 1446.

§ 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, 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 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. 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 pro-

duce documentary evidence as directed by the subpena, the district director 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 or 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 regional 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 that the petition should be denied, or 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 regional 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 regional commissioner shall return the designated examiner's memorandum, the record, and any memorandum prepared by the regional 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 furnish a copy of the designated examiner's memorandum. The notice shall be sent by certified mail, with return receipt requested, after any review made by the regional 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 examiner's memorandum prior to the date of the hearing, and after any review made by the regional commissioner.

(c) *Disagreement between recommendations of designated examiner and the regional commissioner.* In those cases reviewed by the regional commissioner in which his views and recommendations 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 regional commissioner and that both recommendations will be presented to the court. There shall also be enclosed with such notice a copy of the regional commissioner's memorandum.

PART 335a—TRANSFER, WITHDRAWAL OR FAILURE TO PROSECUTE PETITION FOR NATURALIZATION

Sec.
335a.11 Transfer of petition; procedure.
335a.12 Withdrawal of or failure to prosecute petition; procedure.

§ 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: WATNESSES; DEPOSITIONS

Sec.
335b.1 Proof of residence and other qualifications.
335b.11 Substitution of witnesses; procedure.
335b.12 Depositions; procedure.

AUTHORITY: §§ 335b.1 to 335b.12 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 287, 316, 332, 335, 336, 405, 66 Stat. 233, 242, 252, 255, 257, 280; 8 U. S. C. 1357, 1427, 1443, 1446, 1447, 1101 note.

§ 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.

§ 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 to the district director, 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 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. Such depositions shall be taken only upon written interrogatories on Form N–462A. 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 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. In cases in which the depositions are taken other than before an employee of the Service or a postmaster, the petitioner, independently of the Service shall arrange with the officer who will take the depositions to defray all costs and expenses incident thereto. 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 district director 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

§ 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; 8 U. S. C. 1103. Interprets or applies secs. 316, 319, 322, 323, 328, 332, 335, 66 Stat. 242, 244, 246, 249, 252, 255; 8 U. S. C. 1427, 1430, 1433, 1434, 1439, 1443, 1446)

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

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 presentation at final hearing.
336.14 Presentation of recommendations of designated examiner and the regional commissioner 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; 8 U. S. C. 1103. Interpret or apply secs. 332, 335–337, 66 Stat. 252, 255, 257, 258; 8 U. S. C. 1443, 1446–1448.

§ 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 of the time, date, and place of such proceedings. Such notice may be waived by the district director. 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 regional commissioner, as appropriate. In those cases in which the recommendation of the regional 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 investigation 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 regional 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 in this section 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 recommendations of designated examiner and the regional commissioner 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 regional commissioner prepared pursuant to the 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 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, 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 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

Sec.
337.1 Oath of allegiance.
337.2 Persons naturalized by judicial action; effective date.
337.3 Renunciation of title or order of nobility.
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; 8 U. S. C. 1103. Interpret or apply secs. 322, 323, 332, 337, 66 Stat. 246, 252, 258; 8 U. S. C. 1433. 1434, 1443. 1448.

§ 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, to which he shall thereafter affix his signature on his petition or application for naturalization:

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 of America 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; that I will perform noncombatant service in the armed forces of the United States when required by the law; 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.

(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 titles) which I have heretofore held; or

I further renounce the order of nobility ____ (Give the order of nobility) to which I have heretofore belonged.

§ 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 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

Sec.
338.11 Execution and issuance.
338.12 Endorsement in case name is changed.
338.13 Spoiled certificate.
338.14 Delivery of certificates.
338.15 Signing of certificate.
338.16 Correction of certificates.

AUTHORITY: §§ 338.11 to 338.16 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 322, 323, 332, 333, 336, 338, 339, 66 Stat. 246, 252, 253, 257, 259; 8 U. S. C. 1433, 1434, 1443, 1444, 1449, 1450.

§ 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 his deputy shall endorse the alien registration number on the stubs of the certificates, shall sign the certificates in his own handwriting, and enter on the stubs all the essential facts set forth in the certificates. 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. 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 certificate.* 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.* No certificate of naturalization shall be delivered by the clerk of court in any case in which the representative of the Service in attendance at the final naturalization hearing notifies the clerk of court that the naturalized person has not surrendered his alien registration receipt card. Upon subsequent receipt of notice from the district director that he has waived the surrender of the card or that the card has been surrendered, the certificate shall be delivered by the clerk of court.

§ 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 official Service file. 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

Sec.

AUTHORITY: §§ 339.1 to 339.5 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 339, 344, 66 Stat. 252, 259, 265; 8 U. S. C. 1443, 1450, 1455.

§ 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 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 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 previously delivered to a representative of the Service, and all duplicates of certificates of naturalization with stubs intact. 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 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 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 by the clerk of court.

§ 339.5 *Numbering and indexing and filing of petitions for naturalization and declarations of intention.* See §§ 334.3 and 334a.16 of this chapter.

PART 340—REVOCATION OF NATURALIZATION

§ 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 regional 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; 8 U. S. C. 1103. Interprets or applies secs. 332, 340, 66 Stat. 252, 260, as amended; 8 U. S. C. 1443, 1451)

PART 341—CERTIFICATES OF CITIZENSHIP

§ 341.1 *Application.* 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 act, or who claims to be a citizen at birth outside the United States under the provisions of section 309 (c) of the act, shall apply for a certificate of citizenship on Form N–600. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal within 10 days from the receipt of such notification in accordance with Part 7 of this chapter. If the application is granted, the certificate shall be issued on Form N–560 or N–562, as appropriate. The applicant shall, unless he is too young to understand the meaning thereof, take and subscribe to, before an officer or employee of the Service authorized to administer oaths, the oath of renunciation and allegiance prescribed by Part 337 of this chapter. Thereafter, delivery of the original of the certificate shall be made to the applicant, or to his parent or guardian, either personally or by certified mail, and the recipient's signed receipt therefor shall be obtained.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 287, 309, 332, 333, 337, 341, 344; 66 Stat. 233, 238, 252, 254, 258, 263, 264; 8 U. S. C. 1357, 1409, 1443, 1444, 1448, 1452, 1455)

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

Sec.
343.1 Application.
343.11 Disposition of application.

AUTHORITY: §§ 343.1 and 343.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 343, 344, 405, 66 Stat. 252, 263, 264, 280; 8 U. S. C. 1443, 1454, 1455, 1101 note.

§ 343.1 *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.

§ 343.11 *Disposition of application*—(a) *Issuance of certificate; delivery.* 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 or a certificate of repatriation on Form N–581 shall be issued by the district director and the original delivered in person, in the United States only, upon his signed receipt therefor.

(b) *Application denied.* If the district director denies the application, the applicant shall be notified of the reasons therefor and of his right to appeal within 10 days from the date of receipt of such notification in accordance with the provisions of Part 7 of this chapter.

PART 343a—NATURALIZATION AND CITIZENSHIP PAPERS LOST, MUTILATED, OR DESTROYED; NEW CERTIFICATE IN CHANGED NAME; CERTIFIED COPY OF REPATRIATION PROCEEDINGS

Sec.
343a.1 Applications for replacement of or for new naturalization or citizenship paper.
343a.11 Disposition of application.

AUTHORITY: §§ 343a.1 and 343a.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 324, 332, 343, 344, 405, 66 Stat. 246, 252, 263, 264, 280; 8 U. S. C. 1435, 1443, 1454, 1455, 1101 note.

§ 343a.1 *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.11 *Disposition of application*—(a) *New certificate 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 and delivered in person upon the applicant's signed 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 and the original delivered to the applicant upon his signed receipt therefor.

(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 with the Service, 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 personally delivered to the applicant, who shall sign a receipt therefor.

(d) *Application denied.* If the district director denies the application, the applicant shall be notified of the reasons therefor and of his right to appeal within 10 days from the date of receipt of such notification in accordance with the provisions of Part 7 of this chapter.

PART 343b—SPECIAL CERTIFICATE OF NATURALIZATION FOR RECOGNITION BY A FOREIGN STATE

Sec.
343b.1 Application.
343b.11 Disposition of application.

AUTHORITY: §§ 343b.1 and 343b.11 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 343, 344, 66 Stat. 252, 263, 264; 8 U. S. C. 1443, 1454, 1455.

§ 343b.1 *Application.* A naturalized citizen who desires to obtain recognition as a citizen of the United States by a foreign state shall submit an application on Form N–577.

§ 343b.11 *Disposition of application*—(a) *Issuance of certificate.* If the application is granted, a special certificate of naturalization on Form N–578 shall be issued by the district director and forwarded to the Secretary of State for transmission to the proper authority of the foreign state.

(b) *Application denied.* If the district director denies the application, the applicant shall be notified of the reasons therefor and of his right to appeal within 10 days from the date of receipt

of such notification in accordance with the provisions of Part 7 of this chapter.

PART 343c—CERTIFICATIONS FROM RECORDS

§ 343c.1 *Application for certification of naturalization record of court or certificate of naturalization or citizenship.* An application 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 act for use in complying with any statute, Federal or State, or in any judicial proceeding, shall be made on Form N–585.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interprets or applies secs. 332, 333, 343, 344, 66 Stat. 252, 253, 263, 264; 8 U. S. C. 1443, 1444, 1454, 1455)

PART 344—FEES COLLECTED BY CLERKS OF COURT

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.

AUTHORITY: §§ 344.1 to 344.5 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 332, 344, 66 Stat. 252, 264; 8 U. S. C. 1443, 1455.

§ 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 by a remittance payable to the order of the "Immigration and Naturalization Service, Department of Justice," to the regional commissioner having administrative jurisdiction over the place in which the court is located.

§ 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 regional commissioner 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 regional commissioner 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 regional commissioner 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.

PART 344a—COPIES OF AND INFORMATION FROM RECORDS

§ 344a.1 *Copies of and information from records.* See Part 2 of this chapter.

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

Sec.
402a.1 Proof of character, attachment and disposition.
402a.11 Procedural requirements.

§ 402a.1 *Proof of character, attachment and disposition.* See § 329.2 of this chapter.

§ 402a.11 *Procedural requirements.* See § 329.21 of this chapter.

PART 499—NATIONALITY FORMS

§ 499.1 *Prescribed forms.* The following forms are hereby prescribed by the Attorney General for use in compliance with the provisions of Subchapter C of this chapter:

Form No.	*Title and description*
I–138	Subpena.
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–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–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–401	Preliminary Form to take Oath of Allegiance (by 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–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–421	Affidavit in Support of Petition for Naturalization (by a seaman, under sec. 330, Immigration and Nationality Act).
N–425	Notice to Petitioner of Proposed Recommendation of Denial of Petition for Naturalization.
N–426	Certification of Military or Naval Service.

Form No.	*Title and description*
N-440	Certificate of Examination.
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-462A	Interrogatories in Depositions of Witnesses.
N-470	Application to Preserve Residence for Naturalization Purposes (under section 316 (b) or 317, Immigration and Nationality Act).
N-480	Naturalization Petitions Recommended To Be Granted.
N-480A	Order of Court granting Petitions for Naturalization.
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 for Naturalization.
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	Regional Commissioner's Recommendation that Petitions be Granted (and Order of Court).
N-493	Regional Commissioner's Recommendation that Petitions be Denied (and Order of Court).
N-550	Certificate of Naturalization.
N-560	Certificate of Citizenship.
N-561	Certificate of Citizenship.
N-562	Certificate of Citizenship.
N-565	Application for a New Naturalization or Citizenship Paper.
N-570	Certificate of Naturalization.
N-577	Application for a Special Certificate of Naturalization to Obtain Recognition as a Citizen of the United States by a Foreign State.
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.

Dated: December 3, 1957.

J. M. SWING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 57-10125; Filed, Dec. 5. 1957; 8:51 a. m.]